

COMMITTEE REPORT

Date: 30 January 2025 **Ward:** Fishergate
Team: East Area **Parish:** Fishergate Planning Panel

Reference: 24/01403/FUL
Application at: Land To The Rear Of 128 Fulford Road York
For: Erection of 3no. dwellings (Use Class C3) with associated access and landscaping following demolition of garage
By: Mr Ian Tulloch
Application Type: Full Application
Target Date: 6 February 2025
Recommendation: Approve

1.0 PROPOSAL

THE SITE

1.1 The application site is located to the rear of No.128 Fulford Road in the Fishergate area of the city. It comprises the roughly triangular shaped car park accessed off Grange Garth, to the rear of the former Priory Hotel (nos.126-128 Fulford Road) which has been converted into 3no. dwellings (21/02237/FUL) with a garage block at the rear, accessed through the application site.

1.2 The site includes large areas of hardstanding with smaller areas of vegetation including ruderal species, several small trees and shrubs with ivy extending along the boundaries and into the site. There is a second detached garage to the south of the site.

1.3 As originally submitted, the site included a large Balsam Poplar tree in the highway verge on Grange Garth in the ownership of the local planning authority. The tree had been assessed as being in poor condition, a Tree Inspection report of 11.10.2024, commissioned by CYC found that the tree was in urgent need of removal due to major trunk decay resulting in a very high potential for damage. The tree has now been removed. As such, the application site boundary was amended to not include land within the highway verge and this tree.

1.4 Also located within the site is the dismantled remains of two bays of the eight-bay magnesian limestone entrance arcade from the Theatre Royal when it was remodelled in 1879. These antiquarian remains have significant heritage value. It was required by condition to be rebuilt within the garden of No. 126 (of the former Priory Hotel) (condition 8 of planning permission 21/02237/FUL) or in the garden of the new dwelling to the side of No.126 Fulford Road (condition 8 of 23/00798/FUL).

1.5 The site is within a residential area. Fishergate neighbourhood parade lies to the north. The site is not within a conservation area but borders Fulford Road Conservation Area on its north-east boundary. New Walk/Terry Avenue Conservation Area is to the north-west. It is not considered to be within the setting of any listed building. The site is in flood zone 1 (low risk of flooding).

PROPOSAL

1.6 The proposals have been amended since submission. The final scheme is for three four-bedroom terraced dwellings, constructed of red brick with slate roofs and lead sheet clad dormers to the front and rear. Each has an integral garage. Door lintels and window sills will be of reconstituted stone, with brick lintels over the windows. Door and window joinery will be in painted timber with the bi-fold garden doors in polyester powder coated aluminium. Each has a small rear /side garden with the frontage directly set to the internal courtyard from Grange Garth. The houses would be positioned to the south of the site, following demolition of the single garage. Site access would remain as existing from Grange Garth and include access to the triple garage to the rear of Nos. 126-128 Fulford Road.

1.7 Houses 1 and 3 have refuse and cycle stores within the gardens with House 2 having a larger garage with space for four bicycles. House 2's refuse storage is to the front, together with a collection point for the other two houses on refuse collection days.

RELEVANT PLANNING HISTORY

1.8 In terms of the planning history of the site:

- Planning application withdrawn on 17.06.2024 following advice from the local planning authority that the proposed erection of 4no. dwellings was considered over-development with harm to neighbour amenity, and that planning permission was to be refused (24/00584/FUL). A Biodiversity Net Gain (BNG) assessment and metric was required as the site was not exempt.

1.9 The following is of relevance in relation to consideration of the proposals for the site:

- Planning permission was granted on 17.06.2022 for the conversion of the guest house (C1) being The Priory Hotel, 126-128 Fulford Road, York to form 3no. dwellings (C3), first floor extension to rear projection, creation of rear terrace, new openings and erection of garages and boundary walls to rear following demolition of rear ground floor elements (21/02237/FUL). The proposals include the erection of a two double-garage block for houses 1 and 2 and a single parking space for house 3 within the current application site. The garages would have a pedestrian entrance from the rear gardens of these properties. This planning permission has been implemented, although the

garage block is not as approved being constructed as a triple rather than two doubles and further into the site.

CALL IN

1.10 Cllr Whitcroft, has called in the application for determination at planning committee should the recommendation be to grant planning permission. The planning reasons for the call-in include inappropriate design, loss of habitat and negative impact on bats. Concerns were also raised about the loss of the mature Poplar tree and its timing with the submission of the planning application.

2.0 POLICY CONTEXT

Development plan

2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.2 The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan. Fishergate Ward does not have an adopted neighbourhood plan. The following documents are material considerations.

Material considerations

The National Planning Policy Framework (2024) (NPPF)

2.3 The revised National Planning Policy Framework was republished in December 2024 (NPPF) and its planning policies are material to the determination of planning applications. The NPPF sets out the Government's overarching planning policies. Paragraph 7-11 explains that the purpose of planning is to contribute to achieving sustainable development. Sections 2 (sustainable development), 5 (housing), 8 (healthy and safe communities), 9 (sustainable transport), 11 (effective use of land), and 12 (good design), 14 (climate change and flooding), 15 (conserving and enhancing the natural environment) are of particular relevance.

City of York Publication Draft Local Plan (2018 modified 2023)

2.4 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The plan has been subject to examination and is expected to be adopted in 2025. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. The following policies are of relevance:

- DP2 Sustainable development

- DP3 Sustainable communities
- H2 Density of residential development
- D1 Placemaking
- D2 Landscape and setting
- D6 Archaeology
- GI2 Green infrastructure
- GI4 Trees and hedgerows
- CC2 Sustainable design and construction of new development
- ENV3 Land contamination
- ENV5 Sustainable drainage
- T1 Sustainable access

Biodiversity Net Gain

2.5 Biodiversity net gain of 10% is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) for every grant of planning permission, subject to some exceptions. This site is not exempt and as such must deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. The increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. A pre-commencement condition that a Biodiversity Gain Plan is submitted and approved is deemed to be imposed upon the grant of a planning permission by paragraph 3 Schedule 7A of the Town and Country Planning Act. The Biodiversity Gain Plan secures the delivery and maintenance of the 10% biodiversity net gain for 30 years.

3.0 CONSULTATIONS

INTERNAL

Design and Conservation (City Archaeologist)

3.1 The application site has moderate archaeological potential given its location on/close to the line of a Roman road and a known resource, specifically cemeteries, just to the north of this site. The site has not been subject to any archaeological investigation and has not been previously developed. An archaeological evaluation is required. This can be secured by condition.

Design and Conservation (Landscape Architect)

3.2 No objection to the proposed removal of the young Sycamore T1, mature Poplar T3, the Leyland Cypress hedge H7, or G8 group including Cherry and self-seeded Sycamore. None of these trees are worthy of a tree preservation order due to their structural condition, location or limited public amenity value. Other indicative vegetation is shown around the perimeter of the gardens. These landscape

elements would add value to the amenity of the scheme and should be secured under a suitably worded condition. An arboricultural method statement is also required to be secured by condition to protect the retained trees during construction works.

Design and Conservation (Ecologist)

3.3 The revised BNG Metric and report is acceptable with the overall positive outcome of +87.99% biodiversity net gain achieved on site. (No comments received on the final revised version which achieves 28.35% BNG). Two conditions are advised including a lighting plan and to secure biodiversity enhancements. An informative referencing the legal requirement for BNG of 10% and submission of a Biodiversity Gain Plan is also advised.

Flood Risk Management

3.4 No foul and surface water drainage details have been submitted. Foul drainage must be in accordance with the requirements of Yorkshire Water and surface water in accordance with our Sustainable Drainage Systems Guidance for Developers and the hierarchy of surface water disposal. The submitted Phase 2: Ground investigation provides evidence that Tier 1 of the hierarchy of surface water disposal and infiltration methods will not work on this site. A watercourse is remote from the site. Foul and surface water drainage details can be conditioned, details advised.

Public Protection

3.5 All environmental impacts (noise, air quality, contaminated land and dust) have been considered. The submitted Phase 1 and 2 assessments by Arc Environmental confirmed that remediation works are required due to elevated levels of lead and PAHs found on site, conditions for these works are advised. Standard development informative and electric vehicle charging informative should be applied.

Highways Development Control (HDC)

3.6 HDC object to the original submission on the grounds of unacceptable impact on highway safety, unless evidence can be provided that sufficient vehicle and pedestrian visibility splays are achieved at the site entrance, and that sufficient space is available within the development to enable vehicles to enter and exit and park in the proposed garages in a forward-facing direction using no more than two changes of gear to turn around. With only one car parking space per dwelling and no visitor parking, this could lead to overspill parking in the adjacent residents parking zone, so the site should be excluded from the Resident's Parking Zone R20 by condition.

3.7 The existing site plan does not show the existing garage and parking space as built. The planning permission 21/02237/FUL included two adjoining double garages at the rear of 126-128 Fulford Road but as built is one single and one double, extending further into the site.

3.8 Commenting on revised submissions, the absolute minimum working clear internal dimensions of a garage for parking of a vehicle are 3.2m by 5.5m, but this would not be classed as a parking space (6.1m by 4.1m is required). HNM can consider the proposals as being 'car free' with one space in each garage but they must be maintained as used for car parking by condition. Cycle parking must meet the minimum requirement of 4 spaces per dwelling (one per bedroom) and be suitably and adequately covered and secure.

3.9 Cycle parking as shown at the rear of Houses 1 and 3 for four bicycles meet these requirements but there is not sufficient space in the garage of House 2, nor access from the garden for a cycle store. A Bikehanger with integral rack could be provided outside the curtilage of House 2.

3.10 Tree 5's diameter is more than the 550mm width with thus an intermittent obstruction to visibility, but it is noted that the use of the site as a car park to a hotel had likely more vehicle movements than the proposed use and no accidents have been recorded over the last five years. Conditions are advised relating to surfacing, access details, parking details to be agreed and laid out, for the garage to be residential only, internal turning to be provided and vehicular splays to be protected. Conditions for a method of works statement and removal of the site from the resident parking zone are also advised.

EXTERNAL

Fishergate Planning Panel

3.11 No comments received.

Yorkshire Water

3.12 No objections, although the submitted drainage plan requires amendments but this can be dealt with by condition. Conditions are advised including separate systems of drainage for foul and surface water, and for surface water drainage details. It is agreed that soakaways will not work on this site and that a watercourse is remote. Surface water discharges to the public sewer must have a minimum 30% reduction based on the existing peak discharge rate during a 1 in 100 year storm event. On site attenuation taking into account climate change will be required before any discharge to the public sewer network is permitted. If existing connected impermeable areas cannot be proven, surface water may discharge to public sewer via storage with a restricted discharge of 3.5 litres/second.

4.0 REPRESENTATIONS

Publicity

4.1 Two general comments/objections were submitted in relation to concerns about the removal of the valued Balsam Poplar Tree, the requirement for further information and evidence on its need for removal. Concerns were raised over timing with the applicant reporting that their plans for the site were only viable if the tree is removed. An independent inspection of the tree and its health and use by bats is required separate to the applicant's.

4.2 Twenty-six neighbours / interested parties have objected to the proposed development, some several times, with the following issues raised:

Design

- Over-development.
- Site is only suitable for a one or two, maximum two-storey dwelling away from site boundaries (as planning officer advised in relation to the withdrawn scheme).
- Three storey housing is too tall for the area. Should only be two storeys or dormer bungalows.
- The height of the eaves and ridges should be no greater than the two storey rear offshoots or the main dwellings on Grange Street.
- Design is out of character with the area.
- Proposed mews style housing on Galmanhoe Lane (by the same developer) is within the city walls and not suitable for Fishergate.
- Grange Garth is of semi and detached housing which is well spaced. Any residential development should reflect the context and design of existing residential buildings on Grange Garth or Grange Street.
- Foundations cannot be constructed within 3m of existing boundary walls.
- Proposals are contrary to Policy D1 Placemaking.
- Reduction required in the number of proposed windows to Grange Street and those remaining should all be obscure glazed.
- Windows should have anti-reflective glass to prevent excessive sunlight reflecting directly into properties.
- Harm to the character of the area generally and also the conservation area.
- The recommendation for House 3 to be reduced in height has not been followed.
- Dormers are excessive in size.

Amenity

- The proposed houses have living areas at height that overlook residents on Grange Street.
- Loss of privacy.
- Loss of daylight.
- Loss of outlook.
- Over-bearing.
- Additional noise and activity from the significant number of new residents. The rear of residents' properties is currently quiet.
- Loss of openness.
- Lack of refuse storage.
- The gable end of House 3, at 10m in height and 2m off the boundary of Nos. 130 and 132 Fulford Road will result in significant loss of light to the gardens, living rooms and kitchens of these neighbours and will be overbearing.
- Separation distances between living areas should normally be 21m.
- The gable wall of House 3 will be only 3.7m from the window of the granny annex at 134 Fulford Road. Overbearing and loss of outlook for this property.
- The ground floors with bi-folding doors are only 5.6m to 7.05m off the shared boundary which is too close.
- Bedrooms on upper floors will overlook the neighbours at 5.3m separation.
- Separation distances of 18m from first floor windows and ground floor windows should be achieved. The drawings show them to be between 16-17m.
- Officer previously recommended that there should be a separation distance of 7m from bedrooms overlooking gardens and 12m plus from main habitable spaces to gardens. This is not achieved.
- The architect's separating distances are not accurate and not the nearest distance. People do not look out of windows in just a single direction and straight line.
- Windows are too large with loss of privacy.
- Construction noise.
- Plans do not show the kitchen extension at No. 14 Grange Street and there will be loss of privacy.
- The dormers should be replaced with rooflights.
- The proposal at No. 134 Fulford Road for conversion of the annex, was not permitted to have four windows on the rear extension, only the one existing, to respect privacy of neighbours. The same principle should be applied here. (References 21/02255/ERC and 22/00119/FUL).
- The gardens of the new houses are too small.
- The revised plans bring the housing closer to Grange Street.

Highways and Access

- Increase in traffic congestion for Grange Street/Grange Garth area and at the dangerous junction with Fulford Road.

- Danger to pedestrians and cyclists as a result of the additional cars whether parked or exiting the site.
- Increased vehicle pollution.
- Objections to the proposed access from Grange Street by vehicles and for refuse collections. The developer has no legal right of access.
- Lack of onsite parking for four-bedroom properties.
- Overspill of cars onto the already congested surrounding streets.
- No space to manoeuvre for the new dwellings and the car parking space and garages of the former Priory Hotel.
- Poor access for the number of vehicles.
- Lack of bicycle storage.
- Garage size inadequate for parking of cars. Will be used for storage.
- The garage will likely be converted into a reception room in the future.
- The proposals remove the existing access to the rear of Nos. 130 and 132 Fulford Road. The garden walls have access gates and both 130 and 132 have prescriptive access rights which are blocked by the proposals. It also prevents access by emergency services in the event of a fire or statutory undertakers.
- There is not adequate manoeuvring space with the site.
- Highways safety concerns associated with the construction activity already within the vicinity of the site.

Ecology

- Loss of the mature Balsam Poplar Tree and harm to visual amenity and the character of the area.
- In 2018, a neighbour sought Tree Preservation Orders for the Poplar, Oak and Horse chestnut within the highway verge. They were advised that this was not necessary but then the Priority Hotel removed the latter two. The developer is now proposing removal of the third and largest tree, being the Poplar. The neighbour does not support the removal.
- Loss of habitat for bats, birds and other wildlife.
- Question whether submitted bat report accurately records the bats roosting in the tree as it was a ground-based survey and did not properly assess fissures and cavities close to the pollarding at the top of the main trunk.
- Proposal does not adequately mitigate for the loss of habitat.
- A reduction in the number of houses proposed may mean the Balsam Poplar does not need to be removed to enable development.
- Removal of the tree may impact the foundations of the adjacent properties Nos. 1 and 6 Grange Garth.
- Site is not exempt from BNG.
- Tree stump should be removed by mechanical means not poison.
- Balsam Tree should be replaced by a semi-mature tree of the same species or comparable alternative, to be agreed with neighbours.

Conservation/archaeology

- Archaeological investigation is required.
- The impact on the setting of the nearby conservation areas should be considered as a result of the inappropriate design.
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Other

- The proposed three houses will not contribute to the alleviation of the housing crisis as they are market housing.
- Inconsistency with other planning decisions regarding separation distances and privacy.
- Boundary heights should be restricted.
- Security concerns over new shared boundary with neighbours.
- Work already commenced on site. Noise, dust and congestion of the development at No. 134 Fulford Road is at times unbearable and there is now further construction proposed.
- Builders taking up all the resident parking spaces.
- Revised plans do not resolve the objections.

5.0 APPRAISAL

KEY ISSUES

5.1 The key issues are considered to be:

- Principle of development
- Design
- Amenity
- Landscaping
- Ecology
- Highways
- Drainage
- Environmental

APPRAISAL

Principle of development

Policy

5.2 Section 2 of the NPPF states that the purpose of planning is to contribute to the achievement of sustainable development, including the provision of homes (...) and supporting infrastructure in a sustainable manner. This includes ensuring that a sufficient number of homes are provided and through fostering well-design, beautiful

and safe places. Effective use of land, whilst protecting and enhancing the natural, built and historic environment, should be sought. At the heart of planning, there is a presumption in favour of sustainable development.

5.3 Section 5 explains the government's strong emphasis on the need to significantly boost the supply of homes. Small and medium sized sites can make an important contribution to meeting the housing requirements of an area, as can windfall sites. Great weight should be given to the benefits of using suitable sites within existing settlements (para. 73).

5.4 Section 11 is on making effective use of land for homes and other uses, whilst safeguarding the environment and ensuring safe and healthy living conditions. Substantial weight should be given to the value of using suitable brownfield land and under-utilised land within settlements for homes, proposals for which should be approved unless substantial harm would be caused (para 125 (c)). Development should be of an appropriate density, making efficient use of land whilst maintaining an area's prevailing character and setting and securing well-designed, attractive and healthy places (para. 129). Applications should be refused that do not make efficient use of land in this context. A flexible approach should be applied to policies and guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site (para.130 (c)).

5.5 The Publication Draft Local Plan 2018 (modified 2023) policy DP2 'Sustainable development' states that development should conserve and enhance those elements which contribute to the special character and setting of the historic city by ensuring that development is in acceptable locations and of the highest standards in terms of urban design and detailing. Policy H2 'Density of Residential Development' requires an efficient use of land through good design and response to its context with 50 units/ha guide for a site within the York urban area.

Appraisal

5.6 The republication of the NPPF in December 2024, increases the importance Government places on delivering housing development to meet the significant need. The application site is a brownfield site within the urban area in a very sustainable location being within walking distance of the city centre and all its amenities, in an established residential neighbourhood, within a short walk of Fishergate neighbourhood parade, local schools and the bus stops on Fulford Road into and out of the city. The principle of residential development in this location is considered acceptable.

5.7 The site is 0.086ha in size and applying the density guide of draft Policy H2 of 50 dwellings per hectare, this suggests the site could be capable of accommodating four dwellings. The applicant's withdrawn scheme was for four dwellings but this was not acceptable in terms of the proposed design due to the unacceptable impact

on neighbour amenity. The revised scheme has continued with a similar design of mews housing on the site but reduced it to three four-bedroom dwellings. The density guide provides guidance as to density with a site-specific assessment of the proposal required in each case.

Design and Amenity

Policy

5.8 The NPPF section 12 explains that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Developments should function well and add to the overall quality of the area, be visually attractive, be sympathetic to local character and history whilst not preventing appropriate innovation or change. They should establish a strong sense of place, using high quality building types and materials. They should create places that have a high standard of amenity for existing and future users (para 135). Existing trees should be retained where possible. Development that is not well designed should be refused (para.139).

5.9 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 ‘Sustainable communities’ requires high quality design, appropriate density, layout and scale whilst ensuring appropriate building materials are used. Development should be locally distinctive which relates well to the surrounding area and its historic character.

5.10 Policy D1 Placemaking requires development to be of an appropriate density and massing for its context, that it does not dominate its wider setting including other buildings and spaces, uses appropriate building materials, is of contemporary urban design, integrates parking and servicing within the development, and ensures design considers residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

5.11 Policy DP2 ‘Sustainable development’ states that development should limit environmental nuisance including noise, vibration, light, and dust from development. Appropriate waste and recycling provision should be supplied.

Appraisal

5.12 The proposed housing is set back into the site and the vegetated frontage is maintained on Grange Garth. It is not considered that the proposals have any impact on the setting of the adjacent Fulford Road Conservation Area with the site being set behind the three storey terraces on Fulford Road and is not visible from within the Conservation Area.

5.13 The final revised proposal comprises a short line of terraced housing, described as 'mews' due to each house opening out onto the shared courtyard rather than having private space to the front. The three dwellings would be constructed from red brick with a natural slate roof, timber painted windows with brick heads and stone sills, timber doors and lead clad dormers. These are considered to be high quality materials (subject to approval of materials by condition on any permission). The terrace would be two storeys in height with attic accommodation served by front and rear dormers. The final design now shows the dormers set back from the eaves and within the roof rather than extending the first floor. This is an improved design.

5.14 Each dwelling would benefit from an integral garage which can accommodate a car. The garage of House 2 also provides storage for four bicycles. House 1 has small single storey projections to the rear and side. House 2 would have a single storey projection at the rear and House 3, a single storey projection to the rear and side. Floorplans show each dwelling having an open kitchen/diner at the rear and a separate lounge to the front at first floor. As the proposed first floor floorplans show a smaller room shown as a bedroom with ensuite bathroom to the rear, it would be expected that this layout would be maintained. This can be secured by condition. Three further bedrooms and house bathroom are shown in the roof served by the front and rear dormers.

5.15 The surrounding context is of residential development comprising more substantial two and three storey red brick terraces with slate roofs on Fulford Road, five of the eight dwellings bounding the site having rear dormers facing towards the application site. Each also has a reasonable rear yard/garden measuring between 13.2m to 20.6m to the site boundary from the principal rear elevation or 8.6m to 13.5m from the rear offshoot to the site boundary. The exception is the rear granny annex of 134 Fulford Road with its south-western elevation on the site boundary and a secondary window serving its first-floor lounge directly overlooking the site.

5.16 The red brick terraces, again with slate roofs and rear dormers on Grange Street bordering the site to the south also benefit from reasonable rear yards/gardens and two storey rear offshoots. The principal rear elevations of these terraces to the site boundary range from 17.2m to 18.5m, and from the end of the two storey rear offshoots a minimum of 7.5m off the boundary.

5.17 No.1 Grange Garth on the south-western site boundary is a modern detached dwelling. Grange Garth continues westwards and comprises detached and semi-detached 1930s suburban development. To the north, New Walk Terrace and Sandringham Street comprise Victorian and Edwardian high-density terraces. There is a mixture of house types in the vicinity and the proposed short line of terraced mews is considered suitable in this context in terms of design, scale and proposed materials. The housing is no higher than the surrounding residential properties on

Fulford Road and Grange Street, many of which also have attic accommodation and dormers.

5.18 The area comprises high density terraced housing where privacy levels in terms of domestic noise and over-looking is typically less than that of lower density suburban neighbourhoods. The proposed housing is offset within the site such that internal views from habitable rooms are not directly towards the neighbours but angled and oblique. Nevertheless, adequate separation is required between existing properties and the proposed, including views into private garden areas. As detailed above, the existing terraces have good sized rear amenity spaces. Whilst the proposed new dwellings have small gardens, the first floor and above is set back further than the ground floor footprint as shown on the proposed floorplans and elevation drawings. This creates greater separation distances than the ground floor floorplan indicates. With the ground floor overlooking mitigated by boundaries, separation distances are taken from the first floor of the new dwellings.

5.19 The first-floor bedroom window at the rear of House 1 has a separation distance of 6.7m to the nearest property boundary on Grange Street, being No.22, which then increases to 16.2m to the two-storey rear offshoot and 18.6m to the single storey infill. There are no windows on the end of the offshoot. No. 20 does benefit from windows at the rear, towards the site in its main habitable spaces at ground floor but distance to first floor bedroom of House 1 measures 17.9m and 9m to the rear garden wall. The first-floor bedroom window of House 2 secures a 7m separation at an oblique angle to the nearest property boundary of No. 18 Grange Street and 9.5m more direct to No.16 Grange Street garden boundary. Again the distance are increased to 18m to rear offshoots and over 25m to rear elevations. The distances are increased further from House 3 to the properties on Grange Street with a minimum of 10m achieved to the rear garden wall of No.16. In a higher density urban area these separation distances are acceptable.

5.20 During consideration of the application, concerns were raised over the proximity of House 3 to Nos. 130 and 132 Fulford Road, with its side gabled elevation just 3m off the boundary. The applicant has revised the proposals to increase the separation to c7m at first floor and above. This is now considered acceptable and would not appear overbearing nor oppressive for the neighbours. In terms of the impact on the granny annex of No. 134 Fulford Road, it was designed to be orientated towards its host with windows at first floor facing north-east and a single, secondary window on the south-west elevation at first floor. Occupants would not be overlooked within the annex, it is concluded that there would be no harm to the existing occupant's privacy. Any future resident of House No.3 would be aware of this window in the annex prior to purchasing/occupation as an existing situation with potential for overlooking from the granny annex.

5.21 Concerns have also been raised about loss of privacy and harm to amenity at No.1 Grange Garth. This detached dwelling benefits from having its front, west side

and rear gardens not bordering the site. There are no windows in the first floor of its side east side elevation that directly adjoin and thus overlook the site with small windows beyond the site boundary. Those on its front north elevation face north, not towards the site, and House 1 has just one small, angled window at first floor which will not cause any overlooking issues for this neighbouring property.

5.22 The use of the garden areas and ground floor spaces in this high-density urban area where neighbour's amenity spaces are not large, will already cause some noise and occasional disturbance as is typical in such urban neighbourhoods. The addition of three dwellings in this context is not unreasonable.

5.23 Each proposed house has a small garden as external amenity space for sitting out and relaxing. Existing boundary walls are to be retained with new boundaries between the new properties. Suitable and accessible refuse storage is provided with a collection point close to the site entrance on Grange Garth.

5.24 Overall, the final set of proposals is considered acceptable and will not cause harm to neighbour amenity when all factors have been considered (noise, overlooking, loss of privacy, loss of light, overbearing) as sufficient separation distances have been achieved and layouts of the new houses are considered acceptable. Suitable levels of amenity, including outside space, have been provided for the new residents.

Archaeology

Policy

5.25 The NPPF section 16 on the historic environment seeks to sustain and enhance the significance of heritage assets. Any harm to significance would require clear and convincing justification.

5.26 The Publication Draft Local Plan 2018 (modified 2023) policy D6 Archaeology protects archaeological features and deposits by requiring desk-based assessments, intrusive and non-intrusive surveys where necessary. Proposals will be supported where there is no harm, unless that harm is outweighed by public benefits considering the significance of the archaeology. Development can be supported where the impact of the proposal is acceptable in principle and detailed mitigation has been agreed.

Assessment

5.27 The application site has moderate archaeological potential given its location on the line of/close to the line of a Roman road and the known resource in the immediate vicinity, specifically cemeteries just to the north of this site. The site has

not been subject to any archaeological investigation and has not been previously developed.

5.28 A watching brief was undertaken in 2022 during the excavation of foundations for a new garage to the rear of 126 Fulford Rd. Natural deposits (sandy clay) was encountered in parts c.1m below ground level. Sitting on top of the natural were horticultural and possibly earlier agricultural soils. The only features noted related to possible 19th century garden walls. At the same site earlier this year, an evaluation trench was opened on the footprint of a proposed dwelling. This did not reveal any archaeological features and confirmed 1.2m of horticultural soil on top of the drift geological deposits.

5.29 The below-ground impact of the proposal will relate to foundations for new builds and additional drainage for properties and attenuation if required. Any archaeological resource that exists on the site is likely to relate to Romano-British period possible including the Roman road itself and/or burials. Based on evidence from No. 126 any archaeological resource is likely to be buried at a depth of at least 0.8m beneath soils.

5.30 An archaeological evaluation is required. This is due to the undeveloped nature of the site, the size of the proposal and its location in proximity to other known archaeological features. An evaluation rather than a programme of monitoring will be a better way to check whether any resource exists on this plot. This method will allow any resource to be identified and excavated/avoided where appropriate ahead of construction starting. Whilst this can be conditioned, the applicant was advised that they may wish to do this prior to determination, but they advised they would undertake the work post decision. Therefore, an archaeological evaluation condition is recommended.

Landscaping and ecology

Policy

5.31 The NPPF at Section 15 advises that planning decisions should contribute to and enhance the natural and local environment through (amongst other factors) minimising the impacts on and providing net gains for biodiversity and remediating contaminated land where appropriate. Section 12 explains development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Trees make an important contribution to the character and quality of urban environments and can help mitigate and adapt to climate change. Opportunities should be taken to incorporate trees elsewhere in developments (paras. 135, 136.)

5.32 The Publication Draft Local Plan 2018 (modified 2023) policy D2 'Landscape and setting' supports development proposals that recognises the significance of

landscape features such as mature trees, hedges and historic boundary and other important character elements and retains them where they can be suitably managed and sustained. Proposed should include sustainable, practical, and high quality soft and hard landscape details and planting proposals. Lighting should be minimal and avoid light spill. Policy GI4 recognises the value of existing tree cover and hedgerows for their biodiversity value and the contribution they can make to the quality of development. Trees and hedgerows that make a positive contribution to the setting of a proposed development should be retained, but where loss is justified, suitable replacement planting should be secured.

5.33 Policy GI2 'Biodiversity and access to nature' requires the achievement of 10% net gain in biodiversity in accordance with the Environment Act 2021 contributing to the recovery of priority species and habitats and new habitat creation. Supporting text explains that net gains in biodiversity can be delivered by almost all development by following the principles of the mitigation hierarchy.

Appraisal

5.34 Outside of the planning process, the developer initially approached the Council's tree officer to request that they remove the Balsam Poplar tree from the highway verge as it would allow more of the site to be developed. Development management officers were advised by colleagues that the tree was in a very poor condition and would need to be removed in the short term and therefore they had no objections to its removal. However, this also led to the Tree Officer commissioning their own assessment (October 2024) which found that the tree was dying, and the works to fell were very urgent as the very large tree had a very high potential for damage and harm. The tree has now been removed. The red line application site was amended to no longer include the tree and verge and plans and drawings updated. The Balsam Poplar Tree is therefore not discussed further as it is no longer part of the proposed development.

5.35 Specialist advice was received by the landscape architect who advised that the remaining trees, being the young Sycamore T1, the Leyland Cypress hedge H7, or G8 including Cherry and self-seeded Sycamore were worthy of retention. Indicative vegetation is shown around the perimeter of the gardens and would add value to the amenity of the scheme. Conditions are advised to secure an arboricultural method statement to protect the existing trees and for the submission of a detailed landscape scheme to be agreed and implemented. This will also help secure the legislative requirement for biodiversity net gain of 10%.

5.36 The applicant submitted a BNG Assessment report (updated December 2024) and small sites metric. These final reports identified that the vegetated gardens more than compensated for the loss of introduced shrub and derelict land which supported a range of encroaching vegetation. A final biodiversity net gain of 28.35% would be achieved. This is in accordance with Schedule 7A of the Town and

Country Planning Act 1990 which requires a statutory biodiversity net gain of a minimum of 10%. The Biodiversity Gain Hierarchy should be applied to avoid habitats of most value and where they cannot be avoided, they should be maintained on site. The application site does not contain habitats of special value that should be maintained and the landscape architect has confirmed no objections to the loss of the young trees and Leyland Cypress hedge to the north of the access. Their replacement with vegetated gardens as shown on the proposed plans is considered acceptable.

5.37 BNG is secured by a statutory pre-commencement condition, an informative on any decision notice will draw the developer's attention to this legal requirement. The habitats that form the baseline for the biodiversity of the site are to be retained through vegetated gardens, however as this is private garden land, it cannot be legally secured for 30 years. The landscape condition and a condition to remove some permitted development rights can however seek to ensure that the developer and future occupiers provide and maintain the soft landscaping in the gardens as proposed in the application.

5.38 Further conditions are advised on installation of lighting and provision of bat and bird boxes within the site. Whilst concerns were raised in relation to bats foraging and roosting in the Balsam Poplar tree, as its removal is outside of this application this is not now a matter for consideration in determining this application, but it is however reasonable to condition the provision of bat and bird boxes within the site to support biodiversity.

Highways and Access

Policy

5.39 Section 9 of the NPPF promotes walk, cycling and public transport use. In considering proposals, development should promote sustainable transport modes, and ensure safe and suitable access to the site is achieved for all users. Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (para. 116). Development should create places that are safe, secure and attractive which minimises the scope for conflicts between pedestrians, cycles and vehicles and be designed to enable charging of plug-in and other ultra-low emission vehicles (para.117).

5.40 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 'Sustainable communities' requires development to maximise the opportunities for walking, cycling and frequent public transport use by facilitating a modal shift from the car to more sustainable and healthier forms of travel. Policy T1 'sustainable access' states that development will be permitted where it minimises the need to travel and provides safe, suitable and attractive access for all transport users to and

within it, maximising the use of more sustainable modes of transport. Sufficient convenient, secure and covered cycle storage should be provided.

Appraisal

5.41 Various revisions to the site and floorplans have been received seeking to address the advice from officers on car and cycle parking provision. In addition, a minimum of one secure, enclosed and accessible cycle parking space is required per bedroom; in this case four-bedroom houses require four cycle parking spaces per house. Officers also advised that in this sustainable location, the development could be car-free in accordance with the reduced car parking requirements of other residential schemes in the vicinity, and to encourage more sustainable modes of travel.

5.42 The applicant has however continued with providing one vehicle parking space in an integral garage per dwelling. The final site plan and ground floor plans show suitable sized integral garages with separate enclosed lockable cycle stores in the gardens of Houses 1 and 3, with adequate turning space and a larger garage for House 2 capable of accommodating four bicycles. Access to these garages is achievable but tight, as the tracking diagrams confirm. The construction of the garage block for Nos. 126-128 Fulford Road in accordance with the approved plans would provide more manoeuvring space.

5.43 Visitor parking is limited to short stay parking on Fulford Road by St George's Primary School and on Grange Garth by the site entrance. For longer stays, due to the lack of visitor parking within the site, visitors with cars would need to find alternative parking. Highways Network Management have advised that the Resident Parking Zone R20, which includes Grange Garth and surrounding streets is at capacity. The site should be removed from the Resident Parking Zone to be secured by condition in relation to implementing a Traffic Regulation Order, at the developer's expense..

5.44 Concerns have been raised by neighbour about site access, congestion and highways safety as a result of the proposed development. The site was the former car park to the Priory Hotel providing 14 parking spaces. The development of the three dwellings with three parking spaces, together with the access to the four parking spaces of No. 128 Fulford Road accessed through the site and already granted permission, totals seven, ie half the parking capacity of previously. There have been no reported accidents from the site in the last five years. There is space for vehicles to exit in forward gear, but should they reverse onto Grange Garth, as an unclassified road, this is acceptable. The removal of the Leyland Cyprus hedge at the entrance will improve visibility. There are no objections to the proposals on highways safety grounds.

Climate change, drainage and flooding

Policy

5.45 The NPPF section 14 supports the transition to net zero by 2050 and take account of all climate impacts including overheating, water scarcity, storm and flood risks. Renewable and low carbon energy and infrastructure should be supported. New development should include green infrastructure and sustainable drainage systems where suitable, including control of flood rates and measures to reduced runoff volumes (para.182).

5.46 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 'Sustainable communities' requires development to manage flood risk by ensuring it does not contribute to or is subject to flooding. Policy CC2 'Sustainable design and construction' requires that all new residential development should achieve on-site carbon emission reductions of a minimum of 31% of which at least 19% should come from energy efficiency measures, a water consumption rate of 110 litres per person per day, and an aim to achieve a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013).

5.47 Policy ENV4 'Sustainable drainage' requires development on brownfield sites to restrict surface water flow to 70% of the existing runoff rate unless this is not practical. This may require sufficient attenuation and long-term storage which must accommodate a 1 in 30-year storm and a 1 in 100-year event plus climate change.

Appraisal

5.48 A condition is advised in relation to securing the requirements of draft policy CC2. The flood risk management team have advised drainage details can be conditioned.

Environmental

Policy

5.49 The Publication Draft Local Plan 2018 (modified 2023) policy ENV3 'Land contamination' states that a contamination risk assessment and if necessary, remediation will be required to ensure that there are no significant effects on human health, property and surface water where a site may be affected by contamination or the proposed use would be vulnerable (eg residential with gardens).

Appraisal

5.50 Public Protection have reviewed the submitted Phase 1 and 2 assessments by Arc Environmental and confirmed that remediation works are required due to

elevated levels of lead and PAHs found on site. Conditions to secure this are advised.

6.0 CONCLUSION

6.1 The proposal is for the erection of three two-storey four-bedroom dwellings on the former Priory Hotel car park, at the rear of No.128 Fulford Road in Fishergate. The site is in a very sustainable location, involves the redevelopment of a redundant brownfield site, in an established residential neighbourhood. The final scheme is considered to be of good, appropriate design for its context with no significant harm to neighbour amenity, with suitable access and parking provision for vehicles and bicycles. As such the proposals are found to be in accordance with relevant sections of the NPPF 2024 including 2, 5, 9, 11 and 12 and draft policies DP2, DP3, D1, D2, CC2, ENV3, ENV4 and T1 in the Publication Draft Local Plan 2018 as modified 2023.

7.0 RECOMMENDATION: Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

Location Plan, 2000, revision P2
Proposed site plan, 2001-01 revision P6
Proposed ground floor and first floor plan, 2002-01 revision P5
Proposed second floor and roof plan, 2003-01 revision P3
Proposed front and rear elevations, 2004-01 revision P5
Proposed side elevations, 2006 revision P5
Proposed cycle store, House 1 and 3, 2015 revision P1

Vale Ecology, Biodiversity Net Gain assessment, revision 04, dated 19.12.2024
Small Sites Metric, prepared by Thomas McQuillan, Vale Ecology, revision 04, dated 19.12.2024
Arboricultural Impact Assessment, by JCA Limited, reference 21129a/ChC, dated 2024
ARC Environmental Phase 1 Desk Top Study Report, reference 22-085, dated 28.03.2022
ARC Environmental Phase 2: Ground Investigation Report, reference 22-604, dated 22.08.2022

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 provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, AA, C, D, E, and F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reasons: As the BNG for this development is proposed to be secured through the provision of vegetated rear gardens, means of compliance and monitoring can be secured through the removal of the above permitted development rights so that such works require the submission of a planning application for consideration so that over 50% of each the gardens remain as vegetated, as shown on the approved plans. This is to ensure compliance with Schedule 7A of the Town and Country Planning Act 1990 whereby across the development, a biodiversity net gain of 10% is a statutory requirement which is to be maintained for 30 years.

Further, in the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

4 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 (facing bricks, reconstituted stone, brick lintels, slates) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development above ground level. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices sample materials should 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.

5 The windows and doors shall be constructed from timber with a painted finish. They shall be maintained as such for the lifetime of the development.

Reason: For good design with a considered palate of materials, and in the interests of visual amenity and the creation of beautiful buildings and places.

6 A programme of post-determination archaeological evaluation is required on this site. The archaeological scheme comprises 3 to 5 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before the next stage commences

A) No archaeological evaluation or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record, to allow public dissemination of results, within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified, proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved in writing by the Local Planning Authority and the approved details have been implemented on site
- provision has been made for analysis, dissemination of results and archive deposition has been secure
- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

7 Prior to the commencement of development, a site-specific, comprehensive Arboricultural Method Statement and a scheme of arboricultural supervision in accordance with the recommendations of the Arboricultural Impact Assessment, regarding protection measures for existing trees within and adjacent to the application site shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include:

- a schedule of tree works, details and locations of protective fencing
- phasing of protection measures
- ground protection
- site rules and prohibitions
- site access during demolition/construction
- types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading)
- specialist construction techniques where applicable
- location of site compound, parking arrangements for site vehicles
- locations for stored materials, and means of moving materials around the site, and
- locations and means of installing utilities.

The document shall also include methodology and construction details where a change in surface material and boundary treatments is proposed within the root protection area of existing trees.

The content of the approved document shall be strictly adhered to throughout development operations. A copy of the document will be available for reference and inspection on site at all times.

Reason: To ensure every effort and reasonable duty of care is exercised during the development process in the interests of protecting the existing trees shown to be retained which are considered to make a significant contribution to the amenity of the area and the setting of the development.

8 Within three months of commencement of development, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall be in broad compliance with the scheme shown on the approved drawings which includes vegetation around the perimeter of the gardens. These details shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants, and tree planting details. The proposed tree planting shall be compatible with existing and proposed utilities. The approved scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the date of substantial completion of the planting and 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 the Local Planning Authority

agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the suitability of the landscape details across the site, since the landscape scheme is integral to the amenity of the development and the immediate area, and mitigates the proposed tree losses and provides the statutory Biodiversity Net Gain of 10%.

9 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage.

10 Prior to development commencing, details of the proposed means of foul and surface water drainage, including details of any balancing works and off-site works, shall be submitted to and approved in writing by the Local Planning Authority. Both foul and surface water drainage must be shown on and off site. Surface water storage and flow control rates must be provided. Development shall be carried out in accordance with the approved details.

As infiltration methods have been discounted and a watercourse is remote from the site then in accordance with City of York Council's Sustainable Drainage Systems Guidance for Developers (August 2018) 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 by way of CCTV drainage survey connected impermeable areas during the 1 in 1 year event). 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 30% 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. Where making use of an existing piped connection an assessment of its existing capacity shall be carried out and the 70% applied to this whichever is the lower rate.

If existing connected impermeable areas not proven, then greenfield sites are to limit the discharge rate to the predeveloped run off rate. The predevelopment run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size) during a 1 in 1 year event.

Where calculated runoff rates are not available the widely used 1.4l/s/ha rate can be used as a proxy, however, if the developer can demonstrate that the existing site discharges more than 1.4l/s/ha a higher existing runoff rate may be agreed and used as the discharge limit for the proposed development. If discharge to public sewer is required, and all alternatives have been discounted, the receiving public sewer may not have adequate capacity and it is recommend discussing discharge

rate with Yorkshire Water Services Ltd at an early stage.

In some instances, design flows from minor developments may be so small that the restriction of flows may be difficult to achieve. However, through careful selection of source control or SuDS techniques it should be possible to manage or restrict flows from the site to a minimum 0.5 l/sec for individual residential properties, please discuss any design issues with the City of York Council Flood Risk Management Team.

Surface water shall not be connected to any foul / combined sewer if a suitable watercourse/surface water sewer is available. Suitability of the watercourse/surface water sewer must be proven.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development shall not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Reason: In the interest of satisfactory and sustainable drainage.

11 As remediation works are shown to be necessary in relation to land contamination, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.

12 Prior to first occupation, remediation works shall be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

13 In the event that unexpected 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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

14 Unless agreed otherwise with the Local Planning Authority, the integral garages shall be constructed fully in accordance with the details and dimensions shown on the approved plans and shall remain available to be used as a garage /storage space (rather than a habitable space) for the lifetime of the development.

Reason: As the proposal is for family housing and with the increase in electric vehicles, it is reasonable to assume many of the households may have vehicles which can be powered sustainably. There is not capacity within the site or on adjoining streets for further parking of vehicles. Further, House 2's cycle parking provision is within the integral garage and is required in accordance with the Draft Local Plan 2018 policy T1.

15 The development hereby permitted shall not be occupied until the following highway works (which shall include works associated with promoting, revoking, amending and implementing any Traffic Regulation Order(s) required as a result of the development, including signing, road marking and other related works) have been completed in accordance with a scheme which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Measures: To remove the site from eligibility for residents and visitor parking permits within the existing R20 Resident Parking Zone.

Reason: In the interests of the safe and free passage of highway users and to protect the amenity of existing members of the residents parking scheme which is heavily oversubscribed in the vicinity of the site.

Informative: The applicant is advised that the scheme required by this condition involves the implementation by the Highway Authority of a Traffic Regulation Order under the Road Traffic Regulation Act 1984 (TRO). The TRO process is a lengthy legal process involving statutory public consultation and you should allow approximately 6months from instruction to decision. All necessary costs will have to be funded by the applicant and you are advised that the TRO process cannot commence until payment of the TRO fees are received. Contact:

highway.regulation@york.gov.uk

16 Prior to the installation of any new external lighting, a lighting design plan shall be submitted to and approved in writing by the local planning authority. Thereafter any lighting must be installed fully in accordance with these approved details. The plan shall:

a) Provide specified lighting in-line with current guidance - Bat Conservation Trust (2023) Bats and Artificial Lighting at Night:

<https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

b) Demonstrate how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications), clearly demonstrating where light spill will occur, both within and outside the site boundary.

Reason: To maintain the favourable conservation status of bats and ensure the site remains attractive to other light sensitive species.

17 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by the local planning authority prior to first occupation of any dwelling hereby approved. The content of the plan shall include, but not be limited to, the erection/installation of bat and bird boxes on the new buildings on site or adjacent trees. Thereafter the plan/drawing shall be implemented within 6 weeks of first occupation of the development hereby approved.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 192-195 of the NPPF (2024) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

18 The construction of the dwellings shall be completed fully in accordance with the approved plans. No first floor external wall or above, of any dwelling, is to be constructed less than 6.0m from the boundary wall of the garden/yard of any neighbour. Windows shall be positioned exactly as shown on the approved drawings and of the same scale.

Reason: To protect neighbour amenity.

19 The dwellings shall be constructed in complete accordance with the approved floorplans and for the avoidance of doubt, this includes the bathrooms at the rear of the properties in the location shown. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the bathroom and ensuite bathroom windows in the rear

elevation of the dwellings 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 through prevention of overlooking from windows nearest to property boundaries.

20 The new build dwellings shall achieve a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations). The fabric energy efficiency shall achieve a 19% or more reduction in carbon emissions (compared to the target emission rate as required under Part L of the Building Regulations 2013).

The Target Emission Rate (TER) for the new-build dwellings shall be calculated using version 10 of the Standard Assessment Procedure (SAP) and submitted to the Local Planning Authority prior to development commencing to demonstrate that an overall reduction in carbon emissions of at least 75% above Part L of the Building Regulations 2013 will be achieved. If a reduction of 75% or more cannot be achieved, a statement shall be submitted to demonstrate that such a reduction would not be feasible or viable, and shall be approved in writing by the Local Planning Authority prior to construction.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Draft Local Plan 2018 (as modified in 2023).

21 Prior to the development coming into first use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway.

22 The building shall not be occupied until the areas shown on the approved plans for parking manoeuvring and turning of vehicles (and cycles) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes for the lifetime of the development.

Reason: In the interests of highway safety and 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.

23 The parking and garaging shown on the approved plans shall be kept free of obstructions at all times so that they can be used for the primary purpose of parking

motorised vehicles and bicycles.

Reason: In order that cars, motor-cycles and bicycles can be parked off the public highway, in the interests of the safe and free flow of traffic.

24 A detailed method of works statement identifying the programming and management of site clearance/ preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The statement shall include the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- a dilapidation survey jointly undertaken with the local highway authority;
- hours of operation (including hours where arrivals/departures to/from the site are excluded), noting that access to the site is off a street having restricted width when vehicles are parked on it sides and the presence of two primary schools near to the site;

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

8.0 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 (paragraph 38) 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:

- An increase in separation distances from no.130 and 132 Fulford Road
- Increased garage spaces to park a standard vehicle
- Sufficient, accessible and enclosed cycle parking at 1 space per bedroom
- Suggested that House 3 was reduced in scale
- Requested swept paths for vehicles parking within the site
- Required updates to the BNG assessment in line with updates to drawings
- Design amendments to the dormers
- Advised of the archaeological conditions and that the evaluation could be undertaken prior to determination

2. INFORMATIVE: BIODIVERSITY NET GAIN (BNG)

Application Reference Number: 24/01403/FUL

Item No: 5a

The statutory framework for biodiversity net gain set by paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 requires a Biodiversity Gain Plan to be submitted and approved prior to the commencement of development. The development cannot be lawfully commenced until this condition is satisfied.

Development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority; and
- (b) The planning authority has approved the plan

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, which is required in respect of this permission, is the City of York Council.

SUBMISSION REQUIREMENTS:

Under paragraph 14(2) of Schedule 7A, a Biodiversity Gain Plan must include the following:

- information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
- the pre- and post-development biodiversity value of the onsite habitat,
- any registered off-site biodiversity gain allocated to the development, and
- any biodiversity credits purchased to off-set the development and whether or not from a registered provider.

In addition, under Articles 37C(2) and 37C(4) of The Town and Country Planning (Development Management Procedure) (England) Order 2015, the following specified matters are required, where development is not to proceed in phases:

- name and address of the person completing the Plan, and (if different) the person submitting the Plan;
- a description of the development and planning permission reference number (to which the plan relates);
- the relevant date, for the purposes of calculating the pre-development biodiversity value of onsite habitats and if proposing an earlier date, the reasons for using this earlier date;
- the completed biodiversity metric calculation tool(s), stating the publication date of the tool(s), and showing the calculation of the pre-development onsite value on the relevant date, and post-development biodiversity value;
- a description of arrangements for maintenance and monitoring of habitat enhancement to which paragraph 9(3) of Schedule 7A to the 1990 Act applies (habitat enhancement which must be maintained for at least 30 years after the development is completed);
- (except for onsite irreplaceable habitats) a description of how the biodiversity gain hierarchy will be followed and where to the extent any actions (in order of

priority) in that hierarchy are not followed and the reason for that;

- pre-development and post-development plans showing the location of onsite habitat (including any irreplaceable habitat) on the relevant date, and drawn to an identified scale and showing the direction of North;
- a description of any irreplaceable habitat on the land to which the plan relates which exist on the relevant date, and any part of the development for which planning permission is granted where the onsite habitat of that part is irreplaceable habitat arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat; and
- if habitat degradation has taken place:
 - a statement to this effect,
 - the date immediately before the degradation activity,
 - the completed biodiversity tool showing the calculation of the biodiversity value of the onsite habitat on that date, and
 - any available supporting evidence for the value.

There is a standard Biodiversity Gain Plan template available to complete which brings together many of these matters into one document.

https://assets.publishing.service.gov.uk/media/65df0c4ecf7eb16adff57f15/Biodiversity_gain_plan.pdf

Failure to submit a Biodiversity Gain Plan prior to the commencement of development will lead to formal enforcement action being considered, which could be in the form of a Temporary Stop Notice (that will require all development on site to stop, for a period of 56 days).

3. INFORMATIVE: DEVELOPMENT

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

4. INFORMATIVE: DRAINAGE

Drainage notes for the developer:

i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal,

ii) The applicant should be advised that the Yorkshire Waters prior consent is required (as well as planning permission) to make a connection of foul and surface water to the public sewer network,

iii) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

5. INFORMATIVE: AIR QUALITY - ELECTRIC VEHICLE CHARGING

In line with paragraph 117 of the National Planning Policy Framework, developments should be designed to 'enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations'. In line with Building Regulations, Electric Vehicle (EV) charge point provision ('active provision') is required for all residential developments in York, unless the development has no parking. To prepare for increased demand for charging points in future years, appropriate cable routes ('passive provision') should also be included in

the scheme design and development.

Approved Document S: infrastructure for charging electric vehicles outlines the required standards and provides technical guidance regarding the provision of EV charge points and cable routes. From 15th June 2022, Approved Document S applies to new residential and non-residential buildings, buildings undergoing a material change of use to dwellings, residential and non-residential buildings undergoing major renovation and mixed use buildings that are either new or undergoing major renovation. CYC Building Control should be consulted on all proposals for EV charge point provision (active and passive) to ensure compliance with current Building Regulations.

6. INFORMATIVE: CONSENT FOR HIGHWAYS WORKS

You are advised that prior to starting on site, consent will be required from the Highways Authority for the relevant works being proposed under the Highways Act 1980 (or legislation/ regulations listed below). For further information, please contact the section(s) named:

- Agreements as to execution of works (Section 278) - development.adoption@york.gov.uk
- Works in the highway (Section 171) - streetworks@york.gov.uk
- Vehicle crossing (Section 184) - streetworks@york.gov.uk
- Temporary highway closure (Road Traffic Regulation Act 1984, Section 14) highway.regulation@york.gov.uk

7. INFORMATIVE: CONTACT UTILITIES

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

8. INFORMATIVE: AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGVs). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary.

Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which

are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email highway.regulation@york.gov.uk, with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

Contact details:

Case Officer: Sophie Prendergast

Tel No: 01904 555138