

**COMMITTEE REPORT**

**Date:** 6 November 2014      **Ward:** Fishergate  
**Team:** Major and      **Parish:** Fishergate Planning  
Commercial Team      Panel

**Reference:** 14/01857/FUL  
**Application at:** 1 Kensal Rise York YO10 5AL  
**For:** Additional storey 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 subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 This application seeks permission for the construction of an extra storey on top of an existing 2-storey, flat-roofed block of flats to provide six additional flats (four 2-bed and two 1-bed). Four of the flats would have balconies, which would face south. The proposed flats (plus the six existing flats on the first-floor) would be accessed by three new external stair pods/towers on the north side of the building. Access to the six existing flats on the ground floor would be unchanged. The works would have a contemporary appearance with a combination of brick and aluminium cladding for the walls and aluminium cladding to the roof. Windows would be wood/aluminium. The existing car parking would be retained and supplemented by three visitor spaces accessed from the tuning head at the eastern end of Kensal Rise. Six secure cycle spaces for the new flats would be provided within the stair pods. A further 10 secure spaces would be provided within a purpose built lockable store for the use of the existing residents. Bin stores for all the flats would be provided at the rear of the site. The lower floors of the building would be upgraded with improved insulation, new windows and new external doors.

1.2 The application has been amended since submission. The main changes are: removal of the proposed echelon parking at the front of the site; removal of two proposed balconies; removal of proposed porches to the ground-floor flats; provision of more cycle storage; and retention of a detached garage occupied by the resident at existing Flat 1.

1.3 The application has been called in by Cllr Taylor citing loss of amenity space at the front of the flats to create additional parking, and the dangerous highway movements that would result.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

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

Schools GMS Constraints: St. George's RC Primary 0225

### 2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYNE1	Trees, woodlands, hedgerows
CYHE2	Development in historic locations
CYT4	Cycle parking standards
CYL1C	Provision of New Open Space in Development

## 3.0 CONSULTATIONS

### INTERNAL

#### Highway Network Management

3.1 No objections to the revised scheme. Add conditions to ensure provision of cycle storage and car parking/manoeuvring.

#### Communities, Culture and Public Realm

3.2 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 York Cemetery (b) play space - which would be used to improve a local site such as Cemetery Road. This only applies to the 2 beds flats, and (c) sports pitches - which would be used to improve a facility within the South or East Zone of the Sport and Active Leisure Strategy. The contribution to off-site provision is to be based on the latest York formula through a Section 106 Agreement.

#### Education

3.3 No financial contribution required.

#### Environmental Protection Unit

3.4 No objections. No air quality or contaminated land concerns have been identified other than possible noise/dust during the construction phase. Add the standard construction informative.

## EXTERNAL

### Fishergate Planning Panel

3.5 This is a controversial plan that has safety issues. It should be considered by the planning committee rather than delegated to an officer.

### Public Consultation

3.6 The consultation period expired on 26 September 2014. Nine objections have been received raising the following planning issues:

- Highway safety due to number and location of additional parking;
- Traffic congestion in Kensal Rise and at junction with Cemetery Road;
- No need for additional parking;
- Visual impact of additional parking;
- Visual impact of clutter on proposed balconies;
- Loss of shared amenity space due to additional parking;
- Overlooking;
- Flats on lower floors should be upgraded;
- Blind spots created by the proposed porches would increase crime and fear of crime [the porches have since been deleted from the scheme].

3.7 One letter of support has been received commenting that the proposal would provide much-needed modestly-sized flats of modern design in keeping with the existing building. The garden would be put to productive use by providing much-needed parking.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Sustainability
- Design and Appearance
- Access and parking
- Neighbour amenity
- Open space

## PLANNING POLICY CONTEXT

4.2 National Planning Policy Framework (NPPF) states that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted (paragraph 14).

4.3 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the NPPF. The local plan policies that are still applicable are listed at paragraph 2.2 of this report.

## THE APPLICATION SITE

4.4 The existing building is a 2-storey, flat-roofed block of flats occupying the north side of a short cul-de-sac. The remainder of the cul-de-sac comprises 2-storey single dwellinghouses. Kensal Rise is a narrow unadopted road. At the western end, within the application site, is a protected tree. The site abuts Fulford Road Conservation Area at its northern extremity.

## SUSTAINABILITY

4.5 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The site is in a sustainable location close to the city centre and well served by shops and public transport. The site is already in residential use. The principle of increasing the number of dwellings on the site is acceptable. The improvements to the lower floors of the building, in terms of insulation and upgrading, support the sustainability aspirations of the NPPF and weigh in favour of the application.

## DESIGN AND APPEARANCE

4.6 The core planning principles set out in the NPPF include the expectation that planning should always seek to secure high quality design and a good standard of amenity. The Framework also states that whilst permission should be refused for poor design, planning should not attempt to impose architectural styles or particular tastes and should not stifle innovation through unsubstantiated requirements to conform to certain development styles. The appearance of the existing building is uninspiring and would benefit from improvement. The external metal staircases in particular are unsightly. They would be removed and replaced with the stair towers/pods. Whilst the overall design is contemporary and quite different in character and appearance from the existing building the scale and massing of the enlarged building would not look out of place in the street scene. The additional storey and stair pods would increase the visibility of the building, which would affect the setting of the adjacent conservation area, but the effect would be minor. The proposed replacement windows and external doors for the whole building would improve its overall appearance and benefit the existing occupiers.

## ACCESS AND PARKING

4.7 The surrounding highway is protected by parking restrictions and residents parking bays, which are unavailable to the residents of Kensal Rise. Existing on-site parking arrangements comprise a court of 10 spaces at the rear of the building plus a single pre-fabricated garage with hardstanding at the western end of the site. Some of the spaces are allocated to the applicant (who is the freeholder and landlord of some of the flats), others are allocated to individual flat owners. Not all residents have a dedicated parking space. The application initially included the demolition of the single garage and provision of eight extra off-street spaces (net increase, seven). Three of the spaces were on land currently used as shared amenity space at the turning head. The other five were laid out in echelon near the junction with Cemetery Road. Local residents objected to the additional parking, especially the echelon spaces, because of the increase in traffic movements, congestion and obstruction of emergency vehicles that they considered would result. Despite Kensal Rise being unadopted the proposed echelon parking was considered to be unacceptable for safety reasons, in particular the risk of drivers reversing out onto Cemetery Road. The applicant has since removed the echelon parking from the scheme and reinstated the single garage and hardstanding. The three proposed parking spaces at the cul-de-sac are acceptable to Highway Network Management, particularly as their presence would reduce the likelihood of cars parking within the turning head, which would increase the risk of cars reversing out onto Cemetery Road. Furthermore the total level of parking for the site is considered to be acceptable because it is within the council's parking standards, reflects the level of car ownership in the ward and is close to public transport and the city centre. The number of additional traffic movements associated with the development, particularly bearing in mind the relatively low level of parking, would be negligible. The surrounding junctions and adjacent highway network can accommodate this negligible increase in traffic without any detriment to either highway safety or the free flow of traffic. Provision of the proposed cycle storage should be made a condition of approval.

## NEIGHBOUR AMENITY

4.8 The building is detached and unlikely to have any material impact on adjacent occupiers in terms of loss of sunlight/daylight or overbearing impact. As initially submitted all six of the additional flats would have had balconies facing the houses on the opposite side of the street. The minimum separation distance is 21m, which is acceptable for preventing overlooking. However, the balconies of the two flats at the eastern end of the block would have overlooked the side garden of the house at the end of the turning head, No.14. The applicant has therefore replaced the proposed patio doors with standard windows, thereby preventing access onto the balcony, which would be for maintenance only. This should be made a condition of approval. Revised plans showing the new windows are awaited.

**OPEN SPACE**

4.9 The application requires a contribution of £5744 towards open space under policy L1C of the local plan. Such payments are normally enshrined in a section.106 unilateral undertaking. Drafting of the undertaking is underway. Members will be updated at the meeting.

**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. The application requires a contribution of £5744 towards open space

**COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

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

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.

## **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.

## 3. SECTION 106 OBLIGATION

The planning permission is accompanied by an undertaking by the applicant to contribute £5744 towards off-site open space.

### **Contact details:**

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