

## COMMITTEE REPORT

**Committee:** West/Centre Area                      **Ward:** Holgate  
**Date:** 14 December 2009                      **Parish:** No Parish

**Reference:** 09/01910/FUL  
**Application at:** Garages To The Rear Of 11 To 21 Holly Bank Grove York  
**For:** Erection of 8no. two storey dwellings (including accommodation in roof - resubmission)  
**By:** Mr Peter Mortimer  
**Application Type:** Full Application  
**Target Date:** 17 December 2009

### 1.0 PROPOSAL

1.1 The application is for the erection of 8 no. two storey dwellings (including accommodation in the roof). There would be a terrace of three dwellings to northern end of the site and a terrace of 5 dwellings to the south of the site abutting the main east coast rail line.

1.2 The application is a resubmission of a previous application. This application differs from the previous application in the 3 no. three storey dwellings have been reduced to two storey dwellings. The parking arrangements within the site have been revised.

1.3 The application comes before committee at the request of Cllr Alexander as there are concerns regarding the density of development and the potential increase in parking in the surrounding streets. As there has been objections to the application there will be a committee site visit.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

Floodland GMS Constraints: Flood Zone 2

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

2.2 Policies:

CYSP3  
Safeguarding the Historic Character and Setting of York

CYGP1  
Design

CYGP4A

Sustainability

CYGP10

Subdivision of gardens and infill devt

CYGP15

Protection from flooding

CYH4A

Housing Windfalls

CYED4

Developer contributions towards Educational facilities

CYL1C

Provision of New Open Space in Development

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

##### 3.1 EDUCATIONAL PLANNING OFFICER

- Requesting a Section 106 contribution of £18,968 to provide 2 additional secondary pupils at Millthorpe Secondary School

##### 3.2 PUBLIC RIGHTS OF WAY

- The site of the application lies within the former County Borough area of York for which at present there is no Definitive Map of Public Rights of Way
- Noted at present there is currently a path leading from Jennifer Grove which is shown as gated access on the proposed block plan and also a path/vehicular access leading from Holly Bank Grove
- The site may well be used as a short cut between the two streets and public rights of way may well have come into being
- It is not clear why the access from Jennifer Grove is proposed to be gated or who would have access through it
- If the route is intended to be used as a private access only and objections to the application are received as a result of the through route being gated to prevent public use, then it might be pertinent for the developers to treat it as a public right of way and apply for it to be either diverted or extinguished under the Town and Country Planning Act 1990. This would be required to be done after the application has been granted but before development takes place.

##### 3.3 ENVIRONMENTAL PROTECTION UNIT

- The environmental protection unit has concerns regarding noise and contaminated land at the proposed site.
- The applicant has submitted a noise report that demonstrates that the proposed dwellings will be in NEC B and are satisfied that it is possible to mitigate this noise using appropriate glazing and acoustic ventilators.
- Concerns that noise, particularly low frequency noise associated with trains, may have a detrimental effect on amenity of occupiers of the proposed development. Following further discussions with the applicant's consultant, further analysis of the noise environment would be necessary in order for a sufficient scheme to be submitted. Therefore, would recommend a condition is attached to ensure that amenity of the occupiers of this development are protected from noise should the

- application be approved
- As this is a resubmission particularly disappointed that the applicant has completed Section 15 of the application form incorrectly again. The proposed use (dwellings) will be particularly vulnerable to the presence of contamination, therefore would recommend that conditions relating to contaminated land should the application be approved.

### 3.4 HIGHWAY NETWORK MANAGEMENT - No objections

#### Comments on revised plans

- This Council has a policy that where more than five properties are served off a street then that street should be capable of being one that is maintainable at public expense i.e. adopted. This street is not considered capable of being adopted principally due to shortcomings in the layout of its junction with Holly Bank Grove, its restricted access width and the inability to independently turn servicing vehicles around within the site. It should therefore be a requirement of any planning permission to ensure that the maintenance of all shared/public areas within the site are the responsibility of a management company in perpetuity. However that a refusal on highway terms could be not substantiated on this basis due to the basic consideration that traffic movements generated by eight houses would be less than those currently / potentially generated by 37 garages.
- All of the amended drawings are annotated "Drawing updated as per highway officer's recommendations", whereas the only recommended amendment that has been included in the revision is the provision of a footway element fronting three units of the five-block. The combination of the retention of car park bay nos 1 and the inclusion of the footway element reduces the ability for vehicles entering and leaving the site to simultaneously pass at the site entrance.
- There are no details of cycle storage but it is considered that this aspect could be covered by a condition.
- The retention of the parking layout as proposed would result in cars visiting the site not being able to readily turn around within the site without using one of the parking bays; although in reality it is thought likely that cars will turn-around by multi-shunting rather than reversing out onto the highway.
- The proposed total of 11 parking bays accord with the recommended maximum number of bays in relation to the overall size of the development.
- The amended details do not include swept paths of fire tenders at the access point as requested. The access is wide enough and clear of height restrictions sufficient to allow fire tenders to enter the site but in applying simple standard overlays to the original drawings suggests that manoeuvring at the access point could be restrictive. It is a standard recommendation that fire tenders should be able to stand within 45m of the entrance to two storey buildings and within 35m of three storey buildings: Plot five of the block of five would be approximately 52m from Holly Bank Grove and plot one of the block of three would be approximately 34m from Jennifer Grove. It is suggested therefore that North Yorkshire Fire and Rescue be consulted as to whether they consider that accessibility by emergency vehicles is not affected to the extent that safety is compromised.
- It is noted that the access is 3.7m wide but to achieve this the kerbs would be removed, but this could possibly affect drainage onto neighbouring properties. Not considered that the presence of these kerbs would affect the ability of a fire tender to access the site, The 3.7m figure in the "Manual for Streets" states "between kerbs" but their removal would not reduce the width below the 2.75m minimum width. It is recommended that the kerbs therefore remain in situ or drainage details/cross sections be submitted that demonstrate that neighbouring properties will not be affected. The retention of the kerbs would result in an access in excess of 3.2m and therefore still permit a car to pass a pedestrian.
- The existing access would need to be able to withstand the laden weight of a fire

tender - assumed to be 12 tonne.

- The collection point for bins is acceptable in that it is reasonably adjacent to the public highway and would not unduly obstruct the passage of cars and pedestrians accessing the site, however it may be more practicable to have the bins for the block of three to be left at the Jennifer Grove entrance.
- A system of street lighting within the site is not shown. It would seem probable that some form of lighting would be required and to ensure its' adequacy and that it would not disturb neighbours then it is suggested that the scheme be submitted for approval by the councils' Street Lighting Engineer. It is considered that this could be secured by an appropriate condition.

### 3.5 STRUCTURES AND DRAINAGE - Object

Insufficient information has been provided by the Developer to determine the potential impact the proposals may have on the existing drainage systems

### 3.6 LIFELONG LEARNING AND LEISURE

As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site such as West Bank Park or Hob Moor (b) play space - which would be used to improve a local site within such as West Bank Park (c) sports pitches - would be used to improve a facility within the West Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement

### 3.7 CITY DEVELOPMENT - No comments received to date

## EXTERNAL CONSULTATIONS/REPRESENTATIONS

### 3.8 POLICE ARCHITECTURAL LIAISON OFFICER

- If public allowed access from Jennifer Grove would seriously compromise the security of the development. The path runs immediately alongside the gable wall and boundary fencing of Unit 8 with no defensible space between. The path is not overlooked, and there is a problem of graffiti in the area.
- The proposed design and layout of the development are excellent from a "designing out crime" point of view
- Lacking provision of secure covered cycle storage
- The garages are located in a vulnerable and isolated position with very little opportunity for natural surveillance. Obvious that anti-social behaviours is a problems

### 3.9 MARSTON MOOR INTERNAL DRAINAGE BOARD

The site is now the responsibility of the Environment Agency

### 3.10 ENVIRONMENT AGENCY - No objections

If planning permission granted would like a condition regarding additional information for drainage

### 3.11 YORKSHIRE WATER - No objections

Would like details of the foundations within the stand-off distance conditioned

### 3.12 NETWORK RAIL - No objection,

Would like a number of requirements to be met mainly relating to keep works away from the railway line, maintenance of the boundary, some types of trees should not be planted adjacent to the railway line.

### 3.13 FIRE AND RESCUE PREVENTION OFFICER - No objections

3.14 Petition has been received containing 21 addresses

3.15 25 LETTERS OF OBJECTION (2 x 2 letters from same address, 3 letters from same address)

- Problems with the access to the site
- Cause more parking in the surrounding streets
- Disturbed by construction noise, construction vehicles would be unable to access the site
- Problems with the drains
- Refuse lorries will not be able to access the site. Associated refuse bins on Holly Bank Road, no space has been shown for recycling
- No parking space for guests to the proposed dwellings, causing parking in the surrounding streets
- Street lights for the development would cause disturbance
- There is no footpath adjacent to the vehicle access into the site
- Emergency vehicle would be unable to access the site
- The number of dwellings would appear cramped
- Style of dwellings not in keeping with surrounding
- Question the market for such dwellings given the proximity to the railway line, noise disturbance caused by the rail line
- Increase in traffic on Holly Bank Grove, potentially dangerous to residents within the street
- Loss of privacy, overlooking caused
- Application does not address the issues raised in the previous application
- Residents who park their cars in the garages will be displaced to the surrounding streets together with the parking from the new dwellings
- Overdevelopment of the site not in keeping with the character of the area
- At present the movement of traffic to and from the garages is minimal, will increase if dwellings built
- Network Rail required that the absolute minimum requirement for the width of the access road for fire and rescue is 3.7metres; the proposed bin collection point reduces the road to 3 metres
- To allow this development would set a precedent
- There has been a path of this site since before 1936, removing a viable path used by existing residents
- Dispute the police report. There was graffiti, but was cleared away by the local residents (not the owner) over a year ago, no further incidents have occurred. Anti-social behaviour is not a major ongoing problem
- Removal of the kerbstones along the vehicles access may cause surface water problems to the neighbouring dwellings
- View of the city will be lost
- Cause harm to living standards and health and safety of the occupants of the neighbouring dwellings
- The site was bought in 1962 with the view to building a dwelling on it, however due to the culvert and the problems of access planning permission was not granted
- Cause noise disturbance once the development has been constructed e.g. vehicles using the access road
- Would result in people within Holly Bank Grove putting hard standing in the front gardens for vehicles parking
- Increase pollution from the number of vehicles using the site
- Lorries would not be able to access the site causing them to unload contents in Holly Bank Grove
- If roofs were lowered and hipped would afford more daylight
- Proposed gates would further reduce the width of the vehicle access

- Regulations state that the road surface should not be placed adjacent to existing buildings; there should be a 0.5 metres distance between the two
- Proximity of refuse bins to No. 19 Holly Bank Grove would be unsightly and unhealthy
- Question the extra capacity of the sewer
- Noise issues of the vehicle access in close proximity to 17 and 19 Holly Bank Grove
- Does not conform the City of York requirements, Access courts for 5 -25 dwellings, the access road is not 6.5 metre wide and the length is in excess of 25 metres
- North Yorkshire Fire and Rescue Services access requirements - minimum width of 3.7 metres and a minimum radius of 9 metres
- Impact on property values of the surrounding dwellings
- A smaller scale development would be more realistic given the vehicle access issues
- Roof lights will overlook 13 and 23 Holly Bank Grove
- The proposed gardens are a limited size would cause an increase in children playing in the street. Dwellings next to the railway causing trespass on the railway line, at present not easily accessible

#### **4.0 APPRAISAL**

##### RELEVANT SITE HISTORY

09/01114/FUL - Erection of 5no. two storey and 3no. three storey dwellings (all with rooms in the roof) - Withdrawn

685H (1966) - The use of six lockup private garages as store accommodation - Refused  
 - The garages are intended to serve a need in a residential area and were approved as private lockup garages by the LPA. It is considered that their use for commercial and business purposes is introducing a use contrary to the approval, and is resulting in additional commercial traffic using residential streets to the detriment of the residents. Appeal to the Ministry of Housing and Local Government to the refusal of Application 685H was dismissed (1967)

685G (1963) - The erection of 29 lockup private garages, in brick construction and 4 lockup private garages and shed of light construction - Approved

685F (1962) - 33 Lock up garages - Refused

685E (1961) - 2 detached bungalows incorporating garages - buildings were sited over sewer, revision of siting was requested but not submitted, application was abandoned

685D (1961) - Use of land for the erection of two dwellings - Approved

685C (1961) - Use of the land for erection of dwelling - Refused - unsatisfactory access and "barely planned development"

##### ADDITIONAL PLANNING POLICY

CYC Interim Planning Statement on Sustainable Design and Construction, 2007

CYC Developer contributions to education facilities

CYC Commuted Sum Payments for Open Space in New Developments - A Guide for Developers, 2007

CYC Strategic Flood Risk Assessment, 2007

CYC Strategic Housing Market Assessment, 2007

Planning Policy Statement 1 - Delivering Sustainable Development

## KEY ISSUES

1. Visual impact on the area
2. Impact on neighbouring property
3. Impact on highway safety
4. Drainage
5. Other issues

## ASSESSMENT

### PLANNING POLICY

4.1 National planning policy contained within PPS1 'Delivering Sustainable Development', states that good design is indivisible from planning. Design which is inappropriate within its context, or which fails to take opportunities for improving the character and quality of an area or the way it functions should not be accepted. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2 PPS3 supports PPS1 with regards high quality new housing and encourages sustainable and environmentally friendly new housing development through the reuse of previously developed land, more efficient use of land through appropriate densities, reducing dependency on the private car and provision of affordable housing. It states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate. However, it also states that the density of an existing development should not dictate that of new housing by stifling change or requiring replication of existing styles and form. When well designed and built in the right location, new housing development can enhance the character and quality of an area.

4.3 PPS25 Development and Flood Risk: This PPG explains how flood risk should be considered at all stages of the planning and development process. It sets out the importance of the management and reduction of flood risk in planning, acting on a precautionary basis and taking account of climate change.

4.4 The relevant development plan is The City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH

4.5 Policy SP3 'Safeguarding the Historic Character and Setting of York' in the City of York Council Development Control Local Plan (2005) states that high priority will be given to the protection of the historic character and setting of York. The following principles will be applied when considering planning applications: The protection of key historic townscape features, particularly the protection of the environmental assets and landscape features which enhance the historic character and setting of the City. These can comprise and views into the City from a number of main transport routes; the protection of the main gateway transport corridors into York from development which, cumulatively, could have an adverse impact on the character and setting of the corridor and the surrounding environment.

4.6 Policy GP1 'Design' of the City of York Council Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.7 Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development.

4.8 Policy GP10 ' Subdivision of Gardens and Infill Development' states that permission will only be granted for the development or subdivision of gardens areas where it would not be detrimental to the character and amenity of the local environment.

4.9 Policy GP15a 'Development and Flood Risk' in the City of York Council Development Control Local Plan (2005) states that all applications in the low to medium risk or high risk areas should submit a Flood Risk Assessment (FRA) providing an assessment of additional risk arising from the proposal and the measures proposed to deal with these effects.

4.10 Policy H4a 'Housing Windfalls' of the CYCDCLP states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

4.11 Policy ED4 ' Developer Contributions Towards Educational Facilities" in the City of York Council Development Control Local Plan (2005) states that in considered proposals for new residential development any consequences for existing schools, early years and other community facilities will be assessed in accordance with the approved supplementary planning guidance. Where additional provision is necessary as a direct result of the proposal, developers will enter into a Section 106 agreement to make a financial contribution towards the provision of these facilities.

4.12 Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

#### VISUAL IMPACT ON THE AREA

4.13 The site is largely constrained by the access road and a culvert running under the site with the accompanying easement requirements, the proximity of the railway line to the southern boundary, and the proximity to neighbouring dwellings on the north, east and west boundaries.

4.14 The proposed dwellings are two storey gable roofed buildings. The development is split into two terraces. There would be a terrace of three dwellings to northern end of the site and a terrace of 5 dwellings to the south of the site abutting the main east coast rail line. Each dwelling would have accommodation in the roof space. Each terrace has staggered each dwelling, which provides an element of visual interest. The terrace of three dwellings would

be 8.6 metres in height and the terrace of 5 dwellings would be 8.4 metres. The surrounding dwellings are approx 7.5 metres

4.15 The dwellings surrounding the site are terraces of 4 and 6 dwellings all dating from the same period. The dwellings have a common design theme which is common of the time they were built. The proposed dwellings have a gable roof rather than the hipped roof of the surrounding dwellings, but replicate the terraced character of the area. The proposed development would be visible from the surrounding streets through gaps between the buildings and would be visible from the railway line however it is considered that it would not be unduly prominent. There have been some objections that the style is not similar to the neighbouring dwellings. The different style is relatively simple and is not considered to be harmful, PPS3 states that replication of existing styles should not be insisted on. The neighbouring buildings represent the style of the time they were built and it is considered that the proposed design of the dwellings would reflect the period of construction.

4.16 PPS3: Housing requires Local Planning Authorities to adopt an evidence based approach to housing delivery. Policies should be informed by housing need and demand, through housing market and housing land availability assessments. The Council has carried out a Strategic Housing Market Assessment (SHMA), adopted by the Council for Development Control purposes on the 27 September 2007. The report looks at what is appropriate in York in terms of housing tenure, size and type, in order to help create mixed and balance communities. The Study reveals a demand for a range of dwelling sizes, with 21% looking for 1 bed, 29% for 2 bed, 29% for 3 bed, and 21% for 4 bedrooms. Over 60% of households are looking for houses rather than flats. In the urban area, where the application site is located, the demand is highest for 3-bed houses.

#### IMPACT ON NEIGHBOURING PROPERTY

4.17 Both terraces face into the site onto a courtyard that would be used for parking. The side elevation of Unit 1 would face the rear of 19 Holly Bank Grove. There would be a distance of 14 metres between the buildings. There would be a first floor bathroom window in this elevation, it is shown on the plans as obscure glazed and it could be conditioned as such. Unit 1 would be to the east of No. 19, there may be a slight overshadowing during early morning during the summer months but it is not considered that it would cause sufficient harm to warrant refusal.

4.18 The principal room windows of the south terrace face towards the railway line or over the courtyard to the front of the buildings, therefore not creating any overlooking or loss of privacy issues.

4.19 Unit 5 and Unit 8 each have a side elevation facing the dwelling and garden of 10 Jennifer Grove. Neither elevation would have a window facing this property. The proposed units would be to the west of 10 Jennifer Grove and it is considered by virtue of the siting of both terraces neither would unduly reduce the sunlight to this dwelling or garden. By virtue of the distances between the dwellings and the large size of the garden it is not considered that either terrace would be overbearing, or dominant the outlook from the rear garden of 10 Jennifer Grove.

4.20 Unit 3, 4, 5 would have first floor balconies to the rear elevation these would overlook the railway line to the rear. The balcony to Unit 5 would give an oblique view of the end of the garden of 10 Jennifer Grove however it is not considered to cause harm to the residential amenity of the occupants of that dwelling by virtue of the large size of the garden

4.21 At present the boundary of the site is a tall wall approx 2.6 metres in height, which is the rear elevation of the garages. The developer intends to retain this wall; the wall at

present creates a degree of privacy to the gardens abutting the proposed site. The wall would also create a significant degree of screening of the proposed dwellings.

4.22 Unit 8 is sited close to the boundary with 11 Jennifer Grove (8 metres between the buildings) the boundary wall would prevent overlooking from the ground floor, and the windows in the first floor of all this terrace facing north are either for a stairwell or bathroom and are indicated on the plans as obscure glazing. The roof lights in the rear roof slope are for a stairwell and an en-suite shower room and therefore not considered to result in overlooking. In addition the windows in the first floor of 11 Jennifer Grove are an obscurely glazed window, and a landing/bedroom window neither of these windows are to primary living rooms. It is not considered that the proximity of the dwellings would be overbearing or create an undue harmful sense of enclosure, as the garden is dominated by the existing tall boundary wall. The proposed dwellings would be to the south of 11 Jennifer Grove, and by virtue of the existing wall there is an existing loss of light, the proposed dwelling specifically Unit 8 is not considered to unduly impact further on this loss of light.

4.23 Some concern has been expressed over the noise disturbance of traffic using the vehicle access. The proposed access road would have a distance of 5.6 metres from 17 Holly Bank Grove and 4 metres from 19 Holly Bank Grove. It is not considered that it would cause an undue noise disturbance by virtue of the distance of the properties to the access road would be sufficient to mitigate any potential noise disturbance. In addition the traffic movements generated by 8 dwellings would be less than those currently/potentially generated by 37 garages.

#### IMPACT ON HIGHWAY SAFETY

4.24 There have been a number of objections received regarding existing traffic issues in Holly Bank Grove and the concern that the proposed development would intensify the current problems and move the parking from the garages to the surrounding streets.

4.25 Highway Network Management have stated that the vehicle access is not considered capable of adoption by the Local Authority by virtue of its shortcomings in the layout of the junction with Holly Bank Grove, its restricted access width, and the inability to independently turn servicing vehicles around within the site. The applicant states that only 10 of the 37 garages are used for the parking of vehicles and only 4 are used on a frequent basis. The predominant use of the garages is for storage. It is not considered that a refusal on highway grounds could be substantiated by virtue that traffic movements generated by 8 dwellings would be less than those currently/potentially generated by 37 garages.

4.26 Highways Network Management have requested that the maintenance of the shared areas within the site be the responsibility of a management company in perpetuity. The agent has stated in the supporting information that a management company financed by the residents of the proposed dwellings would undertake the maintenance of the shared areas and landscaping. It is considered that a management company could not be conditioned as it would be difficult to enforce. The owners of the proposed dwellings would have responsibility of the upkeep for shared space. It is not considered that the inability to condition a management company would require that the application be refused. The existing site is not adopted and the upkeep is the responsibly of the owner.

4.27 The 11 parking spaces proposed for 8 dwellings in addition to the site's close proximity to the city centre and other facilities accord with the CYC recommended maximum number of bays in relation to the size of the development, this includes a 25% allowance for visitor parking. There is some concern that the development would cause the displacement of parking from the existing garages to the surrounding streets. However the applicant has confirmed that only 4 of the garages are regularly used for parking and therefore on the

basis of the information submitted there would be limited displacement parking and it is not considered to be significant enough to warrant refusal.

4.28 The plans and the supporting information indicate that the vehicles access could be widened by removing the kerbstones. This has raised concerns about surface water flooding to the properties either side of the vehicles access. No drainage details have been submitted by the applicant as to how this would be prevented. This information could be requested as part of a condition. Highways Network Management have suggested that the kerbstones do not have to be removed, it would reduce the width of the vehicle access, below 3.7 metres. The 3.7 metre figure in the "Manual for Streets" (2007) states "between kerbs" but their retention would not reduce the width below the 2.75 metre minimum width also stated in the Manual for Streets. The retention of the kerbs would result in an access in excess of 3.2 metres and therefore still permit a car to pass a pedestrian. There has been some concern regarding access to the site by emergency vehicles, the Fire and Rescue Prevention Officer has no objections to the proposed development.

4.29 It is considered that the collection point for the refuse bins is acceptable; it is adjacent to the public highway and would not obstruct the passage of cars and pedestrians accessing the site.

4.30 No cycle storage details have been submitted; it is considered that this could be dealt with by way of a condition if the application was approved.

4.31 The revised plans show minor alterations to the proposed parking layout, it does not alter the number of parking places. The applicant was requested to rearrange the parking spaces so Units 6 to 8 did not have an immediate view of parked cars, to provide a larger turning area, and provide a buffer between the vehicle access and the front doors of Units 3, 4, and 5 such as a small front garden. The revised plans do not show the parking layout as recommended by the Highway Network Management Officer, it does show a "buffer zone" that would act as pedestrian path to the front of the buildings. This is not considered to be sufficient, a pedestrian pathway directly to the front of Units 3 to 5 would harm the residential amenity of the occupants of this building. It is considered that if the application were to be approved a condition be placed on the consent requiring a garden or paving with a kerb to demarcate the area, so the occupants of the buildings are not entering directly onto the vehicle access. Whilst the agent/applicant has not followed the advice given by the HNM Officer, HNM have confirmed that refusal could not be recommended on these grounds, as the development accords with CYC standards.

4.32 Objections have been raised to the closing of the footpath over the site from Jennifer Grove to Holly Bank Grove. A gate is proposed to the vehicle access. However no justification has been submitted for the gate. In addition a gate has been shown to the pedestrian access into the site from Jennifer Grove. It is not considered that the appearance of the gates would be a positive addition from the views into the site. There is the issue of a potential public right of way over the site. No claim has been received to formalise it as a right of way, however the Public Rights of Way Officer recommends that it would be prudent to treat it as a public right of way and apply either for it to be diverted or extinguished under the Town and Country Planning Act 1990. The closure of this path does not form part of this application and it is something the applicant should carry out after the application has been granted but before development commences. However if they decided not to close/divert the path then the gates should be removed from the development. This comes into conflict with the advice from The Police Architectural Liaison Officer who has requested that the gate to the pedestrian access be retained as this helps to prevent anti-social behaviour. The Police Architectural Liaison Officer has concerns that the path is used as an 'escape route', and that the path to the side of Unit 8 may become a focus of anti-social behaviour. It is considered that the dwellings within the site would provide a greater degree of surveillance

than what there is at present on the existing site and therefore the gates to each access are not considered necessary. If the path is not to be closed then the gates should be removed, this would be covered by Public Rights of Way legislation and therefore the removal of the gates does not need to be conditioned.

## DRAINAGE

4.33 The site is within a Flood Zone 2 and the proposed use for residential is classified as 'more vulnerable' in PPS25 and the CYC Strategic Flood Risk Assessment, however an exception test is not required. The Environment Agency have no objections to the proposed development but would require additional drainage details as part of a condition.

4.34 The Structures and Drainage team have objected to the proposed development on the grounds of insufficient information to determine the impact of the development to surface water flooding. However it is considered that if the application was approved the additional information could be conditioned as part of the planning permission. The proposed plans show a reduction in hardsurfacing across the site.

4.35 A revised plan has been submitted (Drawing Number MOR/098/08 001 Revision B received 30 November 2009), the revised plan has added a notation regarding the depth of the foundations. Yorkshire Water have removed their concerns subject to appropriate conditions regarding the foundations of the proposed dwellings closest to the sewer running under the site.

## OTHER ISSUES

4.36 In line with Policy L1c the applicant has been aware that a contribution of £13,104 would be required to do towards open space facilities such as nearby sports pitches and improvements to sites such as West Bank Park and Hob Moor. In addition in line with ED4 a contribution of £18,968 towards 2 additional secondary places at Millthorpe Secondary School has also been requested. The applicant has agreed to make the contributions.

4.37 It is considered that if the application was approved a condition could be placed in the consent requiring the development is constructed to Code for Sustainable Homes to at least Level 3. The CYC Interim Planning Statement on Sustainable Design and Construction states that for development of 5 dwellings plus should produce at least 10% of the energy requirement on site, it is also considered this would be reasonable to condition.

4.38 The Environmental Protection Unit (EPU) has concerns regarding noise disturbance to the occupants of the proposed dwellings back onto the rail line. The applicant has submitted a noise report that demonstrates that the proposed dwellings will be in Noise Exposure Category B as defined by PPG24, and EPU are satisfied that it is possible to mitigate this noise using appropriate glazing and acoustic ventilators. They have recommended that further analysis of the noise environment would be necessary. It is considered that this additional information can be conditioned if the application was approved. It is not considered that the proximity of the proposed dwellings to the rail line could be a reason for refusal there are dwellings in the surrounding area of a similar proximity to the rail line and it is considered that if acceptable sound insulation is used it would not cause harm to the living conditions of the future residents. The occupants would be aware of the rail line and potential noise issues before relocating to the dwellings.

4.39 EPU considered the proposed dwellings will be vulnerable to the presence of contamination on the land, and have requested that conditions relating to a desk study, site investigation, risk-based remedial strategy, and validation report be attached if the

application is granted approval. It is considered that it would be reasonable to request this further information.

4.40 There is a notation on the plans stating that layout, form, content and dimensions of the finished construction may differ from those shown in the plans. Any deviation from the approved plans will require either an application for non-material change or full planning permission.

## **5.0 CONCLUSION**

5.1 The proposed dwellings are of a simple design and reflect the terraced character of the area, the proposed development is not considered to be visually intrusive or prominent.

5.2 The proposed development is not considered by virtue of the distance and orientation of the proposed dwellings to the surroundings dwellings, together with the existing tall boundary wall (approx 2.6 metres), and obscure glazing of windows to result in a loss of light or privacy. In addition the proposed dwellings are not considered to be overbearing or result in a loss of outlook from the surrounding dwellings.

5.3 The proposed development by virtue that traffic movements generated by 8 dwellings could not be demonstrated as having a greater impact than the 37 garages and therefore is not considered to create an increase in current/potential traffic issues.

5.4 The proposed development is not considered to result in a displacement of parking to surrounding streets by virtue of only 4 of the existing garages being used frequently for parking.

5.5 The proposed dwellings have a similar relationship and distance to the rail line than existing dwellings in the area and therefore the proposed dwellings are not considered subject to appropriate measures to result in harm to the residential amenity of the occupants of the proposed dwellings. Approval subject to the following conditions is recommended.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 The development hereby permitted shall be carried out only in accordance with the following plans:-

Drawing Number MOR/098/08 001 Revision B received 30 November 2009  
Drawing Number MOR/098/08 002 Revision A received 19 November 2009  
Drawing Number MOR/098/08 003 Revision A received 19 November 2009  
Drawing Number MOR/098/08 004 Revision A received 19 November 2009;

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

2 TIME2 Development start within three years

3 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £13,104;.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

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

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

INFORMATIVE:

The provisions of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, The obligation should provide for a financial contribution calculated at £ 19,968. The basis for this calculation is contained within the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

No development can take place on this site until the condition has been has been discharged and you are reminded of the Local Planning Authority's enforcement powers in this regard.

5 VISQ8 Samples of exterior materials to be app

6 No work shall take place on site except between the hours of 0800 and 1800 on Mondays to Fridays and 0900 to 1300 on Saturdays. No work shall take place on site on Sundays or Bank Holidays.

Reason: To safeguard the amenities of local residents.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees

or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

8 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that Order), the first floor window in the side elevation of Unit 1, the first floor bathroom and landing windows in the rear elevation of Units 6, 7 and 8 shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

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

10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) following the completion of the development hereby approved, no further extensions or curtilage buildings of the type described in Classes A and B of Schedule 2 Part 1 of that Order shall be carried out to the dwelling without the prior planning permission of the Local Planning Authority.

Reason: To prevent overdevelopment of the dwelling in the interests of the visual amenity of the area and the residential amenity of the neighbouring properties in accordance with policy GP1 and H7 of the local plan.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that order) no additional windows, doors or other openings other than those shown on the approved plans shall be constructed.

Reason: As the insertion of additional windows could have a serious impact on the privacy of neighbours and should therefore be controlled.

12 Notwithstanding the submitted plans and prior to the commencement of the development hereby permitted full details of the method and design of the system of street lighting to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In order to protect the amenities of neighbours and the character and appearance of the area from excessive illumination.

13 Prior to development a suitable noise scheme shall be submitted and approved in writing by the local planning authority. This scheme must include sufficient mitigation measures and demonstrate that these mitigation measures shall be sufficient to ensure that noise will have no adverse impact on residential amenity of occupiers of the development. Once approved this scheme shall be fully implemented prior to the first occupancy of the

development.

Reason: To protect the amenity of proposed occupiers of the development

14 A desk study shall be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on the site. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development commencing at the site.

Informative: This should where possible date back to 1800.

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

A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing at the site.

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

Reason: For the protection of human health and the wider environment.

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

Reason: For the protection of human health and the wider environment.

16 Prior to the commencement of development, a report demonstrating that the dwelling would comply with the Code for Sustainable Homes Level 3 assessment for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved report.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

## 17 Renewable Energy

Prior to the commencement of development, full details of a renewable energy strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include (i) the dwelling's proposed renewable energy generation, which shall be at least 10 % of total energy generation (ii) measures to reduce energy demand (iii) measures to reduce CO2 emissions to a level lower than required under Building Regulations Part L. The development shall then be carried out in accordance with the approved assessment.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design

and Construction

18 HWAY10 Vehicular areas surfaced, details reqd

19 HWAY14 Access to be approved, details reqd

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

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

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

22 Prior to the commencement on site details of foul and surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

- Calculations and invert levels of the existing surface water system should be provided together with details to include calculations and invert levels of the proposals for the new development. This will enable the impact of the proposals on the downstream watercourse to be assessed.

- Proposed ground levels to ordnance datum for the site and adjacent properties should be shown.

- The applicant should provide a topographical survey showing proposed finished floor and ground levels to ordnance datum, to ensure that there will not be any detriment to the drainage of existing properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

- Additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

- As the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, carried out in winter - to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself. The proposed permeable paving should also be shown to work through the above assessment.

The above assessment should be carried out to prove that the ground has sufficient capacity to except surface water discharge from the proposed permeable paving.

- If the above soakaways prove to be unsuitable then in accordance with PPS25 and in agreement with the Environment Agency / City of York Council, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling,

must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. As percolation tests have not been provided then only the proposed garden areas can be included in the above calculations as permeable areas.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system, and in accordance with PPS 25: Development and Flood Risk.

23 Notwithstanding the submitted plans the kerbs to the vehicles access should be retained in situ. Alternatively details including cross sections and drainage details demonstrating that neighbouring dwellings would not be affected by additional surface water should be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenities of the occupants of 17 and 19 Holly Bank Grove.

24 Notwithstanding the submitted plans, details regarding the surfacing and delineation of the "buffer zone" in front of Units 3, 4 and 5 should be submitted to and agreed in writing to the Local Planning Authority.

Reason: For the residential amenity of the occupants of Units 3, 4, and 5 of the development.

25 No development shall take place until the applicant has submitted to and the approved in writing to the Local Planning Authority a foundation design and statement of working methods

Reason: The site lies over a sewer; foundation design is required so the LPA and Yorkshire Water can be satisfied that the proposed dwellings do not affect the sewer or access to it.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the dwellings and the locality, and highway safety. As such, the proposal complies with Policies GP1, GP10, H4a, ED4 and L1c of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development" and Planning Policy Statement 3 "Housing".

#### 2. DEMOLITION AND CONSTRUCTION INFORMATIVE

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect

contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval, 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 dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00  
Saturday 09.00 to 13.00  
Not at all on Sundays and Bank Holidays.

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

g. Any piling operations shall be carried out using the quietest practicable method available. Local residents should be notified of the dates, times, likely duration and works to be undertaken. Details of the piling method chosen must be submitted to and approved in writing by the Local Planning Authority prior to any works being carried out.

### 3. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

### 4. INFORMATIVE:

You are advised that this proposal may have an affect 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.

## 5. NETWORK RAIL INFORMATIVE

By virtue of the proximity of the site to the railway line Network Rail have the following requirements:

- a) All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plan all soakaways must be located so as to discharge away from the railway infrastructure.
- b) All operations, including the use of cranes or other mechanical plant working adjacent to network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0 metres of the nearest railway line, or where the railway is electrified, within 3.0metres of overhead electrical equipment or supports.
- c) All excavation/earthworks carried out in the vicinity of Network Rail property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur.
- d) Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Territory Outside Parties Engineer.
- e) Because of the nature of the proposed development there may be an increased risk of trespass on the railway. The developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary and make provision for its future maintenance and renewal. Network Rail's existing fencing/wall must not be removed or damages.
- f) Method statement may be require to be submitted to Network Rail's Territory Outside Parties Engineer at the following address for approval prior to works commencing on site:

Network Rail's Territory Outside Parties Engineer  
2nd floor, George Stephenson House  
Toft Green  
York  
YO1 6JT

Where appropriate an assist protection agreement will have to be entered into. Where any works cannot be carried out in "fail safe" manner, it will be necessary to restrict those works to periods when the railway is closed to railway traffic i.e. "possession" which must be booked via Network Rail's Territory Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement should be submitted for Network Rail approval.

- g) Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affect the safety of, or encroaching upon Network Rail's adjacent land.
- h) Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.
- i) Where new lighting is to be erected adjacent to the operational railway the potential for train driver to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with signalling arrangements on the railway.

## 6. PUBLIC RIGHTS OF WAY

A pedestrian route currently crosses the site and the applicant is requested to contact the

Public Rights of Officer (Alison Newbould-01904 551481) prior to the commencement of any development on site with regard to the measures and procedures required to secure the route as a public right of way

**Contact details:**

**Author:** Victoria Bell Development Control Officer

**Tel No:** 01904 551347