

COMMITTEE REPORT

Committee: West/Centre Area
Date: 31 July 2007

Ward: Guildhall
Parish: Guildhall Planning Panel

Reference: 07/01160/FULM
Application at: Charlie Brown Autocentres 31 Bootham York YO30 7BT
For: Erection of four storey mixed use building comprising 12no. apartments, B1 offices and ground floor retail after demolition of existing building (resubmission)
By: Bootham Row Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 14 August 2007

1.0 PROPOSAL

1.1 The application relates to the redevelopment of the former Charlie Browns tyre and exhaust fitting centre, located at the junction of Bootham and Bootham Row. The existing buildings on the site consist of a modern two storey flat roof building with a forecourt area fronting onto Bootham, with a more traditional range of brick and tile buildings at the rear, fronting onto Bootham Terrace. The existing buildings (particularly those at the front of the site) are of no particular architectural merit and appear out of scale with their surroundings, being flanked by three storey buildings of a much grander scale and greater architectural quality. The area surrounding the site contains a wide mixture of uses, including retail, commercial and residential. The Bootham Tavern public house and Jacksons supermarket are situated to the southeast, and Bootham Row also provides access to the Radio York Headquarters and a large public car park. To the rear of the site is a long established vehicle servicing and repair workshop (Colin Hick Motors).

1.2 It is proposed to demolish the existing buildings and erect a new three and a half storey building, with accommodation partially located within the roof space. The ground floor of the building would contain 305 sq metres of retail floor space, together with a plant room, car parking (eight spaces), cycle parking and refuse storage. The first floor would be used as offices, providing 568 sq metres of floor space. The two upper floors would consist of residential accommodation in the form of 12 no. two bedroom apartments. Thus the proposal would provide a mixture of retail, commercial and residential uses, all accommodated within a single building.

1.3 The proposal incorporates improvements to the junction of Bootham Row with Bootham, in addition to the provision of new/wider footpaths on both sides of Bootham Row. Whilst the ground and first floors of the building would occupy the entire site area, the majority of the second and third floors would be set back from the northeastern boundary, with the recessed area providing access to the proposed apartments in the form of a roof terrace (second floor) and a raised walkway (third floor). The site is immediately adjacent to 33 Bootham (used as dormitory accommodation for Bootham School), a three storey Grade II listed building, which contains a number of windows in its exposed gable end, overlooking the application

site. However, in August 2006 planning permission and listed building consent were granted for the blocking up and relocation of these windows in a manner which would enable the new development to be accommodated. The site is within the Central Historic Core conservation area and a separate application in respect of the demolition of the existing buildings has also been submitted.

1.4 An earlier application for a similar proposal was withdrawn in April of this year, and this new application incorporates further analysis and information in relation to sound attenuation, and also changes to the design and external appearance of the proposed new building.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

City Boundary York City Boundary 0001

DC Area Teams Central Area 0002

2.2 Policies:

CYSP3

Safeguarding the Historic Character and Setting of York

CYSP6

Location strategy

CYSP8

Reducing dependence on the car

CYSP10

Strategic Windfalls

CYH3

Sequential test for new housing

CYH4

Housing devp in existing settlements

CYH5

Residential densities over 25 per ha

CYE3
Retention of existing employment sites

CYE4
Employment devt on unallocated land

CYHE2
Development in historic locations

CYHE4
Listed Buildings

CYGP1
Design

CYGP4
Environmental sustainability

CYT4
Cycle parking standards

CYL1
Open spaces in new residential devts

CYHE10
Archaeology

CYGP6
Contaminated land

3.0 CONSULTATIONS

3.1 INTERNAL

HIGHWAYS (NETWORK MANAGEMENT) - There are no highway objections to the principle of this proposed development however the following are noted: -

- the public highway within Bootham Row is to be improved by the provision of a footway along the full length of the application site, the widening of a substantial length of the footway opposite the application site, the realignment of the kerblines on both sides and both junction radii being increased. Construction details will therefore be required of all aspects of the works and a formal agreement entered into to guarantee the performance of the works.
- a "fire exit/deliveries" and a "possible substation" both show doors that open outwards over the "new" footway. The only type of door that is acceptable to open out over the public highway is one whose sole purpose is that of an emergency / fire exit.

- the cycle storage accords with the recommended standards as regards overall numbers but shows mass communal storage that has implications for security. Therefore details are requested of security measures.
- six operational parking spaces are to be provided, one of which is a disabled parking space. A lift is available to all floors but the disabled parking space and the lift are at opposite ends of the building.
- a lay-by for service vehicles is proposed within the widened Bootham Row but no details are submitted in the application. Whilst it is legally possible to create such a loading area by means of a Traffic Regulation Order, in the absence of details of its exact location it is not shown to be physically feasible. Details will need to be included with other details mentioned above.
- no details are shown of the style of door or method of operation of the door at the entrance to the parking area.

Conditions are recommended to address these matters.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

Conservation

The application now seems to be acceptable in most respects from a conservation point of view. I assume that the materials and colours used will be conditioned.

My only remaining concern is the junction of the roof with that of No 33 adjoining. It would be a great improvement if the new roof could finish no higher than the roof of No 33 rather than 150-200mm above it at the eaves, as seems to be the case at present: is there any chance that they could reduce or eliminate this change of level, by steepening the roof pitch and/or lowering the overall height of the building?

Countryside Officer

The majority of the buildings on this site are of limited interest but the range of old buildings on Bootham Row may be suitable for bats to use. It is recommended, therefore, that a bat survey is carried out to ascertain whether there are any present and whether the environment is suitable for them to be present.

Archaeology

This site lies in the Area of Archaeological Importance in an area which has produced important Roman, Anglo Scandinavian and medieval features and deposits.

An archaeological evaluation was undertaken at the former Charlie Brown Garage, Bootham, York (SE 6005 5234) by Field Archaeology Specialists Ltd, on behalf of ID Planning Ltd, for Bootham Row Ltd. A report has been submitted and is available in the City of York Historic Environment Record. Three 2.0m x 2.0m evaluation trenches were excavated to a depth of 1.50m, and a sequence of features and deposits dating from the late 14th century to the modern day was encountered. Medieval remains were represented by a series of pits, apparently representing domestic activity, potentially associated with occupation towards the frontage of the

site. The main phase of activity has been dated to the late 14th to late 15th centuries. Post-medieval (16th to 17th century) activity at the site was more limited, represented by the accumulation of soils and the possible deposition of levelling layers. Two further pits, and a culvert were identified, and may suggest that the land was managed but less intensively occupied. In the early 18th century, a public house with associated outbuildings was constructed at the site; the evaluation encountered the remains of a series of walls, which could be identified with these structures using cartographic sources. A sequence of demolition layers and levelling deposits sealed the walls, laid down when the buildings were demolished and the site became open land in the 19th century, before the garage complex that survives today was constructed in the 1930s or 1940s.

The archaeological evaluation has demonstrated that modern deposits, deriving from 18th to 20th century buildings, covers the whole of the site, to depths of 14.59m AOD towards the front of the property, and 14.15m AOD at the rear. Beneath this, medieval and post-medieval deposits are variable in depth and significance. Towards the northeast, these deposits are represented primarily by buried soils; evidence for rubbish pits and the potential for structural and occupation activity seems to be restricted to the Bootham frontage, which is likely to be heavily disturbed, and the southwestern part of the site. It should be anticipated that significant medieval deposits may be encountered at approximately 1-1.2m below current ground level in the southwestern third of the site.

Policy HE10 is to preserve at least 95% of archaeological deposits beneath any new development. In order to achieve this the following approach is recommended:

Pile foundations should be employed for all new construction within the development area. It will be necessary to accommodate pile caps, ground beams and services within 1m from the current ground surface, with consideration given to the raising of ground levels in order to achieve this.

Where it is not possible to avoid the disturbance of 5% of archaeological deposits, an appropriate scheme of archaeological recording should be agreed with the City of York Council and implemented prior to, or during construction.

Standard conditions ARCH1 ARCH2 and ARCH3 should be attached to any consent which is granted.

CONSERVATION AREA ADVISORY PANEL - The Panel felt that the quality of the detailing was key to this being a successful development. It was felt that the elevation along Bootham Row was too complicated and needed simplifying. It was felt that the art stone banding and lintels were too heavy and these features should be in brick. The Panel felt that the large window on the 2nd floor was over dominant and should be reduced in length to start below the dormer windows. The Panel would like clarification of this window, as the elevation does not accord with the plan drawing. The Panel were also concerned with regard to the potential damage that could be done to the bay windows by large delivery vehicles. It was also felt that all windows with the exception of the shop fronts and the larger oriel windows should be in timber. The Panel would like to see this proposal again with revisions.

ENVIRONMENTAL PROTECTION - I have looked at the supplementary noise report which looked specifically at early morning deliveries to the nearby supermarket and at the activities of Colin Hick Motors to the rear of the site.

The report indicates that for most of the flats a higher glazing specification would reduce noise levels inside the flats to an acceptable level, except for three flats where the report states "more robust glazing specifications will be required". Two suggestions for "robust" glazing have been put forward. I would like to see non-opening windows in the Bootham and Bootham Row facades to bedrooms and lounges, with other means of ventilation. However I still have concerns about ventilation in view of my colleagues comments from the Air Quality Unit, as follows:

"In January 2002 City of York Council declared an Air Quality Management Area (AQMA) based on predicted exceedances of the annual average nitrogen dioxide objective in five areas of the city. The declaration of the AQMA placed a legal duty on the council to improve air quality in the city and to demonstrate that it is actively pursuing the 40ug/m³ annual objective to be achieved by 31st December 2005. In order to demonstrate a commitment to improving air quality the council was required to prepare an Air Quality Action Plan (AQAP). The AQAP identifies measures the council intends to take to improve air quality in the city following the declaration of the AQMA.

The proposed development site is adjacent to, but not within City of York Council's AQMA - at this precise location on Bootham only the carriageway is included. Air quality monitoring in this area of the city would suggest that nitrogen dioxide concentrations are relatively high (approaching, and in some locations above, the governments health based objective levels). If further residential is introduced at this location without us/the developer taking reasonable steps to minimise exposure, we may be faced with having to consult on a new AQMA boundary - this would have cost implications for the council since it would mean us having to consult on a new Air Quality Action Plan (AQAP). Since City of York Council has a legal obligation to show that it is actively pursuing the air quality objectives, the Environmental Protection Unit feel that any extension of the current AQMA boundary would not be acceptable.

From an air quality perspective, it is encouraging to see that the ground floor is maintaining its retail use, and that residential is proposed for second floor and above only. This will, to some extent, protect future occupants from poor air quality if the air quality situation should worsen in future years. The traffic assessment has indicated that the proposed redevelopment of the application site will not materially change its traffic generating potential. There is therefore unlikely to be any significant deterioration in air quality as a direct result of additional traffic from this development (please note that comments are provided on the understanding that City of York Council's Highways Department have approved the traffic assessment submitted in support of the application).

Balconies of any description would not be desirable in this location."

The report details three types of mechanical ventilator and observes that the units themselves may add to the audible noise levels inside the flats, after a lot of expense

in eliminating noise with high specification glazing units. This is not a very satisfactory situation. In addition, any mechanical ventilation in flats with facades onto Bootham or Bootham Row will potentially be drawing in air which may be of poor quality. My advice would be to look at ventilation situated on the roof which serves all the flats. The drawback of this would be, that again any plant proposed will need to be looked at in terms of how much noise it produces and if it needs attenuating.

The report suggests that mechanical ventilation could be situated on facades that are less noisy than the Bootham or Bootham Row facades. However this leaves very little option other than to put the units on the rear of the building near the repair garage. During hours of opening it is possible that there could be exhaust fumes arising from the garage which could be very unpleasant if drawn into the flats or business units. The garage does currently have a stove with a low level flue, again there is the possibility of fumes being drawn in through windows or ventilation systems.

Additional noise sources are anticipated which have not been considered, those of refrigeration and air conditioning units serving the food store, possible air conditioning in the business units and doors to the delivery area at ground level. The proposed location and specifications for any plant and machinery should be considered at this early stage rather than being add ons during construction. Obviously if the applicant pursues the desire for 24 hour operating hours, any plant and equipment associated with air conditioning in the business or shop, will be operating continuously without the reprieve of being switched off during the night.

We have not considered the noise climate within the business units. British Standard 8233:1999 , "Sound Insulation and Sound Reduction for Buildings - Code of Practice", recommends for study and work requiring concentration a level of between 35-40dB, considered as 'Good', or between 45-50dB considered as 'Reasonable'. Some work may need to be done by the acoustic consultant to indicate the likely noise levels within the business units. Some compromise may have to be made as to what will be considered acceptable for "business use", as a result of traffic noise and how the offices are to be ventilated.

It was noted from the plans that the delivery entrance to the food store appeared to be roller shutter doors. These can make considerable noise when opened and shut, particularly in the early mornings. The noise levels from these should be considered in any noise survey/assessment.

As some windows in some flats may require a higher specification of glazing and ventilation, it is important that any conditions proposed will have to indicate the flats by number. Any changes to the layout of the flats could affect the consequences of conditions suggested.

In order to fully explore our concerns regarding potential loss of amenity for occupiers of the proposed building as a result of any noise source and the issue of ventilation (or lack of it), I do feel that a meeting would be beneficial, with all parties concerned, as I do not feel that environmental protection can support this application in it's current form.

CITY DEVELOPMENT

As the proposal incorporates office floorspace (Use Class B1), it is unlikely that the removal of the existing use (Use Class B2) will result in any loss of employment. However, Policy E3b of the Draft Local Plan states that sites or premises either currently or previously in employment use should be retained within their existing use class. Consideration should therefore be given as to whether the loss of the existing Class B2 (Industrial) use is acceptable in this city centre location.

Policy H3c (Mix of Dwellings on Housing Sites) states that a mix of new house types, size and tenures will be required on all new residential development sites where appropriate to the location and nature of development. Given that this is a mixed scheme, and taking into account the site size and design of the scheme, it would be difficult to provide anything other than flatted units. However, as all the flats proposed are two bed, a better mix of unit size could perhaps be achieved.

Furthermore given there is currently an adequate supply of housing, consideration should be given as to whether an appropriate balance of uses is being achieved on the site.

In terms of residential density, the proposal is above the required 60 dwellings per hectare. As the site size is below 0.03ha and the number of units less than 15, an element of affordable housing is not required on the site. A retail development of this scale is generally supported on this site. Policies relating to the provision of open space (L1c), cycle parking standards (T4) and sustainability (GP4a) are also relevant to this application.

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 Clarence or Museum Gardens.
- b) play space - which would be used to improve a local site such as Clarence Gardens
- c) sports pitches - would be used to improve a facility within the East or North Zones of the Sport and Active Leisure Strategy.

EDUCATIONAL PLANNING OFFICER - As the local schools have surplus capacity, no Section 106 contribution is required.

3.2 EXTERNAL

GUILDHALL PLANING PANEL - We were concerned to confirm that brick will be the dominant exterior cladding, we were not entirely certain.

ENGLISH HERITAGE - There have been a number of relatively minor elevations to the elevations but sketch views of the two main frontages now give the impression of a less harsh building. However, we are concerned about the impact of the rear

elevation on the historic buildings which it would overlook. There do not appear to have been any changes to this elevation which is regrettable and we would encourage further design thought to be given to this aspect.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

THIRD PARTY REPRESENTATIONS - Three letters have been received, making the following points:

- inaccurate and incomplete plans
- the additional noise report fails to provide an acceptable solution in terms of ventilation to the apartments
- it would be unacceptable to provide ventilation on the facade of the building as there are noise sources affecting all four elevations
- mechanical ventilation to habitable rooms would not comply with Building Regulations, is noisy in itself and would not be energy efficient
- fumes from a stove within the adjacent workshop in addition to fumes from revving engines would be a source of potential nuisance
- the adjacent workshop is an integral part of the existing building at the rear of the site, and no detail has been submitted of how this wall is to be treated after the building has been demolished
- construction methods should be clarified, in particular where scaffolding is to be erected, as this could cause severe disruption to the adjacent business
- maintenance of the existing wall could only be carried out from one side
- the drawings show windows on the site boundary which would have no right to light and thus could be blocked up by the adjacent occupier at any time. This may also be an issue on the northwest elevation.
- the location of the "high level ventilation" is not shown on any of the elevations.
- the extension of retail uses beyond Bootham Row, as proposed, is disappointing and there are many other uses which would be more appropriate.
- the suggestion that ample parking is available in the adjacent public car park is unfortunate as reliance on this car park will be a barrier to its future comprehensive redevelopment.
- compared to the original design, the building is less fragmented and less fussily detailed, with a better "fit" within the conservation area.
- the 300mm set back from the Bootham frontage is inadequate and should be increased to 500mm.
- the new building remains slightly higher than no. 33; it could easily be slightly lower.
- the string course on the Bootham frontage is pastiche; it should be omitted or suggested by a detail in brickwork.
- the roof stack on the corner of Bootham does not sit well with the most traditional part of the design.
- future tenants should be aware that they will be living in close proximity to late opening pubs and takeaways. It would be unfair if complaints are made against these premises.
- demolition work could disrupt beer deliveries to the adjacent public house, which would have to pay to make alternative arrangements.

4.0 APPRAISAL

4.1 Key Issues

- principle of the development
- design - impact on character and appearance of the conservation area and adjacent listed buildings
- noise issues - amenity of future occupiers
- impact on adjacent occupiers
- highway issues
- sustainability
- open space, education provision

POLICY BACKGROUND

Regional Planning Guidance

4.2 Regional Planning Guidance(RPG) is contained within the Draft Yorkshire and Humber Plan, which was submitted to Government in December 2005 and issued for public consultation between January and April 2006. An "Examination in Public" took place in September 2006, and proposed changes to the Plan are to be the subject of a further consultation exercise. One of the fundamental objectives of RPG is to strengthen the role of existing city and town centres as a key focus of commercial activity. In particular, Policy E2 states that the role and performance of existing city and town centres will be strengthened, and that city and town centres will be the main focus for (amongst other things) office, comparison shopping, public services, business services and other uses which generate a high level of people movements. Policy E3 relates to the supply of land and premises for economic development and emphasises the need to take account of the regional pattern of projected growth in floorspace demand for office, retail and leisure uses, and the considerable scope for this to be accommodated mainly in or adjacent to city and town centres.

Approved North Yorkshire Structure Plan

4.3 Policy S1 states that shopping development will normally be permitted in or as an extension to existing shopping centres or in new residential developments or existing residential areas with local shopping deficiencies provided that it does not seriously prejudice the continued existence of existing shops, it would not cause traffic congestion, and it would not have a substantial adverse environmental impact. In relation to the environment, Policy E4 states that buildings and areas of special townscape, architectural or historic interest will be afforded the strictest protection.

Draft City of York Local Plan

4.4 Strategic Policy SP3 gives a high priority to the protection of the historic character and setting of York, particularly key historic townscape features in the city centre, that contribute to the unique historic character and setting of the city. Policy SP6 seeks to concentrate new development on brownfield land within the built up urban area of the city and urban extensions, followed by surrounding settlements and selected existing and proposed public transport routes. Policy SP8 requires

applications for large new developments (e.g. housing, shopping or employment proposals) to demonstrate that they will reduce dependence on the private car by providing for more environmentally friendly modes of transport. Policy SP10 prefers strategic windfall sites within the city centre or highly sustainable locations to be promoted for major travel generating uses, including retail and employment uses.

4.5 The application relates to a mixed use development on a "brownfield" site located within the urban area. The site is occupied by a vacant building previously occupied by a tyre and exhaust fitting centre. 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. Within the city centre, new residential developments should seek to achieve a net residential density of greater than 60 dwellings per hectare.

4.6 Policy E3b seeks to retain sites or premises either currently or previously in employment use within their existing use class. In terms of new employment development, Policy E4 states that within defined settlement limits, planning permission will be granted for employment use of a scale and design appropriate to the locality where the site is vacant, derelict or underused, or it involves infilling, extension, redevelopment or conversion of existing buildings.

4.7 The site is within the Central Historic Core conservation area. Policy HE2 states that within or adjoining conservation areas, and in locations which affect the setting of listed buildings, development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. Proposals will be expected to maintain or enhance existing urban spaces, views, landmarks and other townscape elements which contribute to the character or appearance of the area. Policy HE4 states that development in the immediate vicinity of listed buildings will only be permitted where there is no adverse effect on the character, appearance or setting of the building.

4.8 Policy GP1 of the City of York Draft Local Plan states that development proposals will be expected to respect or enhance the local environment, and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. Proposals should also ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Development proposals will also be expected to have regard to the principles of sustainable development referred to in Policy GP4a of the Draft Local Plan.

4.9 Policy T4 requires all new developments to provide cycle parking in accordance with standards set out in Appendix E of the Local Plan. Policy L1c requires developments for all housing sites to make provision for the open space needs of future occupiers, in addition to any areas required for landscaping. Policy GP6 emphasises the importance of addressing the implications of possible contamination when development proposals are considered, and the need to incorporate appropriate mitigation measures, where appropriate. The site is within the York City Centre Area of Archaeological Importance. Policy HE10 emphasises the importance of ensuring that archaeological deposits within this area are properly evaluated, protected and preserved as an integral part of any development proposal.

PRINCIPLE OF THE DEVELOPMENT

4.10 The proposal consists of a mixed use development on a brownfield site within the urban area, close to public transport routes and a wide range of job opportunities, services and other amenities located within the city centre. The site is presently vacant and underused at the present time, and the poor architectural quality of the majority of the buildings on the site has a negative impact on the streetscene. The redevelopment of the site is, therefore, to be welcomed in principle, and the nature of the proposal, which includes retail, commercial and residential uses, would complement the mix of uses which already characterises the area. Although the proposal would result in the loss of the buildings on the site, which were previously used for employment purposes, it is considered that more than adequate compensation would be provided by the proposed use of the first floor of the building as offices, and to a lesser extent by the retail use on the ground floor. Overall, it is considered that the proposal would provide an overall level of employment at least equivalent to the previous use of the site, and that the proposal is not in conflict with the underlying objectives of Policy E3b.

4.11 In terms of the residential element of the proposal, the proposal relates to the development of a "windfall" site within the urban area, the principle of which would comply with Policy H4a of the Draft Local Plan. Policy H3c seeks to achieve a mix of house types, sizes and tenures on all new residential developments, where appropriate to the location and nature of the development. Although the proposal would provide only two bedroom apartments (twelve in number) with small variations in floor space, it is not considered that the nature and relatively small scale of the proposal readily lends itself to the provision of a mix of house types and sizes within the development.

DESIGN - IMPACT ON CHARACTER AND APPEARANCE OF THE CONSERVATION AREA AND ADJACENT LISTED BUILDINGS

4.12 The site is within a designated conservation area (Central historic Core). Within such areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character or appearance of the area. This duty is re-iterated in Planning Policy Guidance Note 15: "Planning and the Historic environment" (PPG15). The existing buildings on the site are of little architectural merit and do not contribute positively to the character or appearance of the conservation area. No objections are raised to the demolition of the existing buildings, which would clearly present an opportunity for the redevelopment and enhancement of this part of the

conservation area. A separate application for listed building consent has been submitted in respect of the demolition works. Central Government advice in relation to design is contained within Planning Policy Statement 1: "Delivering Sustainable Development" (PPS1), which states that good design is indivisible from good planning. It states that good design should contribute to making places better for people, and that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

4.13 The juxtaposition of the new building with no. 33 Bootham, a Grade II listed building, was originally considered to be unacceptable, being flush with no. 33 and with only a shallow recess at the junction of the two buildings. In the revised application, the new building has been set 300mm back from no.33 with a deeper 700mm recess at the junction, and thus at high level would be clear of the existing cornice. It is now considered that this detail has been satisfactorily resolved. In elevation, the new building would be 150 - 200mm higher than no. 33 at both the eaves and the ridge. The Conservation Architect considers that the juxtaposition of the two buildings would be greatly improved if the new building were to be no higher than the roof of no. 33. The applicant has been requested to investigate this possibility with a view to the submission of a revised drawing.

4.14 So far as the detailed design is concerned, the Bootham frontage of the new building has been simplified, and now displays much of the traditional design and symmetry of its neighbours. The design of the building features a curved elevation at the junction of Bootham and Bootham Terrace, and this has been expressed by an elongated glazed opening at second floor level, consisting of a mullion screen with windows set behind. A streetscene perspective of this elevation illustrates that the overall appearance would have a generally positive impact on the streetscene. There is a danger that if this feature were to be reduced in length, as has been suggested, some of the symmetry would be lost resulting in an unresolved appearance to the elevation. A number of minor amendments have been made to the Bootham Row frontage of the building, in particular the deletion of rendered panels in favour of the use of brickwork throughout. It is considered that this narrower palette of external finishes will add cohesiveness to the building, in addition to providing a degree of consistency with the Bootham frontage. The use of artstone banding (or "stringing") has been criticised, and the applicant has been requested to re-examine this feature with a view to it being omitted or alternatively expressed in brickwork.

4.15 The rear (northeastern) elevation of the building would be set back from the boundary, with a recessed area providing access to the proposed apartments in the form of a roof terrace (second floor) and a raised walkway (third floor). This elevation would not be readily visible from public vantage points, and would be of a similar height to the adjacent (listed) buildings. It is considered that the scale and design of the building is acceptable in this context, particularly if the suggested amendments are incorporated, and would enhance the character and appearance of this part of the conservation area, which at the present time is blighted by the derelict appearance of the existing buildings on the site.

NOISE ISSUES - AMENITY OF FUTURE OCCUPIERS

4.16 Firstly, it is pointed out that there is a balance to be achieved between the advantages of living in a city centre location, close to all amenities, and the standard of amenity that future occupiers can reasonably expect to enjoy, and it is almost inevitable that city centre dwellers will suffer a greater degree of noise, smells etc than those living in quieter, less populated suburban areas. The site is adjacent to a busy arterial road into the city where the occupants of the proposed apartments could be affected by high levels of traffic noise, and as a consequence, a Noise Assessment has been submitted with the application. The Noise Assessment places the site within Noise Exposure Category "C"(NEC C), during both daytime and night time periods, as defined by Planning Policy Guidance Note 24 "Planning and Noise" (PPG24). Where a development site falls within NEC C, PPG24 states that planning permission should not normally be granted. However, where it is considered that permission should be given, conditions should be imposed to ensure a commensurate level of protection against noise. Due to the highly sustainable location of the site within the city centre, and the environmental benefits arising from the development of the site, it is considered that an element of residential accommodation could be permitted on this site, particularly on the upper floors. The Environmental Protection Unit are satisfied that conditions could be attached to mitigate against traffic noise, including the provision of non-opening windows on the Bootham and Bootham Row elevations, and the use of mechanical ventilation.

4.17 A supplementary noise report has been submitted which assesses the impact of early morning deliveries to the adjacent supermarket and the activities at a motor vehicle repair workshop (Colin Hick Motors) at the rear of the site. The report indicates that for most of the flats a higher glazing specification would reduce noise levels inside the flats to an acceptable level, except for three flats where the report states "more robust glazing specifications will be required". Two suggestions for "robust" glazing have been put forward. As stated above, the Environmental Protection Unit have recommended the use of non-opening windows in the Bootham and Bootham Row facades to bedrooms and lounges, with other means of ventilation provided. However, concerns still remain in relation to ventilation, in particular the noise that the mechanical ventilation units themselves may generate within the flats, and also the quality of the air they may draw into the building. In this latter respect a rooftop location may have to be investigated, with appropriate sound attenuation measures for any plant or equipment. Mechanical ventilation installed on the rear of the building (i.e. away from the Bootham or Bootham Row facades), may draw in fumes from the adjacent workshop, which would not be acceptable and could result in complaints. Other potential noise sources include the refrigeration and air conditioning units serving the ground floor retail unit (which would be exacerbated by extended opening times as proposed), air conditioning to the first floor offices, and roller shutter doors at the delivery area. Due to the specific issues identified, it is considered that the proposed locations and specifications for any plant or machinery should be considered as part of the application rather than being "add ons" during the construction phase. The applicant is investigating these matters and a further update on progress will be given at the meeting.

IMPACT ON ADJACENT OCCUPIERS

4.18 The new building would be immediately abutting a long established motor vehicle workshop (Colin Hick Motors) along part of its northeastern boundary. This has resulted in objections being lodged on behalf of the owner, in particular that future occupiers of the apartments would be adversely affected by noise and fumes from the workshop, resulting in complaints being made to the Council. The owner feels it would be unreasonable for his lawful business activities to be curtailed as a result of future complaints given the long established nature of the business. This issue is referred to in the preceding section of this report. Clearly, further investigations are required by the applicant, in particular in relation to ventilation, and a further update will be given at the meeting. It is pointed out, however, that there is an existing block of eighteen residential apartments (Bootham Place), planning permission for which was granted in 2002, which is already in relatively close proximity to the motor vehicle garage.

4.19 Bootham Place is a four storey block of apartments located to the northeast of the application site. There would be a separation distance of approximately 13 metres between this block and the proposed building, the end wall of which would be relatively narrow (10.5 metres approx) for a building of this height. Whilst there would be some loss of views from southwestern facing windows in some of the apartments, it is not considered that this would be so serious as to warrant the refusal of planning permission, particularly bearing in mind the urban nature of the location. The end wall of the new building would contain a limited number of openings in the form of a fire exit/refuse store exit at ground floor, toilets serving the office accommodation at first floor and two secondary bedroom windows on each of the third and fourth floors. It is not considered, therefore, that any significant overlooking or loss of privacy would occur as a result of the proposal.

HIGHWAY ISSUES

4.20 The proposed development would provide six car parking spaces (including one disabled space) together with cycle parking within a secure area at ground floor level towards the rear of the building. Separate refuse areas would be provided for the residential and commercial elements of the building. Central Government advice contained within Planning Policy Guidance Note 13 ("Transport") states that in order to encourage more sustainable transport choices (i.e. other than the private car), developers should not be required to provide more car parking spaces than they themselves wish. The application site is within walking distance of the city centre and is close to a wide range of public transport routes and it is considered, therefore, that the limited level of parking provision associated with the development is acceptable in this location. Although the cycle storage is shown to be in a large communal area, it would be possible to provide better security by sub-dividing the storage into smaller enclosures. This matter could be dealt with by a planning condition.

4.21 At the present time, vehicular and pedestrian separation within Bootham Row, which gives access to a large public car park, is poor and is restricted by a "pinch point" created by the existing buildings. The proposal would incorporate significant improvements to Bootham Row, in terms of the junction alignment, carriageway

width, visibility, and the provision of proper pedestrian footways. Through these improvements, the proposal would bring significant benefits to the area in terms of vehicular and pedestrian safety.

SUSTAINABILITY

4.22 Policy GP4a of the Draft Local Plan requires all developments to have regard to the principles of sustainable development. The building would be located in a highly sustainable location, close to the city centre and a wide range of amenities including public transport. As a "new build" project, the would be constructed to a high standard, and the achievement of a BREEAM rating of at least "very good" could be secured by condition. The mixed nature of the development would require a "bespoke" BREEAM assessment to be carried out in order to secure this objective.

OPEN SPACE AND EDUCATION PROVISION

4.23 As no on-site open space would be provided, Policy L1c of the Draft Local Plan requires a commuted sum to be paid towards the upgrading of local facilities. This has been calculated at £9,936 (8 x £1242) and could be secured by means of a Section 106 Agreement. This could be used for improving a local site such as Clarence or Museum Gardens. No contribution is required towards education facilities as at the present time the local schools all have spare capacity.

5.0 CONCLUSION

5.1 The proposal would result in the redevelopment of a derelict site that has had a negative impact on the streetscene for a number of years. It is considered that the proposal would result in an overall enhancement of this part of the conservation area, in addition to securing much needed highway improvements along Bootham Row. The mixed use nature of the development is considered to be appropriate for the location, and would contain an element of employment use in compensation for the loss of the existing employment site. Minor amendments have been requested to the design of the building. Further investigations are required in relation to sound insulation and ventilation of the proposed apartments, in order to ensure that future residents are provided with a satisfactory living environment. An update on progress on this matter will be given at the meeting. Provided that sufficient progress has been made on this matter, it is requested that officers be given delegated authority to approve the application, provided that all other matters are satisfactory.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Delegated authority to approve

- 1 TIME2 Commence within three years
- 2 The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-

KFB 201 rev J - ground and first floors
KFB 202 rev G - second and third floors
KFB 301 rev H - typical sections and roof plan
KFB 401 rev H - elevations

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

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

- 3 VISQ7 Sample panel of materials to be approved
- 4 VISQ8 Sample of exterior materials to be approved
- 5 VISQ10 Details of external services to be approved
- 6 Prior to the development commencing full detailed drawings showing the design and materials for roads, footways, and any other new adoptable highway or highway improvement areas, in all respects in accordance with the City of York Council Highway Design Guide and specification, shall be submitted to and approved in writing by the Local Planning Authority. Such highway works shall be constructed in accordance with the approved plans prior to the occupation of any residence or commercial property which requires access from that highway.

Reason: In the interests of good planning and road safety.

- 7 HWAY18 Cycle parking details to be approved
- 8 No gate door or window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

- 9 Prior to the commencement of the works hereby approved, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure the safety of the general public, the method of securing the site, the access to the site, the route taken by vehicles transporting demolition waste and construction materials to the site, and the hours of operation.

Reason To ensure that the works are carried out in a safe manner and with minimum disruption and inconvenience to the users of the adjacent highway

- 10 Prior to the commencement of the development hereby approved details of the design and means of operation of the vehicular gates shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent obstruction to other highway users

- 11 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Footway provision within Bootham Row adjacent to the site
Footway widening within Bootham Row opposite the site
Kerb realignment on both sides of Bootham Row
Adjustments and amendments to signing, lighting and lining as a consequence of the road improvements
Provision of loading bay

Reason: In the interests of the safe and free passage of highway users.

- 12 The developer shall aim to achieve a Building Research Establishment Environmental Assessment Method (BREEAM) assessment standard of at least "very good" for the development. Unless otherwise agreed in writing prior to the commencement of the development, the developer shall submit in writing for the approval of the Local Planning Authority a BREEAM design assessment demonstrating the progress of the BREEAM assessment, the percentage score expected to be achieved and the standard to which this relates. Where this does not meet at least a 'very good' standard then the developer shall demonstrate the changes that will be made to the development in order to achieve this standard.

Reason: In the interests of sustainable development.

- 13 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 £9,936

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.

- 14 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 16 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

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

- 15 Details of all machinery, plant and equipment to be installed in the proposed premises, which is audible outside the site boundary, and the proposed noise mitigation measures, shall be submitted to the local planning authority. These details shall include maximum (L_{Amax}(f)) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be appropriately maintained thereafter.

Reason: To protect the amenity of occupiers the proposed apartments and those in nearby buildings.

- 16 The building envelope of all residential dwellings within the development, with a facade onto Bootham and Bootham Row, shall be constructed so as to provide sound attenuation against external noise of not less than 33dB(A) with non-opening windows and other means of ventilation provided. The detailed scheme shall be approved in writing by the Local Planning Authority and fully implemented prior to the first occupation of any dwelling.

Reason: To protect the amenity of future occupiers.

- 17 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 0800 to 1800

Saturday 0900 to 1300

Not at all on Sundays and Bank Holidays

Reason: To protect the amenity of adjacent occupiers

- 18 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 of the site.

Reason: To protect the health and safety of future occupiers

- 19 (a) 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.
- (b) 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 on site. Informative: The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s).
- (c) 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 on site.
- (d) 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 of the site.

Reason: To protect the health and safety of future occupiers

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

Reason: To protect the health and safety of future occupiers

- 21 ARCH1 Archaeological programme required

- 22 ARCH2 Watching brief required

- 23 ARCH3 Foundation design required

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:

- principle of the development
- design - impact on character and appearance of the conservation area and adjacent listed buildings
- noise issues - amenity of future occupiers
- impact on adjacent occupiers
- highway issues
- sustainability
- open space, education provision

As such the proposal complies with Policies S1 and E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies SP3, SP6, SP8, SP10, H3c, H4a, H5a, E3b, E4, HE2, HE4, GP1, GP4a, T4, L1c, GP6 and HE10 of the City of York Local Plan Deposit Draft.

2. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

General power of improvement - section 62 - Mr. M. Kitchen 01904 551336
Adoption of highway - section 38/278 - Mr. M. Kitchen

3. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(i) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(ii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(iii) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(iv) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

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

Contact details:

Author: Simon Glazier Assistant Area Team Leader

Tel No: 01904 551351