

**APPEAL LODGED ON BEHALF OF
PILCHER HOMES LTD**

**PROPOSED RESIDENTIAL REDEVELOPMENT SCHEME
ON LAND FRONTING TADCASTER ROAD,
DRINGHOUSES, YORK
ERECTION OF 3 NO. 3 STOREY HOUSES
AND A 3 STOREY BLOCK COMPRISING 9 FLATS
AND 1 ATTACHED TOWNHOUSE, TOGETHER WITH
ANCILLARY WORKS**

**APPEAL LODGED PURSUANT TO CITY OF YORK COUNCIL'S
DECISION NOTICE DATED 20 MARCH 2006**

**PRE-INQUIRY STATEMENT OF CASE
PREPARED ON BEHALF OF THE APPELLANTS**

**STATEMENT OF CASE
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PLANNING INSPECTORATE REF. NO: APP/C2741/A/06/2020992/NWF

LPA REF. NO: 02/00103/FULM

SEPTEMBER 2006

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1. INTRODUCTION

- 1.01 This Appeal is occasioned by the decision of the City of York Council to refuse an application for full planning permission, comprising a scheme for the redevelopment of a brownfield site for a total of 13 residential units on land fronting Tadcaster Road, York. *(Contrary to the description of the development adopted by the Council, the rear block actually comprises 9 flats and 1 attached townhouse, rather than the "block of 10 flats" referred to by the Council in the Committee Report, Decision Notice and elsewhere).*
- 1.02 This current proposal, hereinafter referred to as **the Appeal Scheme**, was lodged as a re-submission following the refusal of an earlier scheme, pursued on behalf of the same Applicants (**the Original Scheme**). That Original Scheme was refused by Members, against an Officers' recommendation of approval, in January 2005.
- 1.03 The Appeal Scheme was submitted under cover of application forms and the Agent's letter, both dated 17 January 2006. That letter made it clear that the proposal was a re-submission of the Original Scheme and set out, in broad terms, how the Applicants believed that they had addressed the two Reasons for Refusal cited in respect of the Original Scheme. In particular, the letter confirmed that scheme numbers had been further reduced, given a total of 13 units in place of the previous 16, as refused in January 2005.
- 1.04 Following consideration of the Appeal Scheme, a detailed Officers' Report was subsequently placed before a meeting of the West Area Planning Sub-Committee of the Council, held on 16 March 2006. Following a full analysis of relevant issues, that Report put forward a recommendation of **Approval** for the Appeal Scheme, subject to specified conditions.
- 1.05 Notwithstanding that recommendation, Members resolved to refuse planning permission. It is understood that the decision was unanimous. As a result, the situation in respect of the Appeal Scheme is, then, a repeat of that in respect of the Original Scheme, notwithstanding the significant revisions which had been advanced in the meantime. In other words, two schemes for the same brownfield site had both

been recommended for approval by Officers, only to be refused permission, against that professional advice.

1.06 For ease of reference, the two Reasons for Refusal subsequently set out on the Decision Notice in respect of the Appeal Scheme are worded as follows:

- 1. In the opinion of the Local Planning Authority the proposed buildings, by virtue of their scale, height, massing and design are inappropriate in this area and would harm the appearance and character of the area, the setting of the Tadcaster Road Conservation Area, and the amenities of residents living close to the site. As such, the proposal is contrary to Policy E4 of the North Yorkshire County Structure Plan and Policies GP1 'Design', H4 'Housing Development in Existing Settlements', GP10 'Subdivision of Gardens and Infill Development' and HE2 'Development in Historic Locations' of the City of York Local Plan Deposit Draft.**
- 2. The Council considers that the proposal would result in an unacceptable increase in the level of vehicular movements using this access point, which emerges from within a busy bus stop lay-by and into the lane structure of a busy signalled junction on a principal arterial route into the City. Traffic levels and potential conflicts on the highway at this junction have intensified since the garages on the site were last used as garages rather than for storage, and the traffic increase would be greater than the maximum number of potential movements that could reasonably be expected if the garages at the site were to be fully reused for vehicles. Furthermore, traffic movements associated with the development here would be significantly greater than the existing (and any future likely) vehicular use of the garages. The proposal would, therefore, result in the intensification in the use of an unsuitable access point, causing interference with the free flow of traffic and a consequent danger to highway and pedestrian safety'.**

1.07 In essence, the Appellants' case at the forthcoming Inquiry will offer a detailed response to both of these specified Reasons and produce evidence to demonstrate that they are not soundly based and that the harm alleged will not occur.

1.08 The remainder of this Pre-Inquiry Statement outlines the way in which such arguments will be advanced.

2. SITE LOCATION, DESCRIPTION AND SURROUNDINGS

- 2.01 Notwithstanding the detail provided within the Appeal Scheme submission, in terms of the submitted Design Statement and 'Street Scene' elevational drawings, it is judged important that the Inspector appreciates how the proposals for the subject site fit within their immediate surroundings on Tadcaster Road. Accordingly, the Appellants will explore and analyse those local surroundings in some detail, in order to provide an appropriate context.
- 2.02 Reference will be made to the adjacent designated Tadcaster Road Conservation Area which lies on the opposite (eastern) side of Tadcaster Road. In particular, the Appellants will acknowledge and examine the content of the relevant Conservation Area Statement.
- 2.03 The Appellants will argue that the general environs of Tadcaster Road (*whether within or without the designated Conservation Area*) have evolved over a number of centuries, largely by a process of new built development and infilling, and that this current Appeal Scheme is no more than a further instance of that long-running process.
- 2.04 Reference will also be made to a recently constructed residential scheme on the same side of Tadcaster Road, just several hundred metres further to the south, now named as Calcaria Court. It will be argued that there are distinct similarities between that scheme, as approved and built, and the current Appeal Scheme*. It will, however, be further argued that such similarities call into question why that scheme should have been allowed and the Appeal Scheme resisted. On the basis of all available documentation, in respect of both schemes, it will be argued that the only

* For example, in addition to issues relating to the scale of that scheme, it is noted that the Officers' Report offered the following assessment upon the principle of residential development: *'The application involves redevelopment for residential of a previously developed site within the urban area of York, on a main arterial road and public transport route into the city and within walking distance of local facilities. As such, the scheme accords with national and local planning policy set out in Planning Policy Guidance Note 3: Housing and Draft Local Plan policies H3. Mix of housing types proposed within scheme including 3 and 4 bed houses and 2 bed apartments. The latter is not common in this part of Tadcaster Road – mainly single dwellinghouses – therefore the proposal would add to the variety of land uses and accommodation type available in the area'*

readily discernible difference between the two was the more evident level of local objection in respect of the Appeal Scheme.

- 2.05 In this regard, the evidence to be advanced on behalf of the Appellants will fully explore the substance of third party objections, with a view to demonstrating that they cannot be properly substantiated on relevant and credible land use planning grounds.
- 2.06 It is anticipated that all factual information in respect of site location, description and surroundings can be agreed with the Council in due course, with a view to such details being included within a Statement of Common Ground (**SOCG**)*. That said, it may well be that the inferences to be drawn from such base information may vary between the two main parties. If so, then the Appellants will advance their own analysis through the preparation of their Evidence.

* It has been noted that the site identification plan attached to the 16 March 2006 Committee Report is incorrect. The Appellants look to the Council to confirm this error in due course.

3. RELEVANT PLANNING HISTORY

3.01 The planning history of the subject site will be explored by the Appellants, in order to place this current appeal proposal in its proper context. That said, the reality of the situation is that the only relevant element of such planning history is that related to the Original Scheme already referred to above.

3.02 At this stage, it is judged sufficient to offer the following brief observations:

□ If one compares the two sets of Reasons for Refusal (*in respect of the Original Scheme and the current Appeal Scheme*), it will be seen that the first Reason still being relied upon is identical in both instances.

□ As a result, it is clear that, despite the very tangible changes to the scheme which have been effected through pursuit of this re-submission, and despite the consistent support of the Council's professional Officers, Members have chosen to maintain exactly the same position. The Appellants will argue that this is not a credible stance for the Council to adopt, and that there is every reason for the Appellants to have expected that the significant revisions promoted through pursuit of the Appeal Scheme warranted a different, positive outcome from that which prevailed in respect of the Original Scheme.

3.03 As regards the second Reason for Refusal, it will be noted that the Appeal Scheme has attracted a far more detailed exposition of the Council's alleged concerns in respect of highway issues, compared with that which was previously advanced against the Original Scheme.

3.04 Bearing in mind that no highway objections were offered by Officers in respect of either scheme, the Appellants will endeavour to explore why a more elaborate Reason has been advanced in the current instance, in the absence of any support from professional Officers for any highway grounds for resisting this scheme.

3.05 Put simply, the Appellants will seek to establish the source of this second Reason for Refusal which, on its face, offers a technical highway reason for resisting this

proposal, but in the absence of any support from the very Officers who are best qualified to advise on such matters.

- 3.06 This is, in our submission, all the more important, when one bears in mind that the Appeal scheme was recommended for **approval**. In other words, given that recommendation, there was no wording for the resultant second Reason for Refusal before Members, at the point at which they determined to refuse planning permission.
- 3.07 It is anticipated that factual information relating to (*albeit limited*) relevant planning history can be agreed with the Council and included within the SOCG. That said, it is anticipated that the two main parties will be likely to offer differing views in respect of that earlier decision, so far as it may be relevant to the determination of this appeal.

4. PLANNING POLICY CONTEXT

4.01 Reference will be made to the **statutory development plan** which, in this instance, currently comprises the approved North Yorkshire County Structure Plan and the Regional Spatial Strategy (**RSS**) for Yorkshire and the Humber.

4.02 As regards the more local planning policy framework, there is no statutorily approved Local Plan in place. Previous pursuit of such a Plan got to the point of a Deposit Draft version, augmented by 4 Sets of Pre-Inquiry Changes. *(It is that emerging policy context which is alluded to in the first of the Council's two Reasons for Refusal in respect of the Appeal Scheme).*

4.03 It is acknowledged that more recent work is now in train, regarding the Council's progression of its new Local Development Framework. However, such work is at an early stage, to such an extent that there is, in essence, no local statutory planning policy framework which can be said to be of relevance to the circumstances of this appeal.

4.04 Accordingly, the Appellants will argue that only relevant national and regional policies have any real weight in determining the outcome of this appeal. Local Plan policies will, however, be assessed as material considerations.

4.05 It is envisaged that the factual content of all relevant policy sources will be included within the SOCG, with any varying interpretation of that guidance being set out separately in the Evidence to be presented by both main parties.

4.06 In reality, in this particular instance, the anticipation is that this appeal will fall to be determined on its individual, site-specific circumstances, against a general background of conformity with broad planning policy. In other words, the Appellants will advance the argument that there is a presumption in favour of the beneficial and efficient use of an existing, under-used urban brownfield resource, subject obviously to such location-specific considerations as good neighbourliness, amenity considerations and due regard being paid to the character and setting of this particular locality.

5. THE COUNCIL'S CONSIDERATION OF THE SUBJECT APPLICATION

5.01 By reference to the documents included within the Council's Appeal Questionnaire and the bundle of appeal papers submitted on behalf of the Appellants, the authority's deliberations on the Appeal Scheme will be considered in detail.

5.02 It will be noted, *inter alia*, that:

- There was a relatively significant degree of local objection to the Appeal Scheme;
- Many of these objections were couched in the same terms as used in respect of the Original Scheme, despite the fact that clear revisions had been introduced in the meantime. (*Indeed, it is noted that many letters, in essence, asserted that the previous Reasons for Refusal remained valid, despite such changes*);
- Key consultees were, again, supportive of the proposals, most notably the relevant Officer from Highway Development and the Council's Head of Design, Conservation & Sustainable Development. Their areas of expertise are noted as being directly related to the two main topics which are now relied upon in the Reasons for Refusal devised by Members;
- The support of those Officers is perhaps not surprising, given that the Appeal Scheme is now of a reduced scale from that which they previously found acceptable; and that
- The Officers' objective assessment was that permission should be granted.

5.03 The Appellants will explore the substance of third party concerns, as set out in the various letters of objection, and will demonstrate that these are insufficient to amount to credible reasons for resisting this scheme, on land use planning grounds, taking account of all relevant circumstances.

5.04 Evidence will also be advanced, by detailed reference to the analysis set out in the Officers' Report, and to all relevant supporting documentation, to demonstrate that contrary arguments in favour of the appeal scheme are more persuasive.

- 5.05 Given such analysis, it will be argued that there is genuine merit in the Officers' assessment, that Members were wrong to resist that professional advice, and that the Reasons for Refusal upon which they seek to rely cannot be sustained.
- 5.06 In particular, it will be contended that undue weight was accorded by Members to the claimed concerns raised by local objectors and that, as a result, Members were inappropriately swayed to resist a robust recommendation of approval.
- 5.07 Given that refusal of the Appeal Scheme is now the second time that such a negative outcome has occurred, it will be noted that proposals for this brownfield site remain unresolved, despite having first been submitted as long ago as **December 2003**.
- 5.08 Given that context, it will be argued that the Council have acted unreasonably in continuing to resist a beneficial development which should, on any objective assessment of all available information, have been allowed to proceed.
- 5.09 Indeed, if that had occurred, it is considered that there is every likelihood that the dwellings involved would, by now, either be completed and occupied or at least be under construction, offering imminent housing opportunities to the benefit of the local residential market.
- 5.10 In short, this beneficial re-use of an underused brownfield resource has been unnecessarily and unreasonably delayed, to a significant degree, by the actions of this Council.

6. OUTLINE OF THE APPELLANTS' CASE

- 6.01 In due course the Appellants will produce evidence to counter all of the concerns specified in the two Reasons for Refusal set out on the Decision Notice of 20 March 2006.
- 6.02 At this stage, for the purposes of this Statement, it is judged sufficient to indicate the general approach which the Appellants will take towards the production and presentation of that evidence.
- 6.03 Accordingly, the text below addresses the two Reasons, in turn.
- 6.04 Beginning with the **first Reason for Refusal**, this is already quoted in full at *Paragraph 1.06* above.
- 6.05 For clarity, and unless the Authority indicates otherwise in due course, the "**proposed buildings**" referred to in this Reason are taken to be the two principal buildings. Namely, Villa A and Villa B. It is assumed that the specified concerns do not relate to either the cycle parking/bin store structure or the garage blocks located to the rear (western) portion of the site.
- 6.06 Proceeding on that basis, the Appellants will consider each of the specified elements of the two Villas (*ie. their scale, height, massing and design*) and go on to test whether these:
- i) are inappropriate in this area;
 - ii) would harm the appearance and character of the area;
 - iii) harm the setting of the Tadcaster Road Conservation Area; and/or
 - iv) harm the amenities of residents living close to the site.
- 6.07 This will be done by offering an objective analysis of the Appeal Scheme, from a range of relevant perspectives. These will include:

- The original assessment of the character and 'grain' of the locality, which was used as a vehicle for establishing a suitably sensitive scheme in terms of scale, massing and "good neighbourliness";
- Original research into existing (good quality) design features within the immediate locality (*eg. materials, window types and treatments, building details etc*) which assisted the designer in developing a scheme which is both distinctive and bespoke, but which nevertheless complements its surroundings; and
- A related assessment of existing spatial and urban design characteristics within the locality, as a vehicle for identifying the constraints and opportunities associated with the proposed redevelopment of this site. (*eg. the scope for improving the street scene quality of the Tadcaster Road frontage, and the clear opportunity to enhance the townscape composition along St. Helens Road which is, at present, of poor quality, in terms of visual appeal, scale and containment...*).

6.08 It will be explained how this early (and essential) evaluation work informed the evolution of a scheme which is judged to be individual, original and well-suited to such an urban opportunity site alongside one of the main approaches to York City Centre.

6.09 In this context, reference will be made to the Design Statement which was submitted as an integral part of the application, and to the Street Scene Elevations which were always regarded as an essential element of this submission by the Appellants.

6.10 The Appellants will also rely upon the recorded views of others who were involved in assessing this scheme, by reference to relevant consultation responses and the contents of the Committee Report itself.

6.11 In particular, reference will be made to the consultation response from the Council's own Head of Design, Conservation & Sustainable Development who, overall, confirms that he regards both Villas as acceptable in terms of architectural design, scale and proportion, as well as indicating that the effect of the scheme on the setting of the adjacent Conservation Area is also acceptable.

- 6.12 The Committee Report on the Appeal Scheme reproduces the full text of that consultation response from the Head of Design & Conservation, and goes on to offer the further observation that "***although the buildings would have a significant presence in the street scenes of Tadcaster Road and St. Helen's Road they would not dominate the street to the extent that they would harm the character of the area***".
- 6.13 The Report goes on to conclude that the scheme is acceptable and that it "***would not harm the character of the area, the amenities of residents, worsen highway safety or harm the biodiversity of the area***", subject to a range of specified conditions.
- 6.14 As regards the question of potential harm to the amenities of nearby residents, which is also alleged in the first Reason for Refusal, this is covered at some length in the Committee Report, which concludes that the scheme is acceptable, in terms of "space about dwellings" distances and any potential for noise or activity arising from use of the proposed garage blocks.
- 6.15 The Appellants will offer their own detailed analysis on all potential amenity issues and will demonstrate that relevant guideline standards are exceeded by a significant margin. Indeed, it will be explained that, notwithstanding the level of objection, particularly from residents on Mayfield Grove and St. Helen's Road, there are in fact only a very limited number of existing properties where a 'new to old' direct relationship will arise. Where this occurs, it will be demonstrated that separation distances are significant and that even 'new dwelling to garden' relationships can be effectively addressed by the planting measures which are proposed.
- 6.16 **Overall**, it will be argued that the various issues raised in the first Reason for Refusal do not bear close scrutiny and cannot be substantiated in the light of any proper objective assessment. Indeed, it will be argued that one can arrive at the opposite (positive) conclusion in respect of each of the matters which is alleged.

- 6.17 Turning to the **second Reason for Refusal**, the Appellants will again offer their own analysis, as well as having regard to the consultation response from Highway Network Management and the assessment offered in the Committee Report.
- 6.18 By way of background, reference will be made to a Highway Assessment report which was submitted on behalf of the applicants, in support of the Original Scheme. The content of that document was accepted by Officers, leading Highway Network Management to the conclusion, *inter alia*, that as ***"there would be no material intensification in use of the access and given the improvements it is considered that there are not significant highway grounds to warrant refusal of planning permission"***. (Quotation taken from the 20 January 2005 Committee Report on the Original Scheme).
- 6.19 In the event, notwithstanding such support, many objections to the Original Scheme focused upon highway concerns. Certainly, in going against the original Officer recommendation of approval, Members chose to rely upon a highway reason for refusal. It is understood that the relevant Highway Officer was present at that original Committee Meeting and spoke against that intention, indicating that he would be unable to support such a reason.
- 6.20 Coming forward to the current Appeal Scheme, it will be noted that Highway Officers have re-stated their previous position, not least because the number of units involved has now been reduced from 16 to 13.
- 6.21 Reference will be made to the relevant consultation response from Highway Development which includes the following commentary:

"The previous application was refused permission and included the following highway reason: "In the opinion of the Local Planning Authority the proposal would result in the intensification in the use of an unsuitable access point that would create a hazard to highway safety". This reason was generated at committee and was contrary to officer advice. It is considered that points in the report submitted by the applicants' Transport Consultant in the previous application are still relevant and as the current application is for three fewer units with attendant lower traffic movements then the officer recommendation is again to allow the application subject to ...conditions".

- 6.22 As previously, it is noted that letters of objection have very much focused upon highway issues, and those speaking against the Appeal Scheme at Committee certainly referred to the access arrangements as being unsatisfactory.
- 6.23 In the event, Members again resolved to rely upon a highway reason for refusal, against officer advice, although in the current instance it will be seen that the text of the second Reason has now been elaborated upon when compared to that used in January 2005. That wording is set out within the quotation above from Highway Network Management. For ease of reference, and by way of cross-reference with that earlier Reason, the current second Reason for Refusal is set out in full in *Paragraph 1.06* above.
- 6.24 Notwithstanding the fact that this Reason goes into greater detail than was previously the case, the Appellants will argue that the Appeal Scheme is now numerically preferable to the Original Scheme, in terms of vehicle generation. Given that the Council's technical Officers have again indicated that this proposal is acceptable (*Indeed, they have in essence acknowledged that it is now more acceptable than previously...*), it will be argued that the Council are unable to substantiate this second Reason for Refusal.

7. SUMMARY & CONCLUSIONS

- 7.01 For the reasons outlined above, and to be elaborated in due course through the presentation of Evidence, it is argued that the Reasons for Refusal relied upon by the Council do not bear close scrutiny and that there are no good planning grounds for continuing to resist this proposal.
- 7.02 It represents the beneficial redevelopment of a markedly under-used brownfield site in a highly sustainable urban location which should, on any reasonable basis, be allowed to proceed.
- 7.03 In addition, it is seen as very regrettable that what is, in essence, a relatively modest proposal should have been frustrated for such a considerable period of time, not least because the schemes involved have now been recommended for approval by Officers on two separate occasions.
- 7.04 All of that said, the Appellants welcome the opportunity to present their case to the forthcoming Inquiry, where they will invite the Inspector to uphold this appeal and to grant full planning permission for this residential development, as proposed, on land off Tadcaster Road, Dringhouses, York.

8. LIST OF DOCUMENTS

8.01 The Appellants anticipate that further elaboration of their case may necessitate reference being made to any or all of the following documents:

- i) All papers relating to the subject application (Ref: 06/00103/FULM);
- ii) All papers relating to the Original Scheme (Ref: 03/04013/FUL);
- iii) Current Government planning policy guidance including PPGs, PPSs, Circulars, Ministerial Statements and emerging guidance;
- iv) Photographic material depicting the subject site and its immediate locality;
- v) Relevant elements of the approved North Yorkshire County Structure Plan;
- vi) Relevant elements of the current/emerging Regional Spatial Strategy for Yorkshire and the Humber;
- vii) Relevant elements of the Draft City of York Local Plan (including the Four Sets of Pre-Inquiry Changes), as approved for development control purposes on 12 April 2005 and subsequent LDF documents;
- viii) The Council's published Conservation Area Statement for the adjacent Tadcaster Road Conservation Area;
- ix) Papers relating to a residential development due south of the signalised junction between Tadcaster Road and St Helen's Road, now named as Calcaria Court (Ref: 02/03537/FUL);
- x) "Design Bulletin 32: Residential Roads and Footpaths", published by DoE/DTP, 1992;
- xi) "Place, Streets and Movement" – A Companion Guide to DB32, published by DETR, 1998;
- xii) IHT document "Guidelines for Traffic Impact Assessment";
- xiii) Such other documents and/or drawn or graphic material as may become relevant, arising from the Appellant's further progression of their case.