

## COMMITTEE REPORT

**Date:** 8 January 2015                      **Ward:** Fishergate  
**Team:** Major and                              **Parish:** Fishergate Planning  
                    Commercial Team                                      Panel

**Reference:** 14/01857/FUL  
**Application at:** 1 - 12 Kensal Rise York  
**For:** Additional floor to accommodate 6no. roof top apartments with three new staircase pods and associated cycle stores, bin stores and parking to 1-12 Kensal Rise  
**By:** Mr David Jones  
**Application Type:** Full Application  
**Target Date:** 6 October 2014  
**Recommendation:** Approve

### 1.0 BACKGROUND

1.1 This application was reported to the Area Planning Sub-Committee on 6 November 2014 with a recommendation that Members approve the application subject to a section 106 unilateral undertaking to secure a contribution towards off-site open space. A copy of the report is attached as annex 1.

1.2 Members resolved to grant permission subject to the completion of the undertaking and an additional condition 10 to control the management of construction works in the interests of highway safety.

1.3 The section 106 unilateral undertaking has not been completed to date and the planning permission has not been issued.

1.4 National Planning Practice Guidance was revised on 28 November 2014 in respect of planning obligations. This states that tariff style planning obligations (section 106 planning obligations) towards pooled funding 'pots' intended to provide common types of infrastructure for the wider area should not be sought from developments of 10-units or less. This guidance means that the part of policy L1c (Provision of New Open Space in Development) of the Development Control Local Plan which requires, for sites of less than 10 dwellings, a commuted sum towards off-site provision is no longer in accordance with National Planning Policy. As such it is considered that the previous sub-committee resolution would no longer comply with the NPPF.

1.5 A revised conclusion and recommendation to the previous report is below, otherwise there have been no material changes in circumstances since 6 November and therefore no further consultations or notifications have been undertaken.

## REVISED CONCLUSION AND RECOMMENDATION TO REPORT AT ANNEX 1

### 5.0 CONCLUSION:

5.1 The proposal accords with national planning policy set out in the National Planning Policy Framework and relevant policies of the 2005 City of York Development Control Local Plan. The proposal is acceptable.

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out only in accordance with drawings numbered 870.03.A, 870.12.B, 870.13.B, 870.4 and 870.15.A

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

3 The balconies of the two easternmost flats on the on the second floor of the development hereby approved shall be used for maintenance of the building only and for no other purpose.

Reason: In order to protect the occupiers of the adjacent house at No.14 Kensal Rise from unacceptable overlooking.

4 Prior to commencement of development details of the proposed south-facing windows of the two easternmost flats on the second floor of the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the occupiers of the adjacent house at No.14 Kensal Rise from unacceptable overlooking.

5 VISQ8 Samples of exterior materials to be app -

6 The proposed 0.5m-high retaining wall and 1.2m-high fence around the proposed visitor parking bays at the eastern end of Kensal Rise shall match the existing boundary wall/fence along Kensal Rise in colour, appearance and materials.

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

7 Before the commencement of development, including the importing of materials, excavations, utility works, a method statement regarding measures to protect the tree the subject of a tree preservation order at the western end of the site shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include details and locations of protective fencing, phasing of works, site access during development operations, type of construction machinery/vehicles to be used including delivery and collection lorries and arrangements for loading/off-loading, parking arrangements for site vehicles, and locations for stored materials. It shall also include construction details and methodology for the driveway where it is located within the canopy spread and potential rooting zones of the trees.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of this area and the development.

8 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The flats hereby approved 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.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

9 The flats hereby approved 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: In the interests of highway safety.

10 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the use of Kensal Rise and the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detriment is dragged out over the adjacent highway.

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

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority gave pre-application advice, sought amendments to reduce the impact on the neighbouring occupiers and applied appropriate conditions to the planning approval.

### **2. CONTROL OF POLLUTION**

The developer's attention should 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 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.

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