

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Heworth
Team: Major and Commercial **Parish:** Heworth Planning Panel
Team

Reference: 10/02061/FUL
Application at: Store Rear Of 69 Fourth Avenue York YO31 0UA
For: Change of use of garage conversion and part store demolition to create self-contained living accommodation with single storey extension.
By: Mr Gordon Harrison
Application Type: Full Application
Target Date: 19 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 Following the refusal of the previous planning application to erect 2 dwellings in March 2010 (planning ref. no.: 10/00006/FUL) this is a revised planning application to convert an existing outbuilding to one self-contained residential unit. The proposals would also involve the erection of a single storey extension and the demolition of the existing flat roof garage to create an enclosed patio area.

1.2 The existing building, which is in a poor state of repair, is now disused but has previously been used for storage with a first floor office. The building consists of a single storey flat roofed garage linked to a two-storey store with a pitched slate roof and brick and render walls. The site is accessed via an alleyway, which also serves the other shop units along the Fourth Avenue frontage and the rear of properties on Fourth and Ninth Avenue and Melrosegate.

1.3 69/71/ 73 Fourth Avenue are shops at ground floor level. The upper floors of the buildings have been extended and converted into 15 flats, which the current owner of the site lets out.

RELEVANT PLANNING HISTORY

1.4 The following applications are considered to be relevant to the current proposals:

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- 06/00637/FUL: Planning permission was refused in May 2006 for the erection of 2 one bedroomed semi-detached dwellings. The reasons for refusal related to the proximity of the proposed dwellings to 65,67,69,71, and 73 Fourth Avenue and the location of the development within a back alley, close to the rear of 69 Fourth Avenue and without any external amenity space being detrimental to the living conditions of future occupiers of the site.
- 09/01791/FUL: A similar proposal was submitted in October 2009 and was subsequently withdrawn.

-10/0006/FUL: Another similar proposal was submitted. Members refused it in March 2010 on the grounds that it would result in unacceptable loss of daylight and dominance to the detriment of the occupiers of the existing dwelling units by virtue of its massing, siting and proximity to these units. It was also considered that the proposal would have a detrimental effect on the living conditions of future occupiers of the site due to the comings and goings within the service yard area and the location of the site on the front of the service road, which also serves the rear of shops and properties within the area.

- In addition there have been a number of applications related to the alteration and extension of the flats within 69 Fourth Avenue.

1.5 The application has been called in for a Committee decision by Cllr Potter to consider the impact of the development on future residents, neighbouring properties and the access arrangements.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Schools GMS Constraints: Tang Hall Primary 0232

2.2 Policies:

CYH4A
Housing Windfalls

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CYL1C
Provision of New Open Space in Development

CYNE1

Trees, woodlands, hedgerows

3.0 CONSULTATIONS

INTERNAL

3.1 Highways Network Management – response received on 14 October 2010: No objections.

3.2 Environmental Protection Unit – Response received on 27 October 2010:

- a contamination assessment should be submitted with the planning application if the proposed development includes a vulnerable end use (e.g. residential development).

- this is required under Annex 2 of Planning Policy Statement 23 (PPS23), which states that “sufficient information should be required to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether these can be satisfactorily reduced to an acceptable level”.

Other environmental concerns including noise, smell, litters and other statutory nuisances have been considered. These are not considered by the Environmental Protection team to be concerns, which warrant an objection.

3.3 Lifelong Learning and Culture – Response received on 14 October 2010:

- as there is no on site open space commuted sums should be paid to the Council for amenity space, play space and sport pitches.

3.4 Drainage Consultancy - Response received on 29 October 2010:

- the team objects as insufficient information has been provided by the developer to determine the potential impact the proposals may have on the existing drainage system.

EXTERNAL

3.4 Heworth Planning Panel – No response received to date.

3.5 Neighbours notified and site notice posted. 1 letter of objection received expressing the following concerns:

- the site plan is not to scale and incorrect;
- there is no garage at 39 Seventh Avenue;
- the proposal would result in the loss of amenity to 63 and 65 Fourth Avenue and 39 Seventh Avenue as those properties would be overlooked;
- the service yard is insufficiently wide to allow safe turning for the proposed garage;
- there is no pavement on either side of the service yard. Thus the proposal would pose a safety hazard for pedestrians.

4.0 APPRAISAL

4.1 The main issues are whether the revised scheme proposed would have a detrimental effect upon the visual amenity of the locality, in particular whether it would compromise the amenity of the nearby residents and the living conditions of the future occupants. Whether it would create conditions prejudicial to highway safety would also be considered.

POLICY BACKGROUND

National Planning Policy Statements:

4.2 This is a revised planning application to convert an existing outbuilding to one 1-bedroomed dwelling, whereas the previous application was for the erection of two 1-bedroomed dwellings.

4.3 Planning Policy Statement 1 ("Delivering Sustainable Development") (PPS1) states that a number of key principles should be applied to ensure that decisions taken on planning applications contribute to the delivery of sustainable development. In particular, PPS1 promotes high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but also over the lifetime of the development. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. High quality and inclusive design should create well mixed and integrated developments which avoid segregation and have well planned public spaces that bring people together and provide opportunities for physical activity and recreation. PPS1 also states that planning authorities should ensure the provision of sufficient, good quality new homes (including an appropriate mix of housing and adequate levels of affordable housing) in suitable locations, whether through new development or the conversion of existing buildings.

4.4 Planning Policy Statement 3 - 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPS3 also advises that car-parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development. In terms of design PPS3 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 when well designed and built in the right location it can enhance the character and quality of an area. Paragraphs 12 to 19 sets out further criteria for achieving high quality design.

Local Planning Policies:

4.5 Policy SP6 of the Draft Local Plan, 'locational strategy', requires development to be concentrated on brownfield land within the built up urban area of the city and urban extensions

4.6 Policy H4a of the Draft Local Plan states that proposals for residential development on land not already allocated on the Proposal Map will be granted planning permission where the site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings, and the site has good accessibility to jobs, shops and services by non-car modes. The policy requires new developments to be of an appropriate scale and density to surrounding development, and not to have a detrimental impact on existing landscape features. Policy H3c seeks to achieve a mix of house types, sizes and tenures on all residential development sites where appropriate to the location and nature of the development. Policy H5a requires the scale and design of proposed residential developments to be compatible with the surrounding area and not to harm local amenity.

4.7 Other Local plan policies relevant to the consideration of the detail of this application are:

- Policy GP1 'Design' 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.
- Policy GP3 'Planning Against Crime' requires new development where deemed appropriate to incorporate crime prevention measures
- 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.
- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme
- Policy GP10 states that the subdivision of gardens and infilling will only be granted to provide new development, where this would not be detrimental to the character and amenity of the local environment.
- 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.

PRINCIPLE OF RESIDENTIAL DEVELOPMENT ON THE SITE

4.8 The principle of residential development in this location has been established following the determination of the previous application. Whilst the residential scheme would be fronting a service road with a service yard adjacent it was considered by officers that “the principle of new residential development on the site conforms with

local and national policies". The previous residential scheme was refused, but on grounds not relating to the principle of residential development on this site.

4.9 Since the previous decision (in March 2010) a number of changes had been introduced by the new Coalition Government, one of which was the power for local planning authorities to control development within private residential gardens by amending Planning Policy Statement 3 (PPS3): "Housing". These changes include:

- i. the exclusion of private residential gardens from the definition of previously developed land; and
- ii. deleting paragraph 47, which set out the national indicative minimum density of 30 dwellings per hectare from PPS3 (see CLG letter to Chief Planning Officers in England dated 15 June 2010).

4.10 The proposed development relates to an area of land currently occupied by a derelict outbuilding as opposed to a private residential garden/amenity area. Thus whilst the latest changes introduced by the Coalition Government have been taken into consideration it is not considered that these amendments would materially affect the outcome of this planning application.

LOSS OF DAYLIGHT AND DOMINANCE:

4.11 Concerns have previously been expressed regarding the massing, siting and proximity of the two residential dwellings proposed at that time in relation to the nearby properties, in particular the existing flats within 69/71/73 Fourth Avenue.

4.12 To overcome this concern the current submission proposed to utilise the existing structure so that the overall scale, massing and distances from the neighbouring properties would remain virtually unchanged compared to the current arrangements. As the result its level of impact would not be materially greater than the impact already experienced by the nearby residents insofar as dominance and loss of daylight are concerned. For this reason it is considered that the overall scale, massing and relationship with the nearby residential properties is acceptable.

LIVING CONDITIONS OF FUTURE OCCUPIERS:

4.13 Currently there are in total 15 flats on the upper floors of 69, 71 & 73 Fourth Avenue, all of which are owned by the applicant (with shops at ground floor level). Notwithstanding the intensive nature of this development, it is considered that the 1-bed unit proposed would have sufficient living space, entirely enclosed by elevations and boundary walls, and would have adequate amenity space for a 1 bed unit. There would also be satisfactory provision for cycle and bin storage. Unlike the previous refused scheme this would be achieved without compromising the area of amenity and service spaces available for the existing 15 flats facing Fourth Avenue. Given the above it is considered that this latest submission has addressed the concerns previously raised regarding the "comings and goings (of existing residents) within the service yard" and how that would adversely affect the living conditions of future occupiers.

4.14 Concern was also expressed previously that the comings and goings within the service yard area combined with the location of the site adjacent to the service road, which also serves the rear of shops and other properties within the area, would be detrimental to the living conditions of future occupiers. However, the revised scheme has been designed to be predominantly inward facing towards an enclosed patio, away from the service road. Thus there would be no principal windows facing onto the service road, and only a single, secondary living room window facing the adjacent yard area. Given the nature of the accommodation proposed, it is considered that the standard of amenity and living conditions for future occupiers.

4.15 The enclosed nature of the scheme has meant that future occupants would not be affected by overlooking from the parade of shops facing Fourth Avenue.

LOSS OF PRIVACY

4.17 The first floor window opening in the north elevation would be blocked as part of the scheme to convert the outbuilding. Whilst the first floor window in the west elevation of the outbuilding would remain it would not be directly facing the habitable windows in the rear elevations of 63, 65 and 67 Fourth Avenue and 39 Seventh Avenue. The existing flats within 69, 71 and 73 Fourth Avenue would not be overlooked by the proposals.

HIGHWAY CONSIDERATIONS:

4.18 No objections have been raised by Highway Network Management team. Issues concerning the width of the service road have been considered. Nevertheless it is noted that the service road is an adopted public highway with a minimum width of approximately 4.2m. This width is considered by Highway Network Management team to be adequate for any standard vehicle to pass a pedestrian/disabled person. Whilst there is no pavement on the either side of the service road it is not considered, having taken into account the low vehicle speeds and volume of traffic likely to be generated by the proposals that the lack of pavement would be prejudicial to the safety of pedestrians.

DESIGN, LAYOUT AND APPEARANCE

4.19 Due to the nature of the proposal (to convert the existing outbuilding) the visual impact the scheme would have on the immediate surroundings is unlikely to be materially different from that of the existing. The proposed single storey addition facing the service road is minor in nature and is acceptable in design terms. The proposed demolition of existing garage to create a patio area within the site's confinement is also considered to be acceptable.

4.20 Whilst concerns regarding overdevelopment of the site have been noted, the scheme concerned is essentially a conversion of an existing building. Thus the proposal would not materially alter the existing situation.

OTHER MATERIAL CONSIDERATIONS

4.21 OPEN SPACE CONTRIBUTION: No objections have been raised by Lifelong Learning and Culture. Nevertheless in accordance with policy L1c of the City of York Draft Local Plan and paragraphs 18 and 33 of PPG 17 "Planning for Open Space, Sport and Recreation" a financial contribution towards the provision of public open space is required.

4.22 ENVIRONMENTAL PROTECTION: Information required by Environmental Protection in respect of contamination has been requested. This will be updated at the planning committee. Other environmental concerns including noise, smell, litters and other statutory nuisances have been considered. Nevertheless these are not considered by the Environmental Protection team to be concerns, which warrant an objection.

4.23 SUSTAINABILITY: In accordance with GP4a and the standards set out in the City of York Interim Planning Statement on Sustainable Design and Construction applications for the reuse of existing buildings must demonstrate that at least 5% of the expected energy demand for the development will be provided for through on site renewable generation for heat and/or electricity. A condition requiring the above standards to be achieved has been recommended.

4.24 DRAINAGE: The development is in low risk flood zone 1 and should not suffer river flooding. Whilst no drainage details have been submitted in support of the application it is considered that a suitable drainage scheme could be achieved for the site and appropriate conditions could secure the information required.

5.0 CONCLUSION

By virtue of the above it is considered that the latest submission would, unlike the previously refused proposals have little detrimental effect upon the amenity of the nearby residents and the living conditions of the future occupants. It should be noted that the proposal relates to the conversion of the existing buildings to form a single residential unit, compared to the previous application for the erection of two dwellings. Due to an element of demolition, the actual footprint of buildings on the site would be reduced. It is also considered that this latest submission would not compromise the visual amenity of the locality and would not create conditions prejudicial to highway safety. It accords with the Government's advice set out in National Planning Policy Statements and Guidance and the policies set out in the City of York Draft Local Plan. As such, and having taken into account all other material considerations this application is recommended for approval.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

GH/FA/2 and GH/FA/1 received on 23 September 2010

Reason: For the avoidance of doubt and to ensure that the development is carried

out only as approved by the Local Planning Authority.

3 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, D and E of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

4 Prior to the development commencing details of the bin storage area serving the residential and commercial properties at 69, 71 and 73 Fourth Avenue, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be occupied until the bin storage 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 storage of waste and recycling bins.

Reason: To protect the living conditions of future occupants.

5 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

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

INFORMATIVE:

To satisfy the above condition the following details are expected to be submitted to and approved in writing by the Local Planning Authority:

i. details to include calculations and invert levels of the existing surface water system together with details to include calculations and invert levels of the proposals for the new development;

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

iii. existing and proposed surfacing; and

iv. additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available. In accordance with PPS25 and in agreement with the Environment Agency / IDB / 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.

6 HWAY19 Car and cycle parking laid out

7 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 that 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 £360.

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.

8 All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

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

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

9 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. Thereafter the approved means of enclosure shall not be lowered or breached without the prior written consent from the Local Planning Authority.

Reason: In the interests of the residential amenity and visual appearance and amenities of the area.

10 Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 5% of the expected energy demand for the development hereby

approved shall be provided through on site renewable generation for heat and/or electricity. Prior to the commencement of development a statement outlining how this is achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the City of York Interim Planning Statement on Sustainable Design and Construction.

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 to residential and visual amenity, impact on the living conditions of future occupants and highway safety. As such the proposal complies with national planning advice contained within Planning Policy Statements 1 ("Delivering Sustainable Development") and 3 ("Housing"), and Policies H4A, GP1, GP3, GP4A, GP9, GP10, L1C and NE1 of the City of York Development Control Local Plan.

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