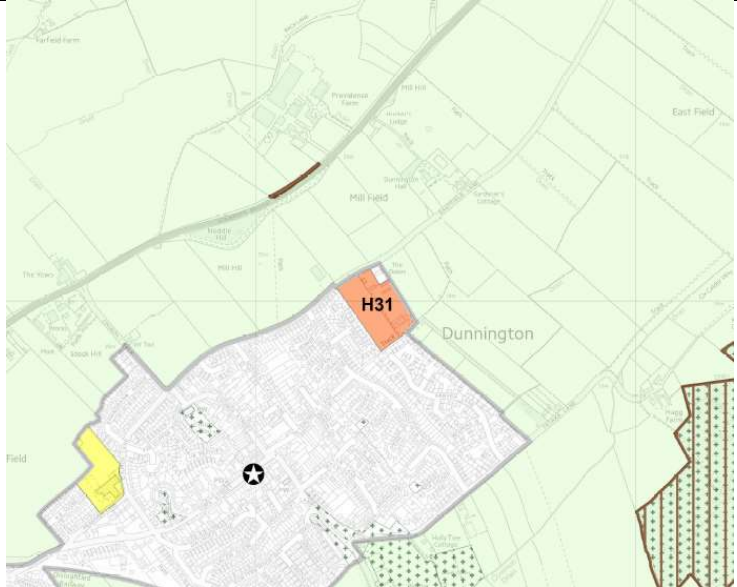


SITES WITH RESOLUTION TO GRANT

Allocation Reference	H31		
Site Name/Address	Eastfield Lane Dunnington		
<p>Site Overview</p> <p>Greenfield site located north of Dunnington village, outside of the York main urban area (in the general extent of the green belt). The land is presently two distinct parcels arranged in a shallow 'L' shape.</p> <p>No known significant constraints</p>			
<p>Site planning status @ 1 April 2022</p>	<p>Full planning application (20/01626/FULM) approved subject to Section 106 at Committee on 07.10.21 for Erection of 83 dwellings, landscaping, public open space and associated infrastructure</p> <p>Awaiting legal agreement</p>		
<p>Delivery Record (if appropriate)</p>	None		
<p>Capacity in May 2022 Trajectory</p>	82	Site size (ha)	2.51
<p>Delivery Projections</p>	<p>(Yr 1) 2022/23 - 6 homes (Yr 2) 2023/24 - 40 homes (Yr 3) 2024/25 - 36 homes</p>		
<p>Developer / Landowner</p>	Barratt Homes		
<p>SoCG/Proforma submitted:</p>	Yes		
<p>Have SoCG/Proforma projections been used for May 2022 trajectory?</p>	Yes		
<p>Site deemed deliverable?</p>	Yes – clear evidence available to demonstrate there is a realistic prospect that housing will be delivered on the site within five years		
<p>Assessment</p>			

Application progress

The SOS confirmed that he no longer intends to call in the application 06/04/2022. S.106 close to agreement.

Viability / ownership / infrastructure

National housebuilder signed up to the site. No known viability or infrastructure constraints.

Justification for lead-in

The lead in time was informed by developer correspondence (12/04/2022) and reflected in the latest housing trajectory. Given some slippage in S106 agreement since then (due to wait on call-in decision), the accelerated lead in is likely to slip accordingly. However, this does not impact the deliverability of the site within five years and realistic to assume timely determination of applications to discharge conditions given the scope of issues to be resolved.

Justification for build rates

Build rates informed by developer correspondence. Marginally higher than the Council's standard rate but considered to be realistic given national housebuilder involvement and track record of delivery in the City and wider region. Site is in an attractive location and no reason to assume the rate will not be achieved. Developer's projection is considered to be realistic and has been applied.

Bellerby, Neil

From: Tate, Liam <liam.tate@barratthomes.co.uk>
Sent: 12 April 2022 14:04
To: Bellerby, Neil
Subject: RE: *EXTERNAL: Os Field 2800, Eastfield Lane, Dunnington (Draft Allocation H31). Planning app: 20/01626/FULM) for 83 homes

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Neil,

No worries.

See my comments in red below.

The SOS has recently confirmed that he no longer intends to call in the application. We are currently finalising the legal agreement so a decision can be issued – I'm working towards the end of this month.

Regards,

Liam Tate
Planning Manager

Barratt Homes Yorkshire East Division
& David Wilson Homes Yorkshire East Division
(trading names of BDW Trading Ltd)

6 Alpha Court
Monks Cross Drive
York
YO32 9WN

t: 01904 617660
m: 07827 307093
e: liam.tate@barratthomes.co.uk



Preventing
Youth
Homelessness
Together

<https://www.justgiving.com/fundraising/SASHbdwyorkshireeast>

From: Bellerby, Neil <Neil.Bellerby@york.gov.uk>

Sent: 12 April 2022 13:36

To: Tate, Liam <liam.tate@barratthomes.co.uk>

Cc: Morris, Peter <peter.morris@barratthomes.co.uk>

Subject: *EXTERNAL: Os Field 2800, Eastfield Lane, Dunnington (Draft Allocation H31). Planning app: 20/01626/FULM) for 83 homes



EXTERNAL EMAIL WARNING

Please do not click on LINKS or ATTACHMENTS where you are unsure of its origin. In such cases delete the email.

Hello Liam

I am currently in the process of contacting agents/applicants involved in residential sites with consent or sites with a resolution to grant planning permission subject to the execution of a legal agreement for 10 or more homes in the City of York Local Authority area to feed into our evidence base for the delivery of housing development over the next 5 years.

I am aware that this application has recently been called in by the Secretary of State to make final judgement. However, your advice on anticipated delivery is still helpful to us and will assist in our housing trajectory and five year housing land supply calculations.

If you are not the appropriate contact for this development site, I apologise. Should this be the case, I would be grateful if you could please forward to the appropriate person or inform me directly to enable me to forward this request to the correct person.

As a Local Authority we are obliged to ‘make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites..’ to be in line with National Planning Policy Framework 2021 (paragraph 73 (d)). This evidence informs our ongoing monitoring work and housing trajectory as well as assumptions used in our Strategic Housing Land Availability Assessment (SHLAA).

I understand that under the current circumstances housing delivery may have become more challenging. However, I should be grateful if you would insert your best estimate for housing delivery on this site and complete the table below in order that we can prepare a housing trajectory with the most up to date and realistic figures. **It would also be useful for you to provide us with any additional information you consider important for us to understand in the current delivery of this site or housing development in general across York.**

Please note that our monitoring years start on the 1st April and end on the 31st March of the following year

Site Address	YEAR					TOTAL Yrs 1-5
	Completions to date	1 2022/23	2 2023/24	3 2024/25	4 2025/26	
Os Field 2800, Eastfield Lane, Dunnington (Draft Allocation H31). Planning app: 20/01626/FULM) for 83 homes	0	6	40	36		

Notes / Further Information

E.g: issues that influence delivery and lead in times to development; any problems or barriers taking forward the scheme.

Are you happy for us to contact you in the future regarding housing delivery evidence base in York? Please confirm your contact details if so.

Yes / No

I should be grateful if you would return details to myself **by Friday 29th April 2022**. In the meantime should you need any clarification of this request or require any further details in order that you may complete the housing delivery table please do not hesitate to contact me.

Kind regards

Neil

COMMITTEE REPORT

Date: 7 October 2021 **Ward:** Osbaldwick And Derwent

Team: East Area **Parish:** Dunnington Parish Council

Reference: 20/01626/FULM

Application at: Os Field 2800 Eastfield Lane Dunnington York

For: Erection of 83 dwellings, landscaping, public open space and associated infrastructure

By: Mr Tate

Application Type: Major Full Application

Target Date: 5 March 2021

Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1. Full planning permission is being sought for the erection of 83.no dwellings, landscaping, public open space and associated infrastructure.

1.2. The application site consists of a parcel of land covering approximately 2.37 hectares located to the North Eastern edge of Dunnington. The land is presently two distinct parcels arranged in a shallow 'L' shape. The southernmost parcel being an enclosed piece of agricultural land. The easternmost section of the application is used as the premises of a landscaping business and comprises of various buildings and structures including glasshouse type buildings.

1.3. The main vehicular access to the site is proposed to be taken from Eastfield Lane situated to the North of the site. An existing Public Right of Way exists to the southern end of the site. Neighbouring residential properties abound the site along the Western and Southern boundaries. There is an existing property to the North East of the site known as The Market Garden.

1.4. The proposed dwellings are a mix of 1,2,3 and 4 bed properties a proportion of which will be affordable homes. There will be open space provided on site. The proposed accommodation mix comprises of:

1/2 Bed Duplex: 16 (4 Market, 12 Affordable);
2 Bed, Two Storey: 5 (14 Market, 5 Affordable);
3 Bed, Two Storey: 33 (23 Market, 6 Affordable);
4 Bed, Two Storey: 24 (17 Market, 2 Affordable).
Total: 83 (58 Market, 25 Affordable).

1.5. Since the original submission the proposals have been subject to amendments. These amendments have seen changes to the layout to improve separation distances to existing properties as well as formalised enhancements to pedestrian access to the site. The overall number of dwellings proposed has also been increased to 83.no.

BACKGROUND AND RELEVANT SITE HISTORY

1.6. The application site has been identified as a Housing allocation (H31) within the published Draft Local Plan 2018 with an anticipated yield of 76 dwellings.

1.7. The planning history that exists for the site relates to the land that is linked to the property known as The Market Garden. None are however considered to be relevant to the determination of this current application.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1. The revised National Planning Policy Framework (NPPF) 2021 sets out the government's planning policies for England and how these are expected to be applied. It is a material consideration in the determination of this planning application.

2.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.3. The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan.

2.4. Although the RSS has otherwise been revoked, its policies which relate to the York Green Belt have been saved together with the Key Diagram insofar as it illustrates the general extent of the Green Belt around York. Saved policy YH9 states 'the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of levels of growth set out in the RSS and must also endure beyond the Plan period.

2.5. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the saved RSS Green Belt policies.

THE DUNNINGTON NEIGHBOURHOOD PLAN

Application Reference Number: 20/01626/FULM

Item No: 4a

2.6. In September 2014 an application was approved which defined a Dunnington Neighbourhood Plan area, enabling work to start on developing a Neighbourhood Plan. The site subject of this planning application is located within the approved Neighbourhood Plan Area.

2.7. The draft pre-submission plan is currently being prepared by the Parish Council. However, at the time of writing, a draft pre-submission of the plan is yet to be consulted on. Given the stage of preparation, colleagues in the Forward Planning team advise that the plan carries no weight in the decision making process.

PUBLICATION DRAFT LOCAL PLAN (DLP 2018)

2.8. The DLP 2018 was submitted for examination on 25th May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019 and consultation on proposed modifications to the plan were consulted on in line with Regulation 19 in 2019 and 2021. In accordance with paragraph 48 of the NPPF the DLP 2018 policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (N.B: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

2.9. Key relevant DLP 2018 policies are:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York’s Green Belt
- H1 – Housing Allocations
- H2 – Density of Residential Development
- H3 – Balancing the Housing Market
- H10 – Affordable Housing
- HW2 – New Community Facilities
- HW4 – Childcare Provision
- HW7 – Healthy Places

D1 – Place Making
D2 – Landscape and Setting
D6 – Archaeology
GI6 – New Open Space Provision
GB1 – Development in the Green Belt
CC1 – Renewable and Low Carbon Energy Generation and Storage
CC2 – Sustainable Design and Construction of New Development
ENV1 – Air Quality
ENV2 – Managing Environmental Quality
ENV3 – Land Contamination
ENV5 – Sustainable Drainage
T1 – Sustainable Access
T7 – Minimising and Accommodating Generated Trips
DM1 – Infrastructure and Developer Contributions

Emerging Local Plan evidence base

2.10. The evidence base that underpins the proposed emerging policies is considered to be a material consideration in the determination of this planning application. The directly relevant evidence base is:

- City of York Housing Needs Update (2020).
- Topic Paper 1: Approach to defining York's Green Belt (2021).
- City of York Local Plan Viability Assessment Update (2018).
- Strategic Housing Land Availability Assessment and Appendices (2021)
- Strategic Housing Land Availability Assessment and Appendices (2018).
- Strategic Housing Land Availability Assessment and Annexes (2017).
- City of York Strategic Housing Market Assessment (2016).
- City of York Strategic Housing Market Assessment Addendum (2016).
- City of York Site Selection Paper Addendum (2014).
- City of York Site Selection Paper and Annexes (2013).
- City of York Historic Character and Setting Technical Paper Update (2013).
- City of York Historic Character and Setting Technical Paper (2011).
- Approach to the Green Belt Appraisal and Maps (2003).
- Heritage Topic Paper (2014)
- Heritage Impact Appraisal (2017)
- Habitat Regulations Assessment (2020)

DRAFT LOCAL PLAN 2005

2.11. The City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005) was approved for Development

Application Reference Number: 20/01626/FULM

Item No: 4a

Management purposes. The 2005 plan does not form part of the statutory development plan for the purposes of S38 (6) of the Planning and Compulsory Purchase Act 2004. Its policies are however considered capable of being material considerations in the determination of planning application where policies relevant to the application are consistent with those in the NPPF although the weight that can be attached to them is very limited.

2.12. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development which means, for decision taking:

- Approving development proposals that accord with an up-to-date development plan without delay; or
- Where there are no relevant development policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- The application of policies within this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.

2.13. However, the presumption does not apply if the proposal conflicts with restrictive Green Belt policies as set out in the NPPF.

3.0 CONSULTATIONS

INTERNAL

ARCHAEOLOGY

3.1. The proposed development lies to the eastern edge of Dunnington on the south-facing slope of York moraine. Archaeological work and research has been undertaken on sites in a similar location on the moraine at Campus 3 in Heslington and on Walmgate Stray. This work has demonstrated that these sites have the potential to produce well-preserved archaeological features and deposits relating to the late prehistoric and Romano-British occupation. This site has a similar potential to produce highly significant non-designated heritage assets although the eastern side of the plot has been semi-developed.

3.2. The site was discussed at pre-application stage back in 2018. A number of evaluation investigations were recommended to take place prior to submission. At this time only a desk based assessment and geophysical survey had taken place. Several of the evaluation techniques requested have not been undertaken. The

geophysical survey (undertaken on 50% of the site) has not shown any obvious archaeological anomalies; although this doesn't mean the site is devoid of any archaeological features or deposits. The Western half of the plot appears from aerial images to contain faint traces of medieval ridge and furrow.

3.3. The proposals will result in the destruction of all surviving deposits or features within the site. The site has not been thoroughly intrusively evaluated despite the potential it has to retain an archaeological resource. Whilst the results of the geophysical survey (unproven by trenching) have suggested that there is no significant archaeological resource on the site; and the recent uses of the land on the eastern half of the site may have also impacted on any surviving archaeology.

3.4. As is stated in the 2014 desk based survey further archaeological evaluation is required. This can be secured via condition on the understanding that an excavation may be required that cannot, at this stage be quantified. In the event of planning permission being granted the developer would be encouraged to carry out the evaluation work as soon as possible in order to manage any risk.

ECOLOGY

3.5. The submitted ecology appraisal has accurately identified statutory and non-statutory designated sites in the local area; and as stated in para 5.5 there will be no adverse effect on any of the designated sites. There is however a need to clarify why recommendations for the hedgerow buffer have not been taken into the development, making reference to current policy requirements to avoid, mitigate, compensate and where possible achieve a net gain for biodiversity.

3.6. Additional ecological information was subsequently submitted. The evidence indicates that the development should be able to provide a Biodiversity Net Gain in excess of 10%. Should the council be minded to grant planning permission a series of conditions are recommended.

TREES AND LANDSCAPE

3.7. No objections raised but outlines a number of points and suggests a series of conditions if planning permission was to be granted.

3.8. It is unclear as to how engaging the seating area within the central open space would be. The open space to the southwest corner has been improved since it creates a better link to the PROW and provides a better setting for the development, although the paved area would only to follow one curve. The PROW still feels too hemmed in for too long a stretch from its connection with Petercroft Lane. The landscape detail for the areas of open space could work harder as shared amenity space. It would be beneficial for to the character of Eastfield Lane and the setting of

the development if access to the northern properties were placed behind the existing hedge. There should be pleasant green interruptions along the north/south road, either by way of incidental spaces hosting specimen trees and or significant pinch points with trees.

3.9. Should the application be approved conditions relating to the following matters should be attached; boundary details, protection of trees and hedges, site compound, landscape scheme, tree pit details.

AFFORDABLE HOUSING

3.10. The site is required to make an affordable housing contribution in order to meet council policy. As a greenfield site this represents 30% of the total homes.

3.11. A mix of 1-4 bed homes is proposed for affordable housing which addresses the high level of local need in a popular location. The Housing Policy and Strategy Team supports this application in consideration of the much needed affordable homes and their potential to provide excellent homes of good size for residents facing housing pressures. 80% of the affordable units (20no.) will be for social rent and 20% (5no.) for Discount Sale tenure, in accordance with policy H10.

FORWARD PLANNING

3.12. Under Policy H1, the site is a proposed housing allocation in the emerging Local Plan known as H31 – Eastfield Lane, Dunnington. Policy SS2 'The Role of York's Green Belt' in the emerging local plan proposes to take the site out of the general extent of the Green Belt to enable the delivery of development need over the plan period. Having consideration to the advanced stage of the 2018 Local Plan's preparation, the extent and significance of unresolved objections to emerging Policy SS2, and the consistency with the NPPF, we would advise that Policy SS2 can only be applied with limited weight. In line with the decision of the Court in *Wedgewood v City of York Council* [2020] EWHC 780 (Admin), and in advance of the adoption of a Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the RSS general extent of the Green Belt, the draft Local Plan (2005), the emerging Local Plan, insofar as can be considered against paragraph 48 of the NPPF (2019) and site specific features in deciding whether land should be regarded as Green Belt. It is against these documents that this proposal should principally be assessed. As such, the application site falls within the general extent of the Green Belt and should be treated as such. Additionally, Policy H1, on balance, can be afforded moderate weight in relation to allocation H1 at this stage.

EDUCATION

A request for Education contributions totalling £799,738 has been received. Broken down as:

	Places Required	Contribution
Early Years	9	£170,784
Primary	18	£341,568
Secondary	11	£287,386
Total	38	£799,738

3.13. The requested contributions would be allocated to Dunnington Primary School and Fulford Secondary School. The contributions for Early Years will ideally be allocated within the standard 1.5km radius of the application site. However due to the rural location of the development it may be necessary to exercise a greater degree of flexibility.

HIGHWAYS NETWORK MANAGEMENT

3.14. No objections raised to the proposals but a have made a number of recommendations in respect of conditions and measures which would need to be secured via Section 106 Agreement.

PUBLIC RIGHTS OF WAY

3.15. There is an existing public right of way to the south of the site known as Dunnington No.12. It is likely that the proposed development will result in a large increase in the use of the this footpath which will lead to a deterioration of the current surface; which in turn would lead to an increase in complaints and an additional maintenance liability. We would therefore object to the proposals connecting to the public footpath unless there is a proposal to surface the public footpath to an adoptable standard.

PUBLIC PROTECTION

3.16. No objections raised but do request that in the event of planning being granted a series of conditions are attached. These relate to the provision of management and mitigation measures around noise and dust during the construction phase. The passive provision of infrastructure for EV recharge points; and conditions which would provide suitable mitigation for dealing with any land contamination which may be present at the site.

FLOOD RISK AND DRAINAGE

3.17. Having witnessed infiltration testing on site we can confirm that due to the presence of a dense clay overlaid by a saturated sand layer, soakaways as a means of surface water disposal will not work on this site. The next point in the hierarchy of surface water disposal is to watercourse, this must now be explored. We understand

there is a nearby watercourse within the applicant's control therefore this would be the obvious solution.

3.18. The Flood Risk Management Team has raised no objections to the development in principle but if planning permission is to be granted, a series of conditions should be attached in order to protect the local aquatic environment and public sewer network.

LIFELONG LEARNING AND LEISURE (OPEN SPACE).

3.19. Officers advise that they would wish to see all the amenity space provided on site. An offsite contribution has been requested for sports provision in the area. Based on the proposed housing mix a sum of £47,925 is requested with the future spending of the contribution intended to be at Dunnington Sports Club.

EXTERNAL

3.20. DUNNINGTON PARISH COUNCIL: Objects on the following grounds:

- It is premature and would prejudice the outcome of, and weaken public confidence in, the plan making process.
- It is contrary to the national and local planning policies including those contained in the Dunnington Neighbourhood Plan.
- It is inappropriate development in the Green Belt.
- It does not represent sustainable development. It is simply not a sustainable location for this type of development.
- It would cause significant harm to the landscape, infrastructure, character and appearance of the area as well as road safety and other important considerations.
- It was unanimously agreed not to support the proposal to increase the number of dwellings from 78 to 83 and any further subsequent changes. We find the amendment makes the proposed development even more unacceptable. The Parish Council has strongly objected in our previous submissions on the matter and our position remains unchanged.

3.21. SAFER YORK PARTNERSHIP (NORTH YORKSHIRE POLICE): No objections raised. In general the overall design and layout of the proposed development is to be commended as it contains many Designing out Crime principles and reduces the opportunity for crime and disorder. There are some elements which require further attention these include: permeability of footpaths, management and maintenance of open spaces, details of boundary treatments, visitor parking provision, bin storage and lighting.

3.22. YORKSHIRE WATER: No objections raised but does request conditions in the event of planning permission being granted.

3.23. OUSE AND DERWENT INTERNAL DRAINAGE BOARD: No objections raised but recommend various measures be secured via condition in respect of drainage at the site.

3.24. NORTH YORKSHIRE FIRE AND RESCUE: No observation/objection to the proposed development. Further comment in relation to the suitability of fire safety measures will be made at the time the building control body submit a statutory Building Regulations consultation.

4.0 REPRESENTATIONS

4.1. The proposals have been advertised via neighbour notification letter, site notices and local press notice. At the time of writing a total of 4.no letters of support have been received and a total of 59.no objections have been received. The comments received are summarised as follows.

4.2. Summary of Support Comments

- A new development is exactly what the village needs, the house prices are going through the roof, younger residents and first time buyers are having to move away due to not being able to afford houses. This has a negative impact on the community.
- The scheme offers housing to suit a wide variety of buyers, not to mention the contributions that will be made to the local community for extra capacity within the education system.
- Dunnington's property prices and types are not suitable for first time buyers. I would definitely be looking to buy a property on this development; as I know how much of a lovely village it is.
- It has to be recognised that the City of York Council are required to provide more housing within the city and it is reasonable that some of these numbers are provided within the outlying villages.
- Of all the sites considered in the Draft Local Plan this is the site that fits best with the existing development within the village.
- The development should serve to support village facilities such as local shops, cafes, schools, pubs, sports club but it will also be important the developer makes any necessary financial contributions to support these services.

4.3. Summary of Objection Comments

Highways:

- Road safety along Eastfield Lane. Exacerbated by congestion now being seen on York Street.
- Track leading to Holy Tree Lane is a risk, park cars can obscure the view of the track exit to motorists heading down Horsefield Way.

- The junction of Eastfield Lane and Church Balk is already hazardous without the increase of additional traffic.
- The road is not wide enough to take additional traffic.
- Eastfield Lane to the Stamford Bridge Road is totally unsuitable for increased vehicles.
- Risks to pedestrians along Eastfield Lane.
- Other areas of the village could be used as rat runs.
- The existing bus services are already poor.
- Increase in traffic travelling along Eastfield Lane. The widening of Eastfield Lane needs to be completed prior to development commencing.
- York Road has a 60mph speed limit which cyclists would need to use to reach the next safe cycle path. The developer should contribute towards the cost of installing a segregated cycle path along that stretch of road.
- The 45/46A bus service no longer comes through Dunnington. The Travel Plan is out of date, only First York provide a bus service to the village. There is no longer a public transport link between Dunnington and Pocklington.
- The proposals do not consider Eastfield Lane to the East of the site.
- Significant traffic will be generated by the proposals. Neither Eastfield Lane/Church Balk nor the Eastfield Lane/Stamford Bridge junctions will be able to cope with the additional traffic.

Flood Risk:

- There are already drainage issues and there is a potential flood risk to existing properties.
- Surface water flooding is a risk. Particularly the risk of it accumulating at lower level fields opposite Kerver Lane.
- The additional properties will create problems with surface water and put pressure on existing drainage systems.
- There is often standing water along Eastfield Lane. During heavy rain there is already an issue with flash flooding running into gardens along Kerver Lane. The developer needs to eliminate the risk of flooding.
- The foul sewer system is already running at capacity.

Ecology:

- Construction will damage existing hedgerows as Eastfield Lane is not suitable for these types of vehicles.
- Existing hedgerows provide a habitat for wildlife and a screen for existing residents and these should be retained.
- Approval of the proposals will remove agricultural land from the landscape.
- The loss of Green Belt land and the ecological habitats will have a hugely detrimental impact upon the Conservation Area.

- The proposed number of dwellings seems very high for a site of this size. This will have an adverse impact upon wildlife and ecology.
- The proposed landscaping is not wildlife friendly and should be improved. The 5m buffer between the southern hedge and the development should be included in the proposals.
- A representation was also received from the Yorkshire Wildlife Trust, who had been contacted by a member of the public.

Design and Amenities:

- There will be added pressure on an already full school and doctor's surgery.
- The developer fails to recognise the increasing number of school age children and makes no contribution towards providing extra school capacity at Dunnington Primary School or nearby secondary school.
- Existing village amenities struggle at present.
- This is a greenfield site that should be protected.
- The proposals would represent an overdevelopment of the site.
- Construction works should be restricted to between 0800-1600 to protect residential amenity.
- We would like assurances that the pumping station will not create any noise.
- We would like assurances that there will be no access of any kind onto the track which runs between the northern end of Kerver Lane and the southern end of the site.
- The proposals leave existing residents overlooked.
- The density and layout is higher than within the existing neighbourhood.
- The proposals will impact severely on Eastfield Lane and the rural setting of the village.
- The proposed architecture and layout is substandard.

Policy:

- The land is part of the Green Belt a status which has not been changed.
- The development is inappropriate in the Green Belt.
- The land surrounding the village should be kept intact to prevent over development and keep the village contained.
- The proposals are premature and granting them would undermine the plan making process.
- The proposals are not sustainable.

Other:

- The proposals will result in a loss of property value.
- The builder should be accountable to respecting the current residents and the environment. They should be required to pay penalties to Dunnington Parish Council in the event of any conditions being breached.

- Much of the submitted information is out of date.
- Ownership of the land is not fully settled due to probate. Surely this application cannot go ahead until ownership is legally binding.

5.0 APPRAISAL

Key Issues

5.1. The key issues are as follows:

- Principle of Development
- Highways and Access
- Drainage and Flood Risk
- Design and Layout of the site
- Residential Amenity and Public Protection
- Affordable Housing
- Drainage & Flood Risk
- Archaeology
- Ecology
- Sustainable design and construction
- Planning obligations
- The case for very special circumstances.

PRINCIPLE OF DEVELOPMENT

5.2. For the purposes of s.38(6) Planning and Compulsory Purchase Act, the proposals should be assessed against the saved RSS Green Belt policies. Policies contained within the National Planning Policy Framework are also material considerations.

5.3. The 2005 DLP showed the Green Belt boundaries in the general locality of the application site as being along the rear of properties on Holly Tree Croft and Kerver Lane; around the general built extent of Dunnington; with land to the North East of the village including the application site being within the general extent of the Green Belt. In contrast the emerging Local Plan (2018) shows the land as being part of a proposed housing allocation (H31 – Eastfield Lane) and not being within the Green Belt. The Green Belt boundary is moved eastwards to the eastern side of the nearby property known as The Market Garden, before returning west to meet the rear of properties on Kerver Lane. As a result the land to which the application relates would be removed from the general extent of the Green Belt if the DLP 2018 is adopted, instead becoming part of the defined settlement of Dunnington.

5.4. It is the Local Planning Authority's position that until a Local Plan for the City of York is adopted, development management decisions relating to proposals falling within the general extent of the Green Belt are made on the basis that the land

should be treated as Green Belt. Therefore Green Belt policies set out within the NPPF apply to the determination of development proposals.

5.5. Paragraph 147 of the NPPF states: 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 148 goes on to state: 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'.

5.6. Paragraph 149 of the NPPF states: 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) The replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
- e) Limited infilling in villages;
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception site); and
- g) Limited infilling or the partial or completed redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously development land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.7. Paragraph 150 of the NPPF sets out certain other forms of development which are also not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of the including land with it. These are: mineral extraction, engineering operations, local transport infrastructure which

can demonstrate a requirement for a Green Belt location, the reuse buildings provided that the buildings are of permanent and substantial construction, material changes in the use of land (such as changes of use for outdoor sport or, recreation, or for cemeteries and burial grounds); and development, including buildings brought forward under a Community Right to Build Order or Neighbourhood Development Order.

5.8. The proposed development would not meet any of the defined exceptions set out within paragraphs 149 and 150 of the NPPF. As a result the proposals would in this context be considered to amount to inappropriate development within the Green Belt.

IMPACT UPON THE OPENESS OF THE GREEN BELT

As set out in Paragraph 137 of the NPPF. One of the essential characteristics of Green Belts are their openness and their permanence. There is no definition of 'openness' in the NPPF. However it is commonly taken to mean the state of being free from development, the absence of buildings and relates to the quantum and extent of development and its physical effect on the site.

5.9. Policy GB1 of the 2018 Draft Plan states that permission will only be granted for development where:

- i. The scale, location and design of development would not detract from the openness of the Green Belt;
- ii. It would not conflict with the purposes of including land within the Green Belt; and
- iii. It would not prejudice or harm those elements which contribute to the special character and setting of York.

5.10. There are unresolved objections to Policy GB1 that will be considered through the examination in public of the Local Plan and therefore it should only be afforded limited weight in the decision making process for the purposes of this application.

5.11. The existing site comprises a rectangular parcel of land which is currently grassland and a section of the existing land currently associated to the neighbouring property at The Market Garden and the contract landscaping business that is operated from the site. As a result this part of the site has historically contained various buildings, structures and paraphernalia associated with such uses. The proposals would, due to their nature, reduce the openness within this part of the Green Belt. However the extent of any such impact upon the overall openness of the Green Belt, as a whole, is considered to be limited.

5.12. The visual impacts and changes brought about by the proposed development would be mostly keenly felt in relative close proximity to the site and the surrounding roads, lanes and footpaths within the immediate vicinity of the site; creating a localised loss of openness. This impact diminishes at points further away from the site as the wider context provided by the existing urban area of Dunnington will begin to contribute to the wider setting of the development.

IMPACT ON THE GREEN BELT PURPOSES

5.13. The proposed development would be inappropriate development in the Green Belt. It would lead to a degree of harm to the openness of the Green Belt. Paragraph 138 of the NPPF sets out that the Green Belt serves five purposes. These are:

- a) To check the unrestricted sprawl of large built up areas;
- b) To prevent neighbouring towns merging into one another;
- c) To assist in safeguarding the countryside from encroachment;
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling of derelict land and other urban land.

5.14. The primary purpose of the York Green Belt is to safeguard the special character and setting of the historic city as referred to in Policy YH9C of the RSS and Policy SS2 of the 2018 emerging local plan, although weight can only be attached to the latter. The proposals would round off the north eastern corner of the existing village would be visually well associated to the existing urban area. It would also preserve the setting and special character of the city of York. The design and layout would be in keeping with the existing grain of the urban area and allow the village to retain the character of a rural village set amongst the countryside. It is therefore considered that the proposals would not conflict with the purposes of the Green Belt.

HIGHWAYS & ACCESS

5.15. Paragraph 110 of the NPPF states that in assessing site that may be allocated for development or specific applications for development, it should be ensured that:

- a) Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) Safe and suitable access to the site can be achieved for all users;
- c) The design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and National Model Design Code; and
- d) Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be effectively mitigated to an acceptable degree.

5.16. Paragraph 111 of the NPPF states that; Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.17. Policy T1 of the emerging Local Plan seeks to promote sustainable access. Policy T1 states that development will be supported where it minimises the need to travel and provides safe, suitable and attractive access for all transport users to and within it, including those with impaired mobility; such that it maximises the use of more sustainable modes of transport. Policy T5 of the emerging Local Plan aims to support proposals which improve access to and around new development for pedestrians and cyclists.

Access

5.18. It is proposed within the details submitted that vehicular access to the site would be taken from Eastfield Lane at the northern end of the site; as part of the development Eastfield Lane, along the frontage of the application site will be widened; it was also be necessary for the existing 30mph section of Eastfield Lane to be extended across the frontage of the site. In addition to this a footpath link is proposed at the Southern end of the site connecting to an existing paved footpath which links Holly Tree Lane and Kerver Lane. There will also be a secure gated access point at the South Eastern corner of the site.

5.19. Amongst the objections received concerns have been raised around the ability of Eastfield Lane to accommodate the traffic that would be generated both directly from the development but also during the construction phase. Highways Officers have assessed these elements and have not raised any objections on such grounds. Assessment shows the surrounding highway network will be able to cope with the traffic generated by the development. Having regard to construction traffic this can be managed during the construction phase via a suitably worded condition and management plan. Concerns raised around congestion and parked vehicles on Eastfield Lane are noted. However as outlined above it is considered that there is sufficient capacity within the network for the proposed development to be accommodated. Should such issues persist in the long term the Local Highway Authority would retain powers to implement measures under highways legislation to address such issues where they are considered to be necessary.

5.20. To assist with the accessibility of the site along Eastfield Lane Highways have noted that dropped crossings are required at the junctions of Holly Tree Lane, Garden Flats Lane and Stockhill Close to ensure that users with reduced mobility

and those with pushchairs to use Eastfield Lane to gain access to Dunnington. These measures can be secured via condition.

5.21. Tracking information has been submitted which demonstrates that the site would be accessible to Refuse Collection vehicles. This will allow for the properties to adequately serviced.

5.22. Highways have raised concern with Emergency Access to the site. They note that the CYC Highway Design Guide states 'For any cul-de-sac serving more than 50 dwellings, an alternative access for emergency access should be provided. The proposals would provide means of access to vehicles from Eastfield Lane. In addition to this access could also be obtained via the proposed footpath link at the South of the site although this access would be via foot only with any emergency vehicles having to be parked on Holly Tree Lane or Kerver Lane.

5.23. As requested within the comments received from Highways, North Yorkshire Fire and Rescue have been consulted on the application and have not raised any objections to the proposals.

5.24. As part of the works it would be necessary to extend the existing 30mph section of Eastfield Lane across the frontage of the proposed development. These measures will be included secured via a Traffic Regulation Order (TRO). The costs of these works will be borne by the developer.

Sustainable Travel

5.25. As part of the submission a Transport Assessment has been undertaken. This has shown that the development would generate 47 two way trips during the AM and PM Peak. Junction assessments undertaken for Eastfield Lane/Holly Tree Lane and Eastfield Lane/Church Lane demonstrate that these junctions are able to cope with the additional demand the development would generate.

5.26. Parking at the site would be provided via a mix of private driveways, garages and parking bays. Highways have reviewed the proposed parking and arrangements and have confirmed their acceptance of the proposals. Highways have highlighted that in some areas the overall width of some of the proposed dropped crossings exceeds the recommended widths contained within the draft vehicles crossing policy. These areas are primarily in the parts of the site where multiple bay type parking arrangements are proposed such as the south eastern end of the site. However in this case this area is demarcated as being a shared surface, which would be clearly differentiated from other sections of the roadway therefore creating a degree of visual break. Other features such as landscaping will also assist in this regard.

5.27. A Travel Plan has been provided. However an assessment of this has noted that it provides virtually no budget (£100) and amounts to little more than a resident's survey. Instead Highways would wish to see a £200 per dwelling contribution secured towards a public transport pass or cycling equipment to be awarded to the first occupier. In addition to this such a scheme would be managed either by CYC or in close collaboration with CYC. Such measures would need to be secured via S106 agreement. However this considered reasonable and broadly in line with other developments in the city. Such a contribution will allow the first occupiers to access a more tangible benefit.

5.28. In the interests of assisting with the provision of sustainable methods of transport it is necessary for the development to provide suitable infrastructure and facilities such as secure cycle parking. Limited details have been provided at this stage. It is therefore considered necessary to condition that these details be provided and agreed with the LPA and Highways. A second condition will ensure that these facilities are then delivered once they are agreed.

5.29. Having regard to the general sustainability of the site. The provision of the footpath link at the Southern end of the site greatly improves connectivity and permeability of the site into Dunnington. Bus Stops on Church Street are approximately 400-450m away; served by the No. 10 Service (Stamford Bridge/Poppleton via York City Centre). In addition to this there are also a number of other amenities along Church Street and York Street such as convenience store, post office, pub, doctor's surgery and pharmacy. All of which would be within an accessible distance from the application site. In this regard the proposals would be considered to be sustainable.

5.30. Overall it is considered that the proposals would accord with the provisions of Policy T1 of the DLP and Section 9 of the NPPF. The proposals would provide appropriate levels of parking within the development. In addition to this the surrounding highway network would be capable of accommodating the traffic which would be generated by the proposals. The proposals would not give rise to significant highway safety issues and the proposals would be in a sustainable location with regard to access to services and public transport.

DESIGN AND LAYOUT OF SITE

5.31. Paragraph 130 of the NPPF sets out a series of objectives which policies and decisions should ensure developments achieve:

- a) Will function well and add to the overall quality of the area, not just for the short terms but over the lifetime of the development;

- b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- c) Are sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) Establish or maintain a strong sense of place, using the arrangement of streets spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.32. National Planning Practice Guidance refers to the National Design Guide, which sets out the characteristics of well-designed places and illustrates what good design means in practice. The document can be used for decision-making. Policies D1 (Place-making) and D2 (Landscape) of the emerging local plan also cover design principles.

5.33. The historic incremental growth of the village of Dunnington is obvious and is a characteristic that many of the villages surrounding York exhibit; in that they have grown outwards from the historic centre. In the case of Dunnington York Street, Church Street and Common Road are quite linear. Subsequent additions have then been made outwards from here which are more suburban in their character being a mixture of interconnected streets and cul-de-sac type developments.

5.34. The proposals are considered to respect local character in terms of layout, scale and density. The proposed dwellings are a mix of detached, semi-terraced and short terraces of properties. All are two storeys in height and provide private amenity space. The exact specification of exterior materials to be used in the construction of the proposed dwellings has not been specified. Therefore in the event of granting planning permission it would be necessary to condition that such details be provided and approved in writing by the LPA, prior to their use in the development.

5.35. Plots 1-2 and 78-84 will front Eastfield Lane with plots 78-84 taking their main access from Eastfield Lane. This arrangement replicates the arrangement created by the existing dwellings along Eastfield Lane immediately to the west of the site. The remainder of the development will be situated behind these dwellings replicating the character and urban grain of surrounding development. The widening of

Eastfield Lane along the site frontage and the need to accommodate suitable separation distances within the site it is not considered feasible to retain the existing hedge fronting Eastfield Lane with the proposed dwellings situated behind it. The submitted landscape plan does show elements of landscaping and greenery to the frontage of the proposed dwellings, the character of which would be similar to the existing properties to the West.

5.36. The site covers an area of approximately 2.37 hectares. The proposal for a total of 83 dwellings would equate to a development density of approximately 35.02 dwellings per hectare (dph). This would be broadly in line with the densities set out within Policy H2 of the emerging local plan; whereby in rural areas and villages a density of 35 dph is expected. As a result the proposals would not be considered to represent an overdevelopment of the site.

5.37. Explanatory text within the National Design Guide states 'A well designed public space that encourages social interaction is sited so that is open and accessible to all local communities. It is connected to the movement network, preferably so that it people naturally pass through it as they move around. It appeals to different groups. This is influenced by the range of activities that can happen within the space and who they are for. It is also influenced by the versatility and accessibility of its design. The uses around its edges reinforce its appeal and help make it into a destination'. "Well-designed places provide usable green spaces, taking into account: the wider and local context, including existing landscape and ecology; access; how spaces are connected".

5.38. The proposed layout makes provision for three areas of open space across the site. The main section is to be located centrally within the site and comprise of an area of grassed space including a small play area and seating area. This area will be bisected by a section of the existing hedgerow which is to be retained. The area will be partially enclosed by a hedge and knee rail fence to delineate between the public and private spaces. The space will create a central focal space within the development; a number of the properties will overlook the space providing a degree of natural surveillance but also a preferable outlook. A second space is proposed towards the south eastern corner of the site adjacent to the proposed pumping station, again overlooked by a number of properties. Finally a landscaped area will be provided in the South West corner of the site. This area will provide a footpath link into the existing footpath which links Kerver Lane back to the Holly Tree Lane/Horsefield Way junction.

5.39. The proposed scheme of landscaping can be secured via a suitably worded condition along with securing its ongoing maintenance. The applicant has indicated

that the management of the open space can be transferred to a management company. This can be secured under the associated S106 agreement.

5.40. The NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Secure by Design has been considered in the layout. The layout provides a number of opportunities for better overlooking/natural surveillance within the development, particularly around the main open spaces and accesses into the site. Gardens back onto one another and car parking is typically within sight of the owner's dwellings. All units benefit from external access to their main amenity spaces. The submitted plans show that these accesses will be secured via gates; although it is noted that plots 33-35 appear to be lacking gates, although this can be addressed via a suitably worded condition – requiring exact details of the various boundary treatments to be used in the scheme to be submitted and approved in writing.

RESIDENTIAL AMENITY & PUBLIC PROTECTION

5.41. The internal layout of the development is such that the proposed dwellings would be suitably arranged to ensure that future occupants do not experience unacceptable levels of overlooking or overshadowing which would be harmful to the amenity of future occupants. Nor would any of the units appear oppressive or overbearing upon neighbouring units.

5.42. Having regard to the existing dwellings which abound the application site. The proposed dwellings would be situated parallel to the existing dwellings situated to the West on Holly Tree Croft. The existing dwellings on Holly Tree Croft are a mixture of single storey bungalows and two storey dwellings. The separation distances achieved to these properties will range between 20m-25m. In addition to this the existing hedge and trees situated along the boundary will be retained and supplemented with additional planting. The other existing properties which would have a direct line of sight to the development are those located to the South East on Kerver Lane. The separation distances achieved to these dwellings would range between 21m-29m. A 21m separation distance between rear to rear two storey dwellings is generally considered to be appropriate and is the recommendation set out within the Councils SPD on Extensions and Alterations to dwellings.

5.43. Objections have been raised that the proposed development will leave existing residents and properties overlooked. This will perhaps be most keenly felt by those properties which currently have outlooks across the currently undeveloped site. However it is considered that the proposed layout achieves suitable separation

distances between existing and proposed dwellings and as such will not give rise to unacceptable levels of overlooking which would be detrimental to residential amenity of both existing and future residents; to an extent that would warrant refusal on such grounds.

5.44. The Council's Public Protection Team have reviewed the proposals and have not raised any objections to the proposals. They have however requested that a series of conditions be attached to the granting of any planning permission; these are set out in greater detail below.

5.45. Given the nature of the proposed development there will be a degree of disruption caused, particularly during the construction phase. It would therefore be necessary and appropriate to include conditions which seek to manage and mitigate the worst of those impacts in the interests of the residential amenity of the area. This includes the provision of a Construction Environmental Management Plan (CEMP) to manage and mitigate possible issues of construction noise, dust and vibration. An hours of construction condition is also recommended.

5.46. The proposals also include provision of a pumping station. Whilst most pumping stations do not produce high noise levels there is the potential for low frequency noise. As such it is considered appropriate to condition that details and specifications of the plant and equipment to be installed in the pumping station is submitted to and approved in writing by the Local Planning Authority.

5.47. Public protection have also recommended a condition to secure the passive provision of Electric Vehicle (EV) recharge points. This condition does not require the developer to install EV recharge points. Instead it requires them to provide a minimum standard of electrical capacity to each property so as to allow for future EV charge point provision by individual householders. This condition will assist with delivering the objectives of CYC's Low Emissions Strategy and also accord with paragraph 112 of the NPPF.

5.48. A land contamination survey has been submitted with the application. However this was undertaken in 2014 and owing to the passage of time should be revised. Public Protection have therefore recommended a condition which requires Land Contamination investigations to be undertaken prior to development. Conditions are also recommended to secure suitable remediation of the site and subsequent verification of those remedial works. These conditions are considered necessary in the interests of safeguarding the health and well-being of future occupants and ensuring suitable environmental protections are secured should there be any land contamination issues.

AFFORDABLE HOUSING

5.49. Policy H10 of the emerging Local Plan sets affordable housing thresholds. These vary depending upon the type of site involved. In this particular case the site is a greenfield site where more than 15 units are proposed. As a result the relevant threshold to be applied is 30%.

5.50. In the original submission consisting of 78 dwellings. The affordable housing mix was not considered to be appropriate, with concerns around the size of the affordable units being proposed. In addition to this the level of affordable housing would not have met the required 30%. Subsequently amendments have been made to the scheme which have resulted in a housing mix being achieved which is supportable by colleagues within the Housing Strategy team.

5.51. In total 25.no units would be proposed for affordable provision. These would consist of 6.no 1 bed properties, 13.no 2 bed properties, 4.no 3 bed properties and 2.no 4 bed properties. Of these affordable units 20.no would be for social rent whilst the remaining 5.no would be for discount sale tenure. The proportion of affordable housing achieved in the development would equate to 30.1%.

5.52. The proposed affordable units represent an important contribution towards the identified need in the City of York area. 1 and 2 bed houses are in exceptionally high demand for social rented housing. Strong demand is also expected for the 3 and 4 bed units, which are of a good size and well distributed around the site. Policy H10 requires affordable units to be 'pepper potted' throughout the development. The submitted layout shows the units as being distributed across the development.

5.53. Overall the proposed affordable housing provision is considered to accord with the provisions of Policy H10 of the emerging local plan. The provision of affordable units will be make a notable contribution the affordable housing stock within the city. It will be necessary to include provision of these units through an associated S106 agreement to ensure that they are delivered and set out the necessary frameworks and mechanisms for the units to be transferred to a suitable registered provider.

DRAINAGE & FLOOD RISK

5.54. The application site is located within Flood Zone 1 (Low Risk) as defined by the Environment Agency. In NPPF flood risk terms the development is (sequentially) appropriate in this location. The general objective of the NPPF with regard to flood risk is that development should not increase flood risk elsewhere. Policy ENV5 of the DLP 2018 advises that sustainable drainage should be implemented unless this is not feasible. Detailed local requirements are set out within the Sustainable Drainage Systems Guidance for Developers (2018).

5.55. Amongst the objections received, concerns have been raised about the potential risk of flooding, particularly to those properties to the South of the site which are on lower ground. The site at present is greenfield (undeveloped) and as such does not benefit from any drainage infrastructure. Therefore instances of gardens flooding will in part be due to the natural topography of the land – it is known from initial infiltration testing that the ability of the land to soakaway surface water is limited. Development of the site will include the provision of drainage infrastructure which should allow for the flows of surface water to be managed and directed.

5.56. The site is greenfield (undeveloped) and as such the local policy requirement is surface water run-off rates shall equate to the existing situation. At the head of the drainage hierarchy are soakaways as a means of surface water disposal. However on-site testing (witnessed by CYC Flood Risk Management Team) has demonstrated that soakaways will not work on this site. This is due to the presence dense clay overlaid by saturated sand. It is noted that there is a watercourse nearby which is understood to be within the applicants control; which could provide a solution to achieving sustainable surface drainage from the site.

5.57. The Flood Risk Management Team have confirmed that they have no objections to the proposed development. They do however request that in the event of planning permission being granted a series of conditions be attached. These conditions will ensure that suitable and adequate drainage infrastructure is delivered as part of the development. The conditions require that the site be developed with separate systems of drainage for foul and surface water on and off site. A second condition will also require that full details of the proposed means of foul and surface water drainage including balancing works be submitted and approved in writing by the LPA prior to the commencement of any development on site.

5.58. Yorkshire Water have also confirmed that they do not have any objections to the proposed development. However they have requested that in the event of planning permission being granted that conditions are attached. The requested conditions would require separate systems of drainage for foul and surface water; and also prevent piped discharge of surface water from the site until works to provide a satisfactory outfall have been undertaken. Similarly the Ouse and Derwent Internal Drainage board have requested that various measures be secured in respect of the drainage of the site; noting that the site sits close to the Drainage Board's district. The measures requested would be encompassed by the conditions requested by CYC Flood Risk Team.

5.59. Subject to the conditions requested it is considered that the proposals would accord with the provisions of the NPPF and Policy ENV5 of the DLP 2018.

ARCHEOLOGY

5.60. The application site is located on the south facing slope of the York Moraine. Archaeological work and research has been undertaken on sites in a similar location (Campus 3 in Heslington and Walmgate Stray); this work has demonstrated that these sites have the potential to produce well-preserved archaeological features and deposits relating to late prehistoric and Romano-British occupation. It is considered that the application site has a similar potential to produce highly significant non-designated heritage assets; although the eastern side of the plot has been semi-developed.

5.61. An archaeological desk based assessment and geophysical survey have been submitted within the application; the geophysical survey has only been undertaken on 50% of the site. The geophysical survey has not shown any obvious archaeological anomalies. The Western half of the plot appears from aerial images to contain faint traces of medieval ridge and furrow; believed most likely to be ploughed out as it has not been highlighted as upstanding in either desk based assessment or geophysical assessment.

5.62. The nature of the potential archaeological resource at the site and the proposed development will result in the destruction of all surviving deposits or features within the site. Whilst the submitted archaeological information does not present any obvious anomalies this has not been thoroughly intrusively evaluated and proven by trenching. Therefore given the potential of the site and as is concluded by the submitted information further archaeological evaluation is required. This can be secured via condition. The condition would secure a programme of post-determination archaeological evaluation comprising of a series of stages each of which will need to be completed by the developer and agreed by the LPA. The securing of these works via condition will ensure that the proposals are carried out in accordance with section 16 of the NPPF and accord with the provisions of policy D6 of the DLP 2018.

ECOLOGY

5.63. Section 15 of the NPPF covers the conservation and enhancement of the natural environment. It states that planning policies and decisions should contribute to and enhance the natural and local environment; by minimising impacts upon on an providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. In the context of determining planning applications (Para 180, d)) states that 'opportunities to improve biodiversity in and around developments should be integrated as part their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'.. Policy GI2 of the emerging Local

Plan also seeks to achieve similar objectives; with the overarching aim of conserving and enhancing York's biodiversity. Policy GI2 (iv) specifically requires development to result in a net gain to, and help improve, biodiversity.

5.64. An ecology appraisal has been submitted with the application. The proposals would result in the loss of land that is categorised as poor-semi improved grassland, tall ruderal, scattered scrub and areas managed for cultivating vegetables and turf; however these habitats have been assessed as being of low botanical value. There are hedgerows within the site which qualify as a habitat of Principal Importance.

5.65. The appraisal has identified a medium population of Great Crested Newts within 100m of the site to the East; with suitable terrestrial habitat for great crested newts being present within the site – which would be lost to facilitate development. The submitted ecological appraisal has concluded that there are no bat roosts within the site and none of the buildings or trees provide a greater than negligible roost potential. Site habitats are considered to be of limited value for foraging and commuting. The existing scrub, hedgerows and buildings within the site are considered suitable for a range of nesting birds. The removal of such habitats could have an adverse impact on active nests, any eggs, chicks or adult birds' presents; if work effecting these are carried out during the bird breeding season.

5.66. The submitted ecological information has been reviewed by the Council's Ecologist who has not raised any objections to the proposals or the proposed mitigation measures. It will be necessary to secure an Environment Management Plan for biodiversity, to include measures for the protection of retained habitats, species protection measures and construction related lighting. Submission of a lighting strategy and the submission of a detailed Ecological Mitigation and Management Plan which includes objectives for habitat creation, establishment and management. Management of retained habitats. Creation and maintenance of features put in place to support species including details of the long term management. It is also noted that the proposals will be capable of providing a Biodiversity Net Gain (BNG) in excess of 10% on site. BNG is an approach to development that leaves biodiversity in a better state than before.

5.67. The submitted Ecological information included a series of recommendations most of which will be taken forward in the proposals or secured by way of condition in the event of planning permission being granted. However it is noted that two of the recommendations, namely the provision of a pond on site and the buffer zone to the existing hedgerows are not incorporated into the scheme. The 5m buffers to the hedgerows were intended primarily for the management and maintenance of the existing hedges; both of which are to be retained. The applicant has advised that these measures (hedge buffer and pond) are not feasible on a site of this size and

will undermine deliverability of the site. A pond also raises significant health and safety issues, particularly on a site of this size.

5.68. Hedgerow H3 along the northern boundary will be lost as a result of the need to widen Eastfield Lane and provide access to the dwellings which will face Eastfield Lane. Elements of Hedgerow H2 which runs through the centre of the site are to be retained and incorporated into the domestic properties and the open space. The other hedgerows at the site are to be retained with some selective removal of non-native species to be replaced and enhanced with native species. Other proposed enhancement measures include the provision of Swift Brick Bird Boxes and Integral Bat Boxes at various locations within the proposed development. A 'Hedgehog Highway' will be incorporated into boundary fences and walls to provide connectivity between garden areas. Log Piles are also proposed in the South Eastern corner of the site.

5.69. Overall it is considered that the proposals would accord with the provisions of Section 15 of the NPPF; the proposals would achieve a Biodiversity Net Gain. The potential risks to protected species and existing habitats can be suitably managed via a series of mitigation measures which can be secured via planning condition.

SUSTAINABLE DESIGN AND CONSTRUCTION

5.70. Policy CC1 and CC2 of the DLP 2018 establish local requirements on sustainable construction. They require that, compared to Building Regulation targets, buildings achieve a reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable (CC1). At least 19% of such should be from building fabric efficiency (CC2).

5.71. The provisions of Policy CC1 have been noted within the Design and Access Statement that has been submitted by the applicant in support of the application. However no tangible measures have been detailed as to how the provisions of CC1 or CC2 would be achieved within the development. Notwithstanding this the provisions of Policy CC1 and CC2 are considered to be relevant in the context of ensuring that any development that proceeds does so in a manner which assists with tackling climate change. It is therefore considered necessary to impose conditions which will require each dwelling to achieve a reduction in carbon emissions to a level that is stated within Policy CC1 and CC2.

OTHER MATTERS RAISED IN REPRESENTATIONS

5.72. Amongst the representations received there are a series of matters which have not been covered in earlier sections of this report. Objections relating to the proposals adversely affecting property values are not a material planning consideration.

5.73. The age of some of the submitted information is noted and as a result where it is considered necessary and appropriate, in the event of planning permission being granted, conditions will secure the provision of up to date information in order to satisfy relevant planning conditions.

5.74. It is not a requirement within planning legislation that the land owner(s) must be the applicant. The submitted application form details that there are several land owning parties involved in the site and that the applicant has, by virtue of completing the application form and Certificate B within the application form, confirmed to the Local Planning Authority that they have served the requisite notice upon these parties. This is all that the planning application requires and is considered to be satisfactory; and would not be matter which would preclude the application from being determined.

PLANNING OBLIGATIONS

Education

5.75. Policy DM1 DLP 2018 states; the Council will seek contributions from developers to ensure that the necessary infrastructure is in place to support future development in York. In terms of Education the Councils supplementary planning guidance note informs the methodology.

5.76. The need arising from the development and how this would be accommodated is as follows-

- Early Years (9 Places) - £170,784. This would be for provision within a 1.5km radius of the site. However due to the rural location this radius may need to be extended.
- Primary (18 Places) - £341,568. This would be for provision at Dunnington School.
- Secondary (11 Places) - £287,386. This would be for provision at Fulford School.

5.77. The contributions will need to be secured through a completed S106 agreement.

Affordable Housing

5.78. As outlined earlier in this report. The proposed development would achieve affordable housing provision of 30% which is in accordance with the policy H10 of the DLP. The provision of these units and the mechanisms and frameworks by which they are delivered and then transferred to an appointed registered provider need to be secured within a S106 agreement.

Open Space

5.79. All residential development proposals are expected to contribute to the provision of open space for recreation and amenity in line with Policy GI6. Areas of open space will be provided within the development. The proposed dwellings will also benefit from private garden areas.

5.80. A contribution towards off site sports provision is considered necessary. Based on the number of dwellings and number of bedrooms proposed the required contribution has been calculated as £47,925. The contribution would be intended to be used at Dunnington Sports Club.

5.81. The above mentioned proposed s106 planning obligations are considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations.

The case for very special circumstances

5.82. The proposed residential development represents inappropriate development in the Green Belt. Paragraph 147 of the NPPF explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. The following considerations have been put forward to justify the proposal:

- The site is considered to be suitable and deliverable in line with the spatial strategy which seeks to minimise harm to York's historic and natural environment.
- Given the location of the site at the edge of an existing settlement the site is sustainably located.
- Unmet housing need cannot be accommodated on deliverable sites on land that is outside of the general extent of Green Belt. In order to meet housing need – the site is identified to be excluded from the Green Belt as part of an expansion to Dunnington Village.
- Aside from the issue of Green Belt there are no objections to the scheme considering other material considerations which cannot be addressed through either planning conditions or S106 agreement.
- Overall the application would be for sustainable development that will conform to the Government's objective of significantly boosting the supply of homes.

5.83. Policy SS2 of the Draft Local Plan sets out the role of the York Green Belt. The boundary of the Green Belt is the consequence of decisions about which land serves a Green Belt purpose and which can be allocated for development. The Plan seeks to identify sufficient land to accommodate York's development needs across the plan period. In addition it provides additional development land to 2038 beyond the plan period. The purpose of which is to ensure that in defining the boundaries of the Green Belt they can then endure and support the primary purpose of the Green Belt of preserving the setting and special character of York.

Whether the site serves any of the five purposes of the Green Belt

5.84. The five purposes of the Green Belt are set out at Paragraph 138 of the NPPF and these are:

- a) To check the unrestricted sprawl of large built up areas;
- b) To prevent neighbouring towns merging into one another;
- c) To assist in safeguarding the countryside from encroachment;
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.85. The application site is a housing allocation within the emerging Local Plan (H31) which was defined as Green Belt in the 2005 DLP and forms part of the general extent of Green Belt as outlined in the saved RSS Key diagram.. It is the role of the Local Plan to define the detailed Green Belt boundaries to ensure that the city can meet its development needs and allow permanence to the green belt boundaries beyond the plan period. The approach to this is set out within Topic Paper 1: Approach to defining Green Belt Addendum 2021. The Green Belt Addendum (2021) document provides a detailed explanation of how and where detailed inner and outer Green Belt boundaries have been defined to inform the Local Plan. The detailed methodology, including defined criteria to inform the delineation of the detailed boundaries are set out within Section 5 of the Topic Paper Addendum. This methodology takes consideration of national guidance and, an appraisal of the essential characteristics of openness and permanence in York, including the context of the existing built environment and landscape against the relevant green belt purposes set out in the NPPF. The methodology also sets out the approach to strategic permanence and consistency with local plan's spatial strategy (in line with NPPF para 85) to identify suitable locations for development to meet development needs which cannot be accommodated in the identified urban areas. It also establishes which sites have been considered as suitable for proposed development in this context. Annexes 2, 3 and 4 present the potential boundaries to the Green Belt should there be no unmet identified need.

5.86. The key role for defining the detailed boundaries is to establish long term development limits to the built up (urban) area and other densely developed area to distinguish land that needs to be kept permanently open to meet the purposes of Green Belt. For York primarily safeguarding the special character and setting of the historic city.

5.87. Dunnington village is identified to be excluded from the Green Belt. Consideration of the detailed Green Belt boundaries around the village of Dunnington is set out in Annex 4 (Other densely developed Areas in the General Extent of the Green Belt) to the 2021 addendum. A total of 5 boundaries are identified around the village. Boundary 2 runs along the North Eastern extent of the village adjacent to the land that forms the subject of the application.

5.88. The detailed GB assessment identified the location of Dunnington as forming a freestanding village in the settlement pattern of villages outside of the York Outer Ring Road, physically separated from the surrounding development clusters. Key points from the analysis identified that:

- Allowing the village to grow significantly would take it out of proportion with the settlement pattern of York; an important feature identified in the Heritage Topic Paper.
- Increasing the distance of residential areas away from the village core can cause harm to the compactness of the village. To the East (boundary 2), some expansion is possible but this would need to be limited so as not allow development to reach too far from the existing urban core and ensure compactness of the village is retained.
- The current boundary 2 (excluding expansion) is recognisable with on the ground features.

5.89. In order to deliver long term permanence for the York Green Belt, it was determined that there is potential for the village of Dunnington to grow within a sustainable pattern of development. Dunnington is of an urbanised built up nature with a lack of openness and therefore offers an opportunity for focusing development towards an urban area within the Green Belt and which meets the requirements of the spatial strategy.

5.90. Whilst a number of proposed sites in and around the existing village were put forward as part of the Local Plan process only the site now known as H31 was included in the Local Plan as a Housing Allocation (in Policy H1). This was determined as the most appropriate location for development in the village as it would round off land to the North East corner. The proposals would also infill an

existing gap which exists between the main developed section of Eastfield Lane and the existing property known as The Market Garden,(which would remain within the Green Belt boundary). It is considered that this would minimise visual impact and avoid coalescence – important to the perception of compactness of the village and historic city overall.

5.91. In defining a clear and defensible boundary, the GB Addendum (2021) recommends that with the proposed allocation and this parcel of land inset from the GB, the eastern boundary should be strengthened as part of the master planning of the site in order to create a single boundary, which acts as a defined and recognisable urban edge which will be permanent in the long term.

Unmet Housing Need

5.92. The Council cannot currently demonstrate a 5 year supply of deliverable housing sites in terms of the NPPF requirement on land that is outside of the general extent of York's Green Belt, i.e the site allocations in the emerging Local Plan are required. This site is an allocated housing site in the emerging Local Plan.

5.93. The Council has concluded that changes to the general extent of the York Green Belt are required to meet the development needs for housing, employment land and education, which cannot be solely provided for in urban areas or villages (outside of the Green Belt) or by other means. It is recognised that an undersupply of homes or employment land would exacerbate housing affordability issues, increase unsustainable commuting patterns and adversely impact on building a strong, competitive economy. Site H31 is proposed to be allocated to help meet the overall needs of the city within the general extent of the Green Belt following an extensive exercise to identify suitable sites which minimise harm on York's environmental assets and the purposes of the Green Belt.

Whether prematurity is grounds to refuse the application

5.94. Paragraph 49 of the NPPF states that “in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location, or phasing of new development that are central to the emerging plan; and
- b) The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area”.

5.95. Paragraph 50 of the NPPF states: “Refusal of planning permission on the grounds of prematurity will seldom be justified where a draft local plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on the grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan making process”.

5.96. It is considered that to grant planning permission for this scheme would not undermine the plan-making process because the Council’s assessment of the Green Belt to inform the emerging plan (as detailed within Topic Paper 1: Approach to defining the Green Belt Addendum 2021) concluded that the site could be excluded from the Green Belt to enable development needs to be met in line with the spatial strategy. . Given the scale of the development proposed (83 dwellings); that the site is required to meet development needs and will be excluded from the Green Belt; and as the emerging Local Plan has been submitted for examination and promotes this as a housing site, to be delivered within the short term (1-5 years) of the plan, there are no clear grounds (as is required by the NPPF) to refuse this particular application on the basis that it would prejudice the plan-making process.

5.97. There are outstanding objections to the removal of land from the general extent of the Green Belt and the delineation of the detailed Green Belt boundaries. Such objections reduce the weight that can be attributed to the relevant emerging plan policy SS2. However, even taking this into account and recognising that it is a matter of planning judgement and attaching substantial weight to the harm to the Green Belt. Cumulatively there are very special circumstances which, as is required by the NPPF, clearly outweigh the harm to the Green Belt and any other harm as a result of development. It is considered to be a ground for very special circumstances which justify development now.

6.0 CONCLUSION

6.1. The above report outlines how the proposed development, subject to conditions, can be compliant with the NPPF with regards to impacts upon the highway network, sustainable travel, residential amenity, archaeology, biodiversity, flood risk and drainage. In addition to this there are considered to be suitable mechanisms to ensure that the infrastructure required to support the development can be secured.

6.2. At present the site is considered to remain within the general extent of the Green Belt. However as is set out above, is identified as part of the portfolio of sites to meet identified needs in the city and is therefore excluded from the green belt in the defined green belt boundaries. It is considered that there are very special

circumstances that would clearly outweigh any harm to the Green Belt. Further, there is no case for refusing the scheme on prematurity grounds.

6.3. Based on the merits of this case it is recommended that planning permission be granted subject to conditions and completion of a Section 106 Agreement.

6.4. The associated Section 106 Agreement will be required to secure the following:

- Contributions totalling £799,738 toward the provision of Early Years, Primary and Secondary school places.
- The provision of 25 affordable housing units.
- A contribution of £47,925 towards off site sports provision.
- The provision of a Traffic Regulation Order (TRO) which would secure the provision of dropped crossings on Eastfield Lane with the junctions of Holly Tree Lane, Garden Flats Lane and Stockhill Close; and the extension of the existing 30mph zone across the site frontage of Eastfield Lane and widening of Eastfield Lane in the same area, including the provision of new highway signage.
- Provision of a £200 per dwelling contribution towards a public transport pass or cycling equipment to be awarded to the first occupier, with the scheme being managed by or in close collaboration with CYC.

7.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years

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

Landscape Masterplan: Drawing No. P18:5192:100 Rev J

Proposed Site Layout: Drawing No. P18:5192:200 - N

Location Plan: Drawing No. P18-5192:02 - A

Proposed Plans and Elevations:

P380/SH75/80 (AS-OP): Drawing No. BDW-STD-HT-5101

SH75/80/P380 (AS-AS-OP-OP): Drawing No. BDW-STD-HT-5102

Tulip/Orchard/Alder (AS-OP): Drawing No. BDW-STD-HT-5103

Alder/Tulip/Orchard (AS-OP): Drawing No. BDW-STD-HT-5104

Tulip/Orchard/Alder/Tulip/Orchard (AS-AS-OP-OP): Drawing No. BDW-STA-HT-5105

P380/Tulip/Orchard (AS-OP-OP-OP): Drawing No. BDW-STD-HT-5106
Primrose (AS-OP): Drawing No. BDW-STD-HT-5107
Alder (AS-OP): Drawing No. BDW-STD-HT-5108
Primrose/Tulip/Orchard (AS-OP-AS-OP): Drawing No. BDW-STD-HT-5109
P382 (AS-OP): Drawing No. BDW-STD-HT-5003
P382 (AS-AS-OP): Drawing No. BDW-STD-HT-5004
P341 (AS): Drawing No. BDW-STD-HT-5007
P341 (OP): Drawing No. BDW-STD-HT-5008
H349 (AS): Drawing No. BDW-STD-HT-5009
H349 (OP): Drawing No. BDW-STD-HT-5010
H421 (AS): Drawing No. BDW-STD-HT-5012
H417 (AS): Drawing No. BDW-STD-HT-5029
H417 (OP): Drawing No. BDW-STD-HT-5030
H411 (AS): Drawing No. BDW-STD-HT-5031
H411 (OP): Drawing No. BDW-STD-HT-5032
P341/P382 (AS-OP): Drawing No. BDW-STD-HT-5035
P341/P382 (AS-AS-OP): Drawing No. BDW-STD-HT-5039
H403 (AS): Drawing No. BDW-STD-HT-5083
H403 (OP): Drawing No. BDW-STD-HT-5084
Single Garage: Drawing No. BDW-STD-GAR-1000
Double Garage: Drawing No. BDW-STD-GAR-1001
Twin Garage: Drawing No. BDW-STD-GAR-1002
Double Garage (6X3): Drawing No. BDW-STD-GAR-1007

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

3 Prior to the commencement of development a programme of post-determination archaeological evaluation is required on this site. The archaeological scheme comprises 3-5 stages of work. Each stage shall be completed and approved by the Local Planning Authority (LPA) before it can be approved.

A) No archaeological evaluation or development shall take place until a written scheme of investigation (WSI) for evaluation has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the

evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site
- provision has been made for analysis, dissemination of results, archive deposition and evidence of publication if required has been secured
- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ. To ensure that the development accords with Section 16 of the National Planning Policy Framework

4 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used

for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk

5 Prior to the commencement of development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6 Prior to the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7 Prior to the commencement of development details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

Design considerations.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDS). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuDS.

As SuDS methods have been proven to be unsuitable then a suitable watercourse must be considered in accordance with the following criteria; In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas during the 1 in 1 year event). 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 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

As there are no existing connected impermeable areas this Greenfield site must be limited to the discharge rate to the pre developed run off rate. The pre development run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size) during a 1 in 1 year event. Please be advised as the watercourse appears to be nearby and any discharge will be new/additional therefore only the proposed developed areas (i.e. hard paving and roof areas) can be used to calculate this rate. It is recommend discussing and agreeing the permitted discharge rate with the Councils Flood Risk Management Team at an early stage.

The applicant should provide 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.

Details of the future management and maintenance of the proposed drainage scheme must be provided.

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

8 The development shall not commence until details of the internal road layout have been submitted to, and approved in writing, by the Local Planning Authority. No building/dwelling shall be occupied until the internal road has been provided, up to base-course level, in accordance with such approved plans. The wearing course shall be laid within two years of the base-course being laid or prior to the occupation of the penultimate house, whichever is the sooner.

Reason: In the interests of road safety.

9 The development hereby permitted shall achieve a reduction in carbon

emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations. Prior to commencement of construction of the two storey extension details of the measures undertaken to secure compliance with this condition 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: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018

10 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

11 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

12 The development shall incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A) within the garage space (or parking area) if desired. The applicant should identify the proposed location for a future Electric Vehicle Recharge Point within the development curtilage and ensure that any necessary trunking/ducting is in place to enable cables to be run to the specified location.

Notes:

Any future Electric Vehicle Charging Points need to be professionally installed. The installation process routinely involves wall mounting a charge point on an exterior wall or garage and connecting it safely to the mains electricity supply. All electrical circuits/installations shall comply with the electrical requirements in force at the time of installation

- In the UK, there is a government-grant scheme available to help reduce the cost of installing a home EV charge point. For more information on the scheme see the OLEV website <https://www.gov.uk/government/collections/government-grants-for-low-emission-vehicles>

- The above requirement does not preclude the installation of Electric Vehicle Charge Point from the outset, if desired.

- Details of passive provision to be included within household pack for first occupant,

to include location of proposed Electric Vehicle Recharge Point, trunking/ducting provided and details of distribution board location and capacity.

Reason: To ensure future electric vehicle charge points can be easily added to the the property in line with the NPPF and CYC's Low Emission Strategy

13 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours: Monday to Friday 0800 to 1800 hours, Saturday 0900 to 1300 hours and there shall be no works or operations on Sundays and Bank Holidays.

Reason: In the interests of safeguarding the residential amenity of neighbouring residents.

14 Prior to first occupation of any dwelling details of all machinery, plant and equipment to be installed in or located on the premises of the pumping station shown on the approved plan, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

15 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16 Prior to the first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

17 Within three months of commencement of development a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include locations and types of surfacing, street furniture, play equipment, fencing, and lighting. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme shall be implemented within a period of six months of the practical completion of the phase of development to which it relates. Any trees or plants which within a period of ten years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased in the opinion of the local authority, shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority agrees alternatives in writing.

Reason: So that the local planning authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the amenity of the development and the immediate area.

18 Prior to the development coming into use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway.

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

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

20 The development 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.

21 Prior to commencement on site, protective fencing to BS5837: 2012 shall be erected around all existing trees, including neighbouring trees, and hedges shown to be retained in the approved plans. Before commencement on site the protective fencing line shall be shown on a tree and hedge protection plan and agreed in writing by the local authority and subsequently adhered to at all times during development to create exclusion zones. A copy of the approved protection plan shall be available on site at all times.

None of the following activities shall take place within the exclusion zone: excavation, raising of levels, storage of any materials or top soil, burning, parking or manoeuvring of vehicles, mechanical cultivation under the canopy spread of retained trees. Within the exclusion zones there shall be no site huts, no marketing offices, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To protect trees and hedges that are considered to make a valuable contribution to the amenity of the development and/or the immediate area.

22 Notwithstanding any details shown on the approved plans details of all means of enclosure to the site boundaries and all properties shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development above foundation slab level commences and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties.

23 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to their use in the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it

clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

24 The approved development shall not exceed foundation slab level until there has been submitted and approved in writing by the Local Planning Authority all tree planting details, to include: means of support, and protection (e.g. from vehicle overrun or strimming), and irrigation; maintenance regime, and responsibilities; soil volumes and structural soil cell systems where applicable, and the corresponding paving detail, and locations of underground utilities. Where trees are to be located within paved areas, the surface area of soil cell systems, soil volumes, and tree species, and any utilities shall also be shown on a tree planting plan to include all proposed tree planting and existing trees.

Reason: Suitable detailing and maintenance will encourage the proposed trees to survive and thrive since they are a critical element of the approved landscape and setting of the development. These also need to be compatible with highway authority requirements where applicable.

25 Prior to the commencement of development 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 prior to development commencing. The a statement shall include at least the following information;

- measures to prevent the egress of mud and other detritus onto the adjacent public highway
- a dilapidation survey jointly undertaken with the local highway authority
- the routing for construction traffic that will be promoted
- a scheme for signing the promoted construction traffic routing
- the management of construction traffic and contractor parking

The measures set out in the statement shall be implemented at all times during the clearance/preparatory and construction works of the development.

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.

26 Prior to the development coming into use 2m x 43m sight lines, free of all obstructions which exceed the height of the adjacent footway by more than 0.6m, shall be provided both sides of the junction of any access with the footway, and shall thereafter be so maintained.

Reason: In the interests of pedestrian safety and highway safety.

27 An Ecological Mitigation and Management Plan (EMMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the EMMP shall include the following:

- a) Description and evaluation of ecological enhancements and features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The EMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the EMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2021) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures

28 The following works site clearance, ground excavations or vegetation clearance shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence;
- c) confirmation that the site is registered on a Low Impact Class Licence issued by Natural England; or
- d) a countersigned IACPC certificate issued by Natural England can be provided, stating the site is eligible for District Level Licencing.

Reason: To ensure Great Crested Newts and their habitat are protected during the

proposed works. Great Crested Newts and their habitat are protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).

29 Prior to the installation of any new external lighting, a 'lighting design plan' shall be submitted to and approved in writing by the local planning authority.

Details of the height, type, position, angle and spread of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and operational prior to the development hereby permitted being brought into use. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

Reason: To maintain the favourable conservation status of protected species. To protect residential amenity. To protect visual amenity and character of the area

30 Prior to the footpath link at the southern end of the site adjacent to Plots 23-24 on the approved site layout plan being brought into use details of bollards to be installed at the entrance to the footpath link shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure that any measures used to prevent vehicular access to the footpath are not prejudicial to the use of the footpath by pedestrians, cyclists or users with limited or impaired mobility.

31 Notwithstanding the details submitted no part of the development shall be occupied until a revised travel plan has been submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said travel plan. The travel plan shall provide full details regarding the following sustainable travel incentives:

Travel Plan co-ordinator to be specified.

Provision and implementation of sustainable travel incentives for first occupants.

Reason: In order to promote sustainable travel, in accordance with section 9 of the NPPF and Publication Draft Local Plan policy T7.

8.0 INFORMATIVES:

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the

requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Sought and obtained amendments to the proposals to improve the layout, housing mix and provision of affordable housing.

2. The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

3. The applicant/developer should be advised that the York Consortium of Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

4. It is recommended that the services of a landscape architect are employed to produce a final landscape scheme and to oversee the landscape contract on site, in order to ensure that the ground preparation and planting are carried out to a satisfactory standard and are in strict accordance with the approved drawings and specifications. The developer is also advised to inform the local authority of when the planting is complete, so that i) the local authority can monitor the planting within the ten year period and hence continue to ensure that the requirements of this condition are met and ii) there is no discrepancy as to when the requirements of the planning condition cease.

Contact details:

Case Officer: Mark Baldry
Tel No: 01904 552877

Bellerby, Neil

From: Baldry, Mark
Sent: 08 June 2022 13:44
To: Bellerby, Neil
Subject: RE: Sites With a Resolution to Grant Consent

Hi Neil

20/01626/FULM is still awaiting completion of the s.106. However this should be imminent – could be this week. Everything is agreed in principle we literally just need the thing to be signed by all the parties which I think has taken a little longer than normal as there are 6-7 parties, some of which are executors.

Mark

Mark Baldry | Development Projects Senior Officer
t: 01904 552877 | e: Mark.Baldry@york.gov.uk

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From: Bellerby, Neil <Neil.Bellerby@york.gov.uk>
Sent: 08 June 2022 13:21
To: Kenyon, Jonathan <Jonathan.Kenyon@york.gov.uk>; Stockdale, Alison <Alison.Stockdale@york.gov.uk>; Baldry, Mark <Mark.Baldry@york.gov.uk>
Subject: Sites With a Resolution to Grant Consent

Hi Jonathan, Alison & Mark

As case officers on the following sites please can you provide me with the latest position relating to the progress of the S106 legal agreement

19/02753/FULM	Barnitts 28A Colliergate York	Conversion of Drill Hall and upper floors of 28a Colliergate from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments, and associated alterations	JK	13/10/2021 - approved at Planning Sub-Committee S106 and conditions approved
20/02034/FULM	Cherry Tree House 218 Fifth Avenue York YO31 0PN	Erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of existing building.	AS	17/06/2021 - approved at Planning Committee - awarded S106 and conditions approved
20/01626/FULM	Os Field 2800 Eastfield Lane Dunnington York	Erection of 83 dwellings, landscaping, public open space and associated infrastructure	MB	07/10/2021 - approved at Planning Committee - awarded S106 and conditions approved

Each of these sites have been included within our latest housing trajectory as sites with a resolution to grant consent following approval at Planning Committees prior to 1st April 2022. The additional information relating to the legal agreement position assists us with the deliverability issues surrounding these sites.

Your earliest responses would be most appreciated as we are trying to collate information on sites within the trajectory before the end of this week to present to Counsel.

Thank you

Neil

Neil Bellerby | Strategic Planning Policy Officer (Land Use Monitoring)

Forward Planning

t: 01904 552411 | e: neil.bellerby@york.gov.uk

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Department for Levelling Up,
Housing & Communities

Mark Baldry
Development Projects Senior Officer
York City Council

Please ask for: Maria Bowen
Tel: 0303 444 8041
Email: Maria.bowen@levellingup.gov.uk

Your ref: 20/01626/FULM

Our ref: PCU/CONS/C2741/3285737

By Email Only

Date: 6 April 2022

Dear Mr Baldry

The Town and Country Planning (Consultation) (England) Direction 2009

Planning Application 20/01626/FULM: Eastfield Lane, Dunnington. City of York Council.

I refer to your letter of 28 October 2021 referring to the Secretary of State for Levelling Up, Housing and Communities ("The Secretary of State") an application for planning permission for the above development. Please note we have also had requests to call in the application from an MP and a Parish Council which have been considered.

The Secretary of State has carefully considered the case against call-in policy, as set out in the Written Ministerial Statement by Nick Boles on 26 October 2012. The policy makes it clear that the power to call in a case will only be used very selectively.

The Government is committed to give more power to councils and communities to make their own decisions on planning issues and believes planning decisions should be made at the local level wherever possible.

In deciding whether to call in this application, the Secretary of State has considered his policy on calling in planning applications. This policy gives examples of the types of issues which may lead him to conclude, in his opinion that the application should be called in. The Secretary of State has decided not to call in this application. He is content that it should be determined by the local planning authority.

In considering whether to exercise the discretion to call in this application, the Secretary of State has not considered the matter of whether this application is EIA Development for the purposes of the Town and Country Planning (Environmental

Impact Assessment) Regulations 2017. The local planning authority responsible for determining this application remains the relevant authority responsible for considering whether these Regulations apply to this proposed development and, if so, for ensuring that the requirements of the Regulations are complied with.

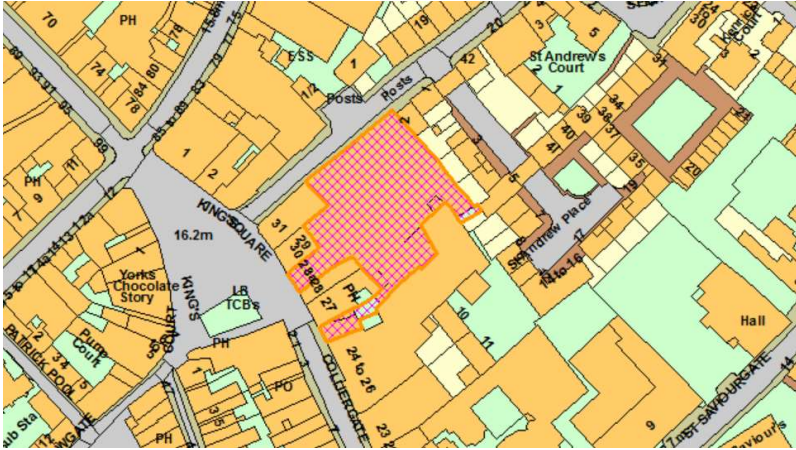
Yours sincerely

Maria Bowen

Maria Bowen
Decision Officer
Planning Casework Unit

This decision was made by the Minister of State for Housing, Stuart Andrew MP, on behalf of the Secretary of State, and signed on his behalf.

SITES WITH RESOLUTION TO GRANT

Allocation Reference	N/A		
Site Name/Address	Barnitts 28A Colliergate		
<p>Site Overview</p> <p>This is a brownfield site within the city centre. It relates to part of the Barnitts' retail premises which is now surplus to requirements.</p>			
<p>Site planning status @ 1 April 2022</p>	<p>Application 19/02753/FULM - approved at Area Planning Sub-Committee on 13/10/2021 - awaiting S106 a mixed use scheme including the conversion of the drill hall and upper floors from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments.</p>		
<p>Delivery Record</p>	<p>None</p>		
<p>Capacity in May 2022 Trajectory</p>	<p>12</p>	<p>Site size (ha)</p>	<p>0.14</p>
<p>Delivery Projections</p>	<p>(Yr 3) 2024/25 - 12 homes</p>		
<p>Developer / Landowner</p>	<p>Oakgate Group Ltd And Barnitts Ltd</p>		
<p>SoCG/Proforma submitted:</p>	<p>No</p>		
<p>Have SoCG/Proforma projections been used for May 2022 trajectory?</p>	<p>No</p>		
<p>Site deemed deliverable?</p>	<p>Yes – clear evidence available to demonstrate there is a realistic prospect that housing will be delivered on the site within five years</p>		
<p>Assessment</p>			
<p>Application progress Full planning permission was approved at Area Planning Sub-Committee on 13/10/2021 and is awaiting S106 and conditions approval.</p> <p>Viability / ownership / infrastructure Sensitivities associated with listed buildings being converted and location within historic core of the City. Viability challenges addressed through application and in negotiation on obligations.</p> <p>Justification for lead-in No definitive project timescale has been suggested for the site, therefore the standard 3 year lead in has been applied. This is realistic given the scope of pre-commencement conditions requiring discharge and</p>			

scale of complexity of the conversion works, but should there be slippage on build programme the site remains deliverable in 5 years.

Bellerby, Neil

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Sent: 08 June 2022 13:44
To: Bellerby, Neil
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COMMITTEE REPORT

Date: 13 October 2021 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel

Reference: 19/02753/FULM
Application at: Barnitts 28A Colliergate York
For: Conversion of Drill Hall and upper floors of 28a Colliergate from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments, and associated alterations
By: Oakgate Group Ltd And Barnitts Ltd .
Application Type: Major Full Application
Target Date: 15 November 2021
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

APPLICATION SITE

1.1 The application relates to part of the Barnitts' retail premises on Colliergate and St Andrewgate; no. 28a (which accommodates the clock and sits independently from the rest of the Barnitts facade), the Drill Hall, which is on St Andrewgate, and attached buildings behind. These parts of the premises are now surplus to requirements. Barnitts have excess floor-space at the city centre premises, as bulkier goods are now stored at their James Street premises.

1.2 The Drill Hall and 28a are Grade II listed. No. 28a dates from the early C19 and was originally a house. The Drill Hall was constructed in 1872 and 28a became part of this facility. Barnitts acquired the Drill Hall buildings in the 1990s. The main Drill Hall building was added to the Grade II listing for 28a in 1997. The site is in the Central Historic Core Conservation Area and City Centre Area of Archaeological Importance.

PROPOSALS

1.3 Full Planning Permission and Listed Building Consent applications have been submitted to detach the buildings from the remainder of the Barnitts' store and for conversion into 12 dwellings, and a ground floor retail unit within 28a.

1.4 In 28a the frontage building would accommodate a 2-bed dwelling on the upper floors, and a second dwelling created on the upper floors to the rear. The dwellings would be accessed via St Andrewgate and the Drill Hall.

1.5 Behind the Drill Hall and behind nos.27 and 28 Colliergate the existing building would be converted into a 2-storey 3-bed dwelling. Single storey structures to each side of this building, which date from the late C20, would be demolished.

1.6 There would be eight 3-bed dwellings installed within the Drill Hall. Access into townhouse 1 would be via the existing side access to the Drill Hall. The central access would lead to an open courtyard and the remaining dwellings. The townhouses would be over 3-storey. The existing roof covering will be replaced. The new structure has roof-lights, set behind the parapet, and perforated sections towards the ridge to allow natural light and ventilation into the proposed courtyard and subsequently the proposed houses.

1.7 The rear wing of the Drill Hall (which sits against the side boundary shared with St Andrew Place) would be converted into a 2-bed dwelling.

1.8 All windows would be removed, repaired and adapted to accommodate double glazing. A new window pattern is proposed for the Drill Hall, copying a window at the rear of the building, which is assumed to be the original design.

DEFERRAL

1.9 The application was deferred by members at Area Planning Sub-Committee on 11th November 2020 to allow for an independent viability review, to determine whether the scheme could provide for planning obligations. The obligations being affordable housing and contributions towards education and open space.

2.0 POLICY CONTEXT

2.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these should be applied.

2.1 Key policies / sections of the NPPF are as follows -

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
16. Conserving and enhancing the historic environment

The Publication Draft City of York Local Plan 2018 ('2018 DLP')

2.3 In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

2.4 Key relevant DLP 2018 policies are as follows –

DP2 Sustainable Development
DP3 Sustainable Communities
DP4 Approach to Development Management
SS1 Delivering Sustainable Growth for York
SS3 York City Centre
R1 Retail Hierarchy and Sequential Approach
R3 York City Centre Retail
H10 Affordable Housing
D1 Placemaking
D4 Conservation Areas
D5 Listed Buildings
D6 Archaeology
GI6 New Open Space Provision
CC1 Renewable and Low Carbon Energy Generation and Storage
CC2 Sustainable Design and Construction of New Development
ENV5 Sustainable Drainage
DM1 Infrastructure and Developer Contributions

3.0 CONSULTATIONS

INTERNAL

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

CONSERVATION ARCHITECT

3.1 The Conservation Architect considers that the significance of the drill hall does not rest “almost entirely on its external appearance”. Though architecturally the exterior is the most impressive part of the building, the spatial qualities and plan form are also of significance (i.e. its hall like qualities), which though compromised by the inserted first floor, are still legible. This understanding will be lost as a consequence of the proposed scheme. The Conservation Architect objects to the

application and advises that the harm to the significance of the listed buildings is less than substantial; it has been reduced by the latest revisions, but is still categorised as high.

3.2 The proposals will cause harm to the Drill Hall in the following ways:

- Loss of the spatial qualities / volume / character of the Drill Hall. Although the winter gardens will allow some visual permeability into a larger central area within the building, the subdivision of the hall into 8 private dwellings will result in the permanent loss of the hall like qualities of the listed building. Note that the harm could be reduced through a less intense scheme.
- External alterations to the Drill Hall roof, with the inclusion of 12 large roof-lights which are openable (top window opens out to form a “roof”, and the lower window opens out to form a balustrade). Though these windows won't be open all the time (so less harmful than the previous scheme with dormers and roof terraces), when open, they will be visible from Colliergate, St Andrewsgate, and in views from the Minster. They will appear incongruous in York's roofscape, and will harm the character of the Conservation Area. Details of the “fins” over the void in the centre of the Drill Hall need to be finalised, but could potentially be covered by condition to ensure they give the appearance of a solid roof, especially in longer range views.

3.3 There would be harm at 28a due to the loss of the staircase and loss of the historic connection between upper floors and street at 28a Colliergate

3.4 There are benefits to the proposals which will help to better reveal the significance of the heritage assets. These are:

- Reinstatement of gable chimney to Drill Hall
- Spandrel panels across Drill Hall windows no longer needed across Drill Hall windows
- Removal of modern infill structures at the rear of the site
- Removal of external fire escapes
- Return of upper floors of 28a Colliergate to residential use

3.5 The following works also cause harm, although to a lower degree than the aforementioned –

- Multiple cases of replacing traditional glazed historic windows with modern double glazed windows, including on 28a facing King's Square
- Townhouse 9 (ancillary wing of Drill Hall) – harm caused by loss of historic stair.
- Townhouse 10 (building behind Drill Hall) – suggested (contemporary) ground floor fenestration is not characteristic of this group of listed buildings and therefore harmful

ARCHAEOLOGY

3.6 St. Andrewgate and Colliergate are at least medieval in date. Medieval deposits may survive at much shallower depths within 1m of the current ground surface and in some cases just below the modern surface. 28A Colliergate contains a basement which may have destroyed some of the medieval street frontage archaeology.

3.7 The proposals are likely to require ground disturbing works for potential new/strengthening foundations and services. Given the possibility of encountering medieval archaeology at shallow levels an archaeological watching brief will be required with excavation where necessary. An archaeological watching brief can be maintained until archaeological layers are revealed. After reaching archaeological depths hand excavation will be required.

3.8 A photographic recording will also be required for the Drill Hall and 28A Colliergate.

EDUCATION

3.9 Officers seek financial contributions, as schools within the catchment do not have capacity.

HIGHWAY NETWORK MANAGMENT

3.10 Car-free development can be accommodated in this city centre location, however good cycle facilities are necessary as an alternative. Officers seek two spaces per townhouse, using Sheffield type stands and in a secure enclosure.

3.11 Confirmation was requested that none of Barnitts' existing staff provision was being lost to accommodate this scheme (planning officer note - no formal staff parking is lost).

3.12 The site plan suggests the bollards on St Andrewgate potentially relocated. These bollards are in place to allow servicing for the commercial premises opposite (and Barnitts) to take place from via King's Square avoiding residential streets. This change would not be permitted.

PUBLIC PROTECTION

3.13 Noise - Request longer monitoring, than that carried out in the noise assessment, to determine noise levels on St Andrewgate. Regarding noise from the adjacent public house, monitoring did not represent worse-case scenario, and should be extended to weekends. Suggest the glazing specifications recommended in the noise assessment are increased slightly to ensure that the levels in BS8233:14 are definitely met. If levels are only achievable with the windows closed

then windows in the flats overlooking Kings Square would need have mechanical ventilation.

SPORT AND ACTIVE LEISURE

3.14 The citywide open space audit identifies a shortfall of outdoor sports provision in the Guildhall Ward and within the closely neighbouring wards of Micklegate, Heworth and Fishergate, meaning a contribution would need to be sought. The Outdoor Sport Provision contribution would be used towards the provision of or improvement to sport or active leisure facilities within 2km from the Development. The following facilities would be potential beneficiaries of the S106 funds -

- York RI, Queen Street for development of Queen Street;
- York Hospital Bootham Park pitches;
- York City Rowing Club for development of existing boat house;
- Glen Gardens;
- Heworth Tennis Club.

EXTERNAL

CONSERVATION AREAS ADVISORY PANEL

3.15 The Panel welcome the basic proposals and in particular the need to retain the St Andrewgate elevation. The viability of such residential accommodation in this area of the city was however questioned. The Panel considered it was important to carry out a full detailed recording of the existing buildings, features and structures.

HISTORIC ENGLAND

3.16 Historic England object to the application.

3.17 The amended scheme consists of minor changes to the plans, and minor improvements made in terms of reducing some of the harm to the listed building. Nevertheless, the fundamental issue of the amount of subdivision and therefore loss of spatial character of the Drill Hall remains at the heart of this scheme. HE have repeatedly drawn attention to how the subdivision (both horizontal and vertical) of the Drill Hall and the resulting loss of its spatial qualities would be harmful. There would also be harm to the Conservation Area by the incongruous appearance of the alterations to the roofscape.

3.18 The harm would amount to less than substantial harm to the significance of the Grade II listed building, but at the upper end of this level. This calls for a very strong clear and convincing justification. It should be demonstrated that there is not a less harmful way of achieving residential conversion. In this respect the viability information submitted should be tested independently.

3.19 The historic Drill Hall makes a unique contribution to York's history. There is no objection in principle to the conversion to residential use. This use has the potential to secure the long-term future of the listed building. However, a reduced amount of accommodation has the potential to preserve the listed building in a manner appropriate to its significance, which would not be achieved by the current proposal.

3.20 Within 28a Colliergate related to the proposed new access arrangement is the loss of the historic staircase from ground to first floor. Historic England has concerns over the loss of the stair, and recommend retention if possible.

GUILDHALL PLANNING PANEL

3.21 Support in principle the conversion to residential use, but have concerns which mean they cannot support the current application:

- The density of development is too high, cramming too many small units together with limited amenity space
- The present design lends itself to holiday let use rather than family residences, with shared facilities and community space
- The units are designed to a very low specification, not as quality home. We would not want to live there. Lack of storage, arrangement of kitchens on upper floors and bedrooms on lower floors, limited natural light, overlooking.
- The sustainability and accessibility of the units is unclear

4.0 REPRESENTATIONS

4.1 Eight objection letters received. The following issues raised -

- Impact on neighbour's amenity
- Overlooking from dormers and external amenity space proposed at roof level on the Drill Hall.
- Noise – activity associated with residential use.
- Disruption during construction.

- Relocation of bollards on St Andrewgate raises concerns that it would result in increased construction and commercial traffic in a residential area.
- Proposals unlikely to contribute to meeting housing need. There's no car parking or amenity space and it is therefore likely these premises will be holiday lets. Such uses and the transient occupants lead to noise disturbance.
- The Drill Hall could be re-used as a retail unit, being close to the busy King's Square area.

4.2 Three letters in support received. Comment as follows -

- The York Retail Forum and York BID have made representation in support of the scheme. They support the application because it allows Barnitts to re-purpose its space and adapt to changing customer needs.
- The future of the city depends on the remaining retail outlets being able to adapt to the change in our shopping habits. This application will allow a much loved store to remain for generations to come.
- Drill hall facade retained.

5.0 APPRAISAL

KEY ISSUES

- Principle of the proposed uses
- Impact on Heritage Assets
- Affordable housing
- Other planning obligations
- Amenity
- Highway network management
- Sustainable design and construction
- Archaeology

PRINCIPLE OF PROPOSED USES

5.1 In the DLP 2018 Colliergate is a secondary shopping street and the host premises are annotated as forming part of the primary shopping area.

5.2 The works within 28a Colliergate; the creation of a retail unit facing King's Square and incorporating residential use on the under-used upper floors is consistent with overarching local and national city centre policy regarding economic growth and provision of housing in sustainable locations. These policies are set out

in the economic and social objectives of the NPPF and section 2 of the DLP 2018 which sets out the vision and development principles within the plan.

5.3 The Drill Hall is surplus to Barnitts' requirements and provides a challenge to find a suitable and viable re-use. It is undesirable to alternative retailers because when sub-divided its entrance is in a discreet location, off King's Square on a residential street where footfall diminishes. Furthermore the building's lack of presence (as a retail unit) is exacerbated by the facade which is not commercial in character. Due to the scale of the Drill Hall it also provides a significant amount of floor space on the upper floors, which is less attractive to operators.

5.4 Although the Drill Hall forms part of the primary shopping area in the 2018 DLP, this allocation is a consequence of association with the Barnitts' premises. In isolation an alternative use for the building could be accommodated without detriment to the overall function of the primary shopping area.

5.5 The Drill Hall is on St Andrewgate which is a residential street. Residential use of the Drill Hall would be sympathetic; there is a demonstrable need for housing and this is a sustainable location, where residents can contribute to overall vitality and viability of the area. The residential use proposed does not conflict with the housing and retail policies in the NPPF, and accords with NPPF section 11 principles for making effective use of land, in particular in contributing towards meeting housing need.

IMPACT ON HERITAGE ASSETS

5.6 No.28a Colliergate and the Drill Hall are listed buildings at Grade II. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") requires that in considering whether to grant planning permission for development, which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

5.7 The site is within the Central Historic Core Conservation Area. The local planning authority has a statutory duty under section 72 of the 1990 Act to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas.

5.8 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset, it must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted.

5.9 The approach to determining planning applications, in terms of assessment on Heritage Assets, is set out in section 16 of the NPPF. The starting point is to understand the significance of the Heritage Assets affected. In considering impact, where a development proposal will lead to “less than substantial harm” to the significance of a designated heritage asset, this harm must be weighed against the public benefits of the proposal. Public benefits can derive from either of the social, environmental or economic objectives of the NPPF.

5.10 Publication Draft Local Plan policy D5 states “proposals affecting a Listed Building or its setting will be supported where they:

- i. preserve, enhance or better reveal those elements which contribute to the significance of the building or its setting. The more important the building, the greater the weight that will be given to its conservation; and
- ii. help secure a sustainable future for a building at risk;
- iii. are accompanied by an appropriate, evidence based heritage statement, assessing the significance of the building.

Changes of use will be supported where it has been demonstrated that the original use of the building is no longer viable and where the proposed new use would not harm its significance.

Harm to an element which contributes to the significance of a Listed Building or its setting will be permitted only where this is outweighed by the public benefits of the proposal”. Policy D5 conforms with section 16 of the NPPF.

Significance

5.11 The 1872 Drill Hall dates from the earliest phase of Drill Hall development (1859-80). The Drill Hall was added to the listing of 28a in 1997 to reflect the increased appreciation and understanding of the significance of this building type, recognising its special architectural and historic interest at a national level. The listing of the Drill Hall even in the light of the remodelling of the interior (as retail) could be taken as an indication of the importance of the retained legibility of the internal space.

5.12 Historic England’s ‘Introduction to Heritage Assets - Drill Halls (June 2015)’ sets out the historic development of Drill Halls in the 19th century and into the 20th century. Drill Halls originated as a building type following the formation of the Rifle Volunteer Corps in 1859.

5.13 The 1872 date for this site places it in the earliest phase of Drill Hall development (1859 - 1880). The Gothic Revival Style characterised this early period including decorative touches such as polychromatic brickwork and lancet windows. This clearly moved the special character of this building type away from a domestic appearance.

5.13 28a was originally a house, later an inn and stable yard. It became the Territorial Army office with Drill Hall in 1872. The original plan form of the house has been lost due to later uses. The staircase within 28a (proposed for demolition) is within the rear section of the building; this is a later addition, contemporary with the Drill Hall.

5.14 The buildings at rear of 28a, 28 and 27 are later C20 infills. They are a mix of single and two storey and of low significance. The single storey additions, where demolition is proposed, detract from the main buildings.

Impact on significance

DRILL HALL

5.15 The scheme involves the insertion of 8 townhouses within the building envelope. The decorative main entrance on St Andrewgate is retained and would form the communal entrance into the residential development. The side entrance and staircase beyond was the principal entrance to the upper floor of the Drill Hall and are retained. The other townhouses would be arranged around an internal open courtyard. The outer walls to the building are restored and the roof covering replaced. As part of the restoration the existing chimney is restored and a chimney to match re-instated on the opposite gable.

Plan form

5.16 The building's spatial qualities are an integral component of its significance and its understanding as a former drill hall. To accommodate residential use subdivision of the building is necessary, which causes harm to the plan form, and consequently the historic importance of the building.

5.17 Historic plans for the Drill Hall show ancillary storage, meeting rooms and offices at ground floor level. The main hall was on the upper floor, with an elevated viewing balcony positioned against the side gable wall. The buildings original layout and volume to a degree has been harmed as a consequence of later uses, however its spatial qualities remain evident, in particular in the upper section. The layout would be fundamentally altered by introducing townhouses arranged around a central courtyard.

5.18 Significant changes to the interior, and fundamental alteration to the historic plan form, are essential in order to facilitate a viable residential use. A scheme with less intervention (retaining the existing floorplates but still requiring sub-division for example) would not be viable due to the costs associated with restoration and the amount, quality and type of dwellings that would be provided.

Windows

5.19 The applicants contend that the Drill Hall windows are not original; they are thought to be contemporary with the insertion of mezzanine floors. Whilst there is not definitive evidence on the date of the current windows they do appear characteristic of the building age and type. Replacement windows are proposed that would provide improved energy efficiency, outlook and noise attenuation. The replacements would reference the buildings assumed original window form, with a circular window at the top of the arch. One example of the window type remains at the rear of the building.

5.20 The proposed windows would read as a contemporary intervention associated with the new use of the building; the design has character and visual interest. They bring the aforementioned benefits to the functionality of the building.

Roof

5.21 The roof covering is proposed to be replaced. The existing roof is post 1940's and the building previously had a central brick front gable and two groups of skylights to each side. The existing roof is of C20 origin and of low historic value; its replacement is accepted in principle.

5.22 Due to the depth of the building an internal courtyard is key to the scheme for natural light gain. The roof has historically utilized sky-lights for natural light gain. The revised scheme maintains the traditional pitched roof form. Perforated sections and roof-lights, the latter discreet due to being close to the eaves and parapet, will enable natural light and ventilation. It also omits the outside terraces from the external roofslope. The roof-lights would fold outward to form balconies; as such these have been objected to by the Conservation Architect.

The ancillary wing

5.23 The ancillary wing, which leads off the rear of the Drill Hall, would be converted into a single dwelling. This was a storage space and target range and is narrow in depth. The proposals include removal of the original staircase, so circulation is moved into the centre of the plan, allowing rooms to each side. All windows and doors would be replaced.

5.24 This building, in form, will still appear as an ancillary element of the main Drill Hall. Whilst the staircase loss is harmful, this is a low level of harm, which is essential to enabling efficient re-use of the building as a dwelling. Without the alteration an excessive amount of the space would be required for circulation.

COURTYARD BUILDING

5.25 The existing building is two-storey with dual-pitched roof attached to the back of the Drill Hall. It dates from the early C20. It has single storey buildings dating from later in the C20 which would be removed; these are not of significance.

5.26 The building would be formed into two storey dwelling. There would be contemporary detail at ground level with full height windows, timber cladding and doors with transom lights above following demolition of the single storey buildings. A passage to the side of the building would enable access via the Drill Hall to the upper floors of 28a. Top floor windows would be new also but of traditional design; timber sash with 6 panes over 6. This building is very evidently C20 and a later addition to the listed Drill Hall and 28a. Its modernization and re-use does not have an adverse effect on the significance of the main listed buildings.

28A COLLIERGATE

5.27 28a was originally a house, subsequently extended at the rear and linked into the Drill Hall building. The original means of circulation and floor plan has been lost, to accommodate the Drill Hall and later commercial use. The scheme would create a retail unit at ground level. Apartments on the upper floor would have access from the rear (via the Drill Hall). In principle these proposed uses are sympathetic to the building. The residential use helps restore original plan form in the frontage building.

5.28 For the scheme to work and to allow the ground floor retail a C19 staircase up to first floor (presumed contemporary with the introduction of the Drill Hall) would be lost. The upper floor front single glazed windows would be replaced (to achieve current standards in terms of adequate noise levels and energy efficiency). The windows have historic character, but have been subject to detrimental repair and alteration. Due to their condition in this case the proposed upgrade and installation of double glazing is acceptable rather than retention and installation of secondary glazing.

5.29 Removal of the existing stair represents a loss of historic fabric (though not original), which forms part of the building's history and therefore causes harm. The proposals also remove any direct link from the upper floors of this building to Colliergate, which harms the significance of this property through the loss of the historic connection between the house and the street.

Public benefits

5.30 In considering the impacts of the scheme the NPPF requires “great weight” to be given to conservation. “Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification”. The identified harm is regarded to be “less than substantial” in NPPF terms, although this has been placed at the upper end of such harm by Historic England and the council’s Conservation Architect. NPPF paragraph 202 states “this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”. Advice from Historic England is that the scheme would only be justified if it is demonstrable a residential scheme with less harm would be unviable. Following the independent viability appraisal this is now evident; alternative schemes have been explored and they would derive significantly less value than the current scheme.

5.31 The affected buildings have accommodated very different uses over time and the public benefits in finding a new use for the Drill Hall and re-introducing residential use on the upper floors of 28a, whilst improving the environmental performance of these buildings, are deemed to outweigh the identified harm. A residential scheme, which better maintained the original volumes and openness of the interior of the Drill Hall, and was compatible with the building’s windows, would have a significant effect on the number and the quality of dwellings that could be accommodated and would not likely be viable.

AFFORDABLE HOUSING

5.32 Local affordable housing targets are set out in policy H10 of the DLP 2018. The policy, in so far as it relates to major developments, (as is the case here) carries moderate weight, being evidence based and in conformity with the NPPF. As fewer than 15 dwellings are proposed, the policy requirement is for a contribution towards off-site affordable housing. The NPPF in paragraph 65 states that when more than 10 dwellings are proposed (i.e. major developments) affordable housing provision is expected.

5.33 The background text to local policy H10 states “if agreement cannot be reached on the appropriate level of affordable housing between the Council and the developer it will be referred to the Valuation Office Agency (VOA) at the expense of the developer, to determine the viable level of affordable housing”.

5.34 The applicants provided a viability assessment to illustrate that the scheme is not viable if contributions are required towards affordable housing. Viability issues are primarily around the costs associated with re-development of the Drill Hall.

5.35 The application was deferred at Area Planning Sub-Committee in November 2020, to allow for an independent valuation of the scheme. This process has been

undertaken and the valuer also found that the scheme was not viable if an off-site affordable housing contribution were sought.

5.36 A viability review was recommended to capture actual costs and dwelling sales, noting the following -

- In determining the value of the proposed dwellings, the location and unique nature of the houses was noted, in particular the townhouses, and the lack of comparable evidence available. The houses will be to a high specification and prices continue to rise in York.
- The abnormal costs do have a significant contributing factor in respect of viability. These costs are attributed to the new substructure required and costs associated with demolition, alteration and repairs.

OTHER PLANNING OBLIGATIONS

5.39 Whilst no affordable housing provision is proposed, the developers have agreed to provide contributions towards off site open space and education in accordance with local supplementary planning guidance. The independent viability appraisal confirms the scheme can afford to make these Planning Obligations.

5.40 The open space contribution would be used towards the provision of or improvement to sport or active leisure facilities within 2km from the Development, as set out in section 3. The contribution would be £6,603.

5.41 An education contribution would be provide for 2 early year places (£36,474) and 2 primary spaces (£36,474) within the catchment area.

AMENITY

5.42 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

5.43 The Drill Hall and its attached ancillary building will create no extra volume of building and in this respect there will be no adverse effect on neighbouring amenity considering the dominance of the buildings and light gain.

5.44 St Andrewgate is a fairly narrow street, some 5 m wide typically, and buildings are directly against the pavement. The intimate relationship between buildings and enclosure of the street is part of the areas historic character. The houses opposite

the Drill Hall are around 12 m and 13 m away. The level of overlooking between buildings would be what could reasonably be expected in this part of the city centre.

5.45 The adjacent houses on St Andrew Place have back gardens which are some 5 m deep and each space is overlooked by its neighbours. The proposed roof-lights can be opened to form balconies. The roof-light proposed on the St Andrew Place side of the Drill Hall would be 4 m from the common boundary. Any possible overlooking of surrounding houses, due to the angles involved and the intervening building at the boundary, would be indirectly towards upper floor windows only and are not considered to amount to grounds for refusal.

5.46 Construction works affecting boundary walls are dealt with by separate legislation; The Party Wall Act.

5.47 A noise impact assessment has been provided to assess the effect of existing uses and activity on the proposed houses. This has covered activity in King's Square, noise from the adjacent beer garden and plant and machinery in the locality. Typically double glazing is required to achieve satisfactory noise levels. The report could be used to inform conditions requiring alternative ventilation to living and bedroom windows at 28a and the building behind, this would enable compliant noise levels.

HIGHWAYS

5.48 The NPPF states that in assessing applications for development, it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.49 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.50 It is considered the scheme is acceptable on highways grounds, being consistent with national advice to locate development in sustainable and well-connected locations. No car parking is proposed which can be supported due to the central location and as 24 covered and secure cycle spaces would be provided within the Drill Hall (accessible to all residents).

5.51 The developer has been informed that the bollards in front of the Drill Hall will remain in-situ. These have been specifically located to enable servicing to the commercial units opposite from King's Square.

SUSTAINABLE DESIGN AND CONSTRUCTION

5.52 The applicants planning statement advises that the development is targeting a BREEAM domestic refurbishment 'very good' rating in accordance with draft Policy CC2 of the emerging Local Plan. Conditions are proposed to secure the BREEAM requirement and 19% carbon emissions reduction requirement, required under local policy CC2.

ARCHAEOLOGY

5.53 The site is within the City Centre Area of Archaeological Importance. The NPPF states that Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

5.54 The scheme is for conversion and affects previously developed areas. As such a watching brief would suffice for groundworks. Given the historic interest of the Drill Hall a historic building recording would be required prior to demolition works.

6.0 CONCLUSION

6.1 The scheme involves the re-use of buildings surplus to the requirements of the current owner. The restoration and proposed alternative uses accord with the social and economic objectives of the NPPF regarding housing supply, the economy, the vitality of town centres and making effective use of land. In respect of decision-making the NPPF requires planning to support (and give substantial weight in decision-making) the development of under-used buildings, especially when this would help meet identified needs for housing. The scheme retains commercial use at the ground floor facing King's Square, within 28a, and appropriately makes more effective use of other underused parts of the site; the upper floors of 28a, the buildings behind and the Drill Hall.

6.2 It is considered that residential use is likely the only viable option to secure re-use and continued occupation of the relevant building(s). There is demonstrable local housing need. To facilitate re-use of the listed buildings, including ones which are in poor condition, and the associated social and economic benefits of the scheme would equate a public benefit that justifies the harm to the significance of

the buildings. In making the planning balance, officer's recommendation is that the benefits outweigh the identified harm, despite non-compliance with local affordable housing policy. Any residential re-use of the Drill Hall would lead to a degree of harm to the original layout. A scheme less harmful to that proposed would not be viable, given the amount of restoration work involved, and the amount and quality of accommodation provided. The loss of the staircase in 28a is necessary to enable the desired mix of uses in a functional and efficient way.

6.3 Other technical issues – amenity, sustainable design and transport can be addressed by conditions.

6.4 Independent valuation has concluded that the scheme cannot deliver an affordable housing contribution. However it acknowledges the uncertainty in this case, given the extent of construction work, the unique nature and location of the housing proposed and local housing supply and prices. The applicants have accepted a viability re-appraisal, if there is a delay in implementation of the scheme. This would ensure the value of the development remained relevant. It would be secured by the S106 legal agreement, triggered if development does not commence within 2 years of the date of approval.

7.0 RECOMMENDATION:

i That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:

a. The completion of a Section 106 Agreement to secure the following planning obligations:

Education

- 2 early year places £36,474
- 2 primary spaces £36,474

Open Space

- £6,603 towards the provision of or improvement to sport or active leisure facilities within 2km from the Development

Viability Re-appraisal

- Updated appraisal should the phase of development related to the Drill Hall not be commenced within 2 years of the date of permission.

b. The conditions set out below

ii The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

iii The Head of Planning and Development Services be given delegated authority to determine the final detail of the planning conditions

Conditions:

1 TIME2 Development start within three years

2 Approved Plans

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

Location Plan
2016-221/0806 B

Proposed floor plans and roof
2016-221 - 0200, 0201 rev G, 0202 F, 0203 F, 0205 E

Sections and elevations
2016-221 - 0210D, 0211E, 0212C, 0213C

Demolition and alterations schedule
2016-221- 0601C, 0602C, 0603C, 0605B, 0606D, 0607C, 0608C, 0609C, 0610C

Landscape Plan
0901revE

Typical Window Details
0711

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

3 Archaeology

A programme of post-determination archaeological mitigation, specifically an archaeological watching brief and excavation is required on this site.

A) No development, or phase of works shall take place until a written scheme of investigation (WSI) for a watching brief and excavation where necessary, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development, or phase of works shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The watching brief/excavation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) above and the provision made for analysis, publication and dissemination of results and archive deposition will be secured.

C) A copy of a report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF, as the site lies within an Area of Archaeological Importance and the development may affect important archaeological deposits which must be recorded prior to destruction.

4 Building recording

A programme of archaeological building recording, specifically a written description and photographic recording of the Drill Hall and 28A Colliergate to Historic England Level of Recording 2 is required for this application.

A) No demolition works of a phase of works shall take place until a written scheme of investigation (WSI) for that phase has been submitted to and approved by the local planning authority in writing.

The WSI should conform to standards set by CYC and the Chartered Institute for Archaeologists.

B) The programme of recording and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition part (A) and the provision made for analysis, publication and dissemination of results and digital archive deposition with Archaeology Data Service will be secured.

C) A copy of a report shall be deposited with City of York Historic Environment Record and digital archive images with ADS to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF, as the buildings on this site are of archaeological interest and must be recorded prior to alteration or removal of fabric.

5 Construction management plan

Prior to commencement of any phase of development, including site enabling works,

a Construction Management Plan shall be submitted to and approved in writing by the local planning authority for the phase of works. The approved plan(s) shall be adhered to throughout the relevant construction period of the development. The plan(s) shall include the following details (where relevant for each phase of construction)-

- Dilapidation survey

A dilapidation survey of the highways adjoining the site (the extent of such to be agreed in conjunction with the council) which shall be jointly undertaken with the Council's highways department and the results of which shall be agreed in writing with the Local Planning Authority.

- Management of vehicular movements associated with construction and contractor parking.

- Measures to prevent mud and detritus getting on to the public highway.

- Measures to control the emission of noise, dust and dirt during construction.

To include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and a package of mitigation measures commensurate with the risk identified in the assessment and measures to control noise during any piling of foundations.

- A scheme for recycling/disposing of waste resulting from construction works.

- Means of preventing light pollution, including the angling of lighting and times of operation.

- Point of contact on site for enquiries.

- A complaints procedure.

To detail how a contact number will be advertised to the public, and procedure once a complaint had been received. Written records of any complaints received and actions taken shall be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk

Reason: To reasonably protect the amenity of the locality.

6 Times of construction

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays. Any working outside of the permitted hours is subject to prior approval in writing by the Local Planning Authority. (It is asked that any requests to

work outside of the permitted hours contains justification and details of practical measures to avoid noise disturbance).

Reason: To reasonably protect the amenities of adjacent residents.

7 Sustainable design / construction

Townhouses 1 to 8 (within the Drill Hall conversion) shall achieve a BREEAM domestic refurbishment 'very good' rating and a reduction in carbon emissions of at least 19% compared to the target emission rate as required under Part L of the Building Regulations 2003 unless otherwise agreed in writing with the local planning authority.

Prior to first occupation of the relevant dwelling details of the measures undertaken to secure compliance with this condition 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: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Publication Draft Local Plan 2018.

8 Large scale details

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the relevant works and the works shall be carried out in accordance with the approved details.

Drill Hall

- New timber windows (to include typical sections at 1:5 showing mouldings/profiles of glazing bars)
- New roof, to include Skylights and aluminium roof windows and louvres shown in context and confirmation of manufacturers' details and colour for all items.

28a

- New balcony at rear

Buildings A and D / townhouses 9 and 10

- Typical details for doors, windows, dormers/roof-light and single storey addition to townhouse 9 shown in context.

Reason: In the interests of good design, visual amenity and heritage assets, in accordance with the NPPF, sections 12 and 16.

9 Materials - brickwork

Sample panel(s) of the new brickwork to be used on each building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to construction of the external walls of the relevant building. The panel(s) shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of heritage assets, good design and visual amenity, in accordance with the NPPF sections 12 and 16.

10 Noise

Prior to first occupation of the dwellings hereby permitted a detailed scheme of noise insulation measures for protecting the approved dwellings from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with NPPF sections 12 and 15.

INFORMATIVE: The building envelope of all residential accommodation should achieve internal noise levels in living and bedrooms, as follows –

- Day-time (07:00-23:00 hrs - no greater than 35 dB LAeq (16 hour)
- Night-time (23:00-07:00 hours) - 30 dB LAeq (8 hour) and LAFMax level should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A).

Noise levels shall be demonstrated with all windows open in the habitable rooms or with alternative means of background ventilation to relevant rooms where necessary. Should alternative means of ventilation be required details shall be provided (manufacturer's details and location) to illustrate the implications for the external appearance of the building, which shall be subject to approval by the local planning authority.

11 Storage

The cycle and bin storage shall be provided in accordance with the approved floor plans prior to first occupation of the development hereby permitted and retained in accordance with the approved details for the lifetime of the development.

Reason: In the interests of good design and promoting sustainable modes of travel in accordance with sections 12 and 9 of the NPPF.

12 Chimneys to Drill Hall

Prior to first occupation of townhouses 1-8, the Drill hall building's chimneys shall be retained and re-instated in accordance with the approved plans.

Reason: In the interests of the designated heritage assets and to secure the public benefits that justify approval of the scheme, when considered against section 16 of the NPPF.

13 LC4 Land contamination - unexpected contamination

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome: requested a revised scheme to address impact on heritage assets, viability review to enable a deliverable scheme and the use of planning conditions / s106 agreement.

Contact details:

Case Officer: Jonathan Kenyon

Tel No: 01904 551323

Bellerby, Neil

From: Kenyon, Jonathan
Sent: 08 June 2022 15:52
To: Bellerby, Neil
Subject: Re: Sites With a Resolution to Grant Consent

Hi Neil. I've been asking recently but had no feedback about progress of the 106 for barnitts. There's been no progress this year.

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From: Bellerby, Neil <Neil.Bellerby@york.gov.uk>
Sent: Wednesday, June 8, 2022 1:21:06 PM
To: Kenyon, Jonathan <Jonathan.Kenyon@york.gov.uk>; Stockdale, Alison <Alison.Stockdale@york.gov.uk>; Baldry, Mark <Mark.Baldry@york.gov.uk>
Subject: Sites With a Resolution to Grant Consent

Hi Jonathan, Alison & Mark

As case officers on the following sites please can you provide me with the latest position relating to the progress of the S106 legal agreement

19/02753/FULM	Barnitts 28A Colliergate York	Conversion of Drill Hall and upper floors of 28a Colliergate from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments, and associated alterations	JK	13/10/2021 - approved at Planning Sub-Committee S106 and conditions appr
20/02034/FULM	Cherry Tree House 218 Fifth Avenue York YO31 0PN	Erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of existing building.	AS	17/06/2021 - approved at Planning Committee - aw S106 and conditions appr
20/01626/FULM	Os Field 2800 Eastfield Lane Dunnington York	Erection of 83 dwellings, landscaping, public open space and associated infrastructure	MB	07/10/2021 - approved at Planning Committee - aw S106 and conditions appr

Each of these sites have been included within our latest housing trajectory as sites with a resolution to grant consent following approval at Planning Committees prior to 1st April 2022. The additional information relating to the legal agreement position assists us with the deliverability issues surrounding these sites.

Your earliest responses would be most appreciated as we are trying to collate information on sites within the trajectory before the end of this week to present to Counsel.

Thank you

Neil

Neil Bellerby | Strategic Planning Policy Officer (Land Use Monitoring)

Forward Planning

t: 01904 552411 | e: neil.bellerby@york.gov.uk

City of York Council | **Forward Planning**

Directorate of Place | West Offices | Station Rise | York | YO1 6GA

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LOCAL DEMOCRACY DURING CORONAVIRUS

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Agenda item

Barnitts, 28A Colliergate York [19/02753/FULM]

- [Meeting of Area Planning Sub-Committee, Wednesday, 13 October 2021 4.30 pm \(Item 24a\)](#)

Conversion of Drill Hall and upper floors of 28a Colliergate from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments, and associated alterations. [Guildhall Ward]

Minutes:

[Councillor Daubeney withdrew from the meeting at 16:35]

Members considered a Full Planning Permission application to detach the buildings from the remainder of the Barnitts' store and for conversion into 12 dwellings, and a ground floor retail unit within 28a. A Listed Building Consent application was also considered which was for the works associated with

conversion of the Drill Hall and 28a into 12 dwellings and a separate retail unit, and separating these premises from the remainder of the Barnitts retail space on Colliergate.

The Development Manager gave a presentation on the application. Members asked officers a number of questions to which they answered that:

- There are 24 covered and secure cycle spaces reserved in the plan.
- In terms of Listed Building Consent, the special interest in the Drill Hall was, in part, the previous use of the building.
- The application was for C3 dwellings, short term, holiday lettings do not normally fit within this category.
- Condition 11 could be amended to include the number of cycle spaces, that being 24.
- The four townhouses within the fabric of the listed buildings were constrained by their listed status this is why the BREEAM only applies to the eight townhouses within the Drill Hall.
- The construction costs were wide ranging and substantial and included the value of the buildings currently, the costs of development and the value of what the new buildings were worth.
- It was confirmed that a proper assessment of the viability of the retail unit has been carried out.

Public Speakers

Paul Thompson spoke as the applicant in support of the application. He explained that he was the MD of Barnitts, he was the third generation of his family to run the store which has been trading in York for 125 years. He further explained that since the application was deferred, they have waited 11 months for the independent viability report, during this time the retail environment has undergone significant changes. As a result of modernising the operation, the amount of retail and storage space they currently have is no longer needed. A positive outcome would allow the business to reinvest in York city centre and enable the business to expand the click and collect service in James' Street. 98% of deliveries would go to James Street, alleviating city centre traffic congestion.

In response to questions from committee members, Paul Thompson and his colleagues explained the following:

- There was no parking on the site currently.
- The architects had considered several improvements to achieve the BREEAM rating including, electric heating on green tariffs, new windows, insulation to properties, air tightness and improvements to the thermal performance of the building. Internal wall insulation has also been considered for the Drill Hall, balanced against the requirements of an old building.

- Any tenancy agreements will be not less than six months.
- The plans for the Drill Hall open up the space and have created more of a feel and sense of space than currently.

Phil Pinder spoke in support of the application on behalf of York Retail Forum. He explained that Barnitts was an essential retailer in the city, providing for the needs of local residents. He went on to explain that the release of funds provided by the development would enable them to invest in the future. He added that downsizing would also have the added advantage of reducing the business rates payable. The introduction of more housing stock further creates a local customer base for those existing businesses in the city centre. He confirmed that the stand alone retail unit was the ideal size for an independent retailer.

In response to further questions from members, planning officers stated that they had considered the potential alternative uses for the Drill Hall and believed that other plans would not be forthcoming due to economic and location constraints. The future viability of the business was not considered as part of the planning balance.

After debate, it was moved by Cllr Orrell and seconded by Cllr Waudby to approve the application for both 4a and 4b. Further debate ensued. On being put to the vote, the motion was carried and it was:

Resolved: That the application be approved, subject to the completion of a Section 106 Agreement and the conditions in the report and subject to the amendment to condition 11. Condition 11 be amended to refer to the approved number of cycle parking spaces, that being 24.

Reasons:




- i. The scheme involves the re-use of buildings surplus to the requirements of the current owner. The restoration and proposed alternative uses accord with the social and economic objectives of the NPPF regarding housing supply, the economy, the vitality of town centres and making effective use of land. In respect of decision-making the NPPF requires planning to support (and give substantial weight in decision-making) the development of under-used buildings, especially when this would help meet identified needs for housing. The scheme retains commercial use at the ground floor facing King's Square, within 28a, and appropriately makes more effective use of other underused parts of the site; the upper floors of 28a, the buildings behind and the Drill Hall.

- ii. It is considered that residential use is likely the only viable option to secure reuse and continued occupation of the relevant building(s). There is demonstrable local housing need. To facilitate re-use of the listed buildings, including ones which are in poor condition, and the associated social and economic benefits of the scheme would equate a public benefit that justifies the harm to the significance of the buildings. In making the planning balance, officer's recommendation is that the benefits outweigh the identified harm, despite non-compliance with local affordable housing policy. Any residential re-use of the Drill Hall would lead to a degree of harm to the original layout. A scheme less harmful to that proposed would not be viable, given the amount of restoration work involved, and the amount and quality of accommodation provided. The loss of the staircase in 28a is necessary to enable the desired mix of uses in a functional and efficient way.
- iii. Other technical issues – amenity, sustainable design and transport can be addressed by conditions.
- iv. Independent valuation has concluded that the scheme cannot deliver an affordable housing contribution. However it acknowledges the uncertainty in this case, given the extent of construction work, the unique nature and location of the housing proposed and local housing supply and prices. The applicants have accepted a viability re-appraisal, if there is a delay in implementation of the scheme. This would ensure the value of the development remained relevant. It would be secured by the S106 legal agreement, triggered if development does not commence within 2 years of the date of approval.

[The meeting adjourned from 17:39 to 17:42]

[Cllr Daubney re-joined the meeting at 17:42]

Supporting documents:

- [Barnitts, 28A Colliergate, Report \[19/02753/FULM\], item 24a](#)  PDF 388 KB. [View as HTML](#)
[188 KB](#)
- [Barnitts, 28A Colliergate, Plan \[19/02753/FULM\], item 24a](#)  PDF 5 MB
- [Barnitts, 28A Colliergate, Presentation \[19/02753/FULM\], item 24a](#)  PDF 3 MB

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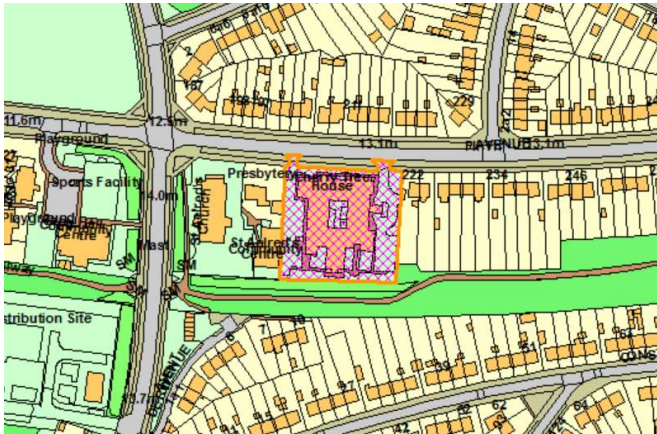
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SITES WITH RESOLUTION TO GRANT

Allocation Reference	N/A		
Site Name/Address	Cherry Tree House 218 Fifth Avenue		
Site Overview	 <p>This is a brownfield site within the urban area of York. Existing building previously used by the NHS as a residential care facility but is now redundant.</p>		
Site planning status @ 1 April 2022	<p>Full planning application (20/02034/FULM) approved at Main Planning Committee on 17/06/2021 - awaiting S106</p> <p>the erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of the existing building.</p>		
Delivery Record (if appropriate)	None		
Capacity in May 2022 Trajectory	48	Site size (ha)	0.36
Delivery Projections	(Yr 3) 2024/25 - 48 homes		
Developer / Landowner	Cherry Tree Venture LLP		
SoCG/Proforma submitted:	Yes		
Have SoCG/Proforma projections been used for May 2022 trajectory?	Yes		
Site deemed deliverable?	Yes – clear evidence available to demonstrate there is a realistic prospect that housing will be delivered on the site within five years		
Assessment			
Application progress			
Full application approved and is awaiting S106 and conditions approval			
Viability / ownership / infrastructure			
Brownfield site but no significant viability challenges – site is in a viable location and no abnormal infrastructure requirements.			
Justification for lead in and build rates			

The lead in times is informed by agent correspondence (29/04/2022). This is considered to be realistic given the scope of pre-commencement conditions requiring discharge and scale of redevelopment works. S.106 is expected to signed in 2022. Should there be slippage on agreement the site remains deliverable in 5 years. Delivery in year 3 has been applied.

Accommodation to be developed in three blocks, which will complete simultaneously. This is a reasonable assumption and the rate has been applied.

Bellerby, Neil

From: Killian Gallagher <killian@gallagherplanning.co.uk>
Sent: 29 April 2022 09:35
To: Bellerby, Neil
Subject: RE: Cherry Tree House, 218 Fifth Avenue. Planning app: 20/02034/FULM for 48 homes

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Neil

I got your voicemail – sorry for not getting back to you. The expectation is that all units will be complete by end 2024.

Regards

Killian

Killian Gallagher BA (Hons) MRUP MRTPI
Planning Consultant
Phone: 07392 415369
Email: killian@gallagherplanning.co.uk
Website: www.gallagherplanning.co.uk



From: Bellerby, Neil <Neil.Bellerby@york.gov.uk>
Sent: 12 April 2022 13:20
To: Killian Gallagher <killian@gallagherplanning.co.uk>
Subject: Cherry Tree House, 218 Fifth Avenue. Planning app: 20/02034/FULM for 48 homes

Dear Mr Gallagher

I am currently in the process of contacting agents/applicants involved in residential sites with consent (such as Beverley House, 17 Shipton Road) or in this case sites with a resolution to grant planning permission subject to the execution of a legal agreement for 10 or more homes in the City of York Local Authority area to feed into our evidence base for the delivery of housing development over the next 5 years.

If you are not the appropriate contact for this development site, I apologise. Should this be the case, I would be grateful if you could please forward to the appropriate person or inform me directly to enable me to forward this request to the correct person.

As a Local Authority we are obliged to *'make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites..'* to be in line with National Planning Policy Framework 2021 (paragraph 73 (d)). This evidence informs our ongoing monitoring work and housing trajectory as well as assumptions used in our Strategic Housing Land Availability Assessment (SHLAA).

I understand that under the current circumstances housing delivery may have become more challenging. However, I should be grateful if you would insert your best estimate for housing delivery on this site and complete the table below in order that we can prepare a housing trajectory with the most up to date and realistic figures. **It would also be useful for you to provide us with any additional information you consider important for us to understand in the current delivery of this site or housing development in general across York.**

Please note that our monitoring years start on the 1st April and end on the 31st March of the following year

Site Address	YEAR					TOTAL
	Completions to date	1	2	3	4	5
Cherry Tree House, 218 Fifth Avenue. Planning app: 20/02034/FULM for 48 homes	2022/23	2023/24	2024/25	2025/26	2026/27	

Notes / Further Information

E.g: issues that influence delivery and lead in times to development; any problems or barriers taking forward the scheme.

Are you happy for us to contact you in the future regarding housing delivery evidence base in York? Please confirm your contact details if so.
Yes / No

I should be grateful if you would return details to myself **by Friday 29th April 2022**. In the meantime should you need any clarification of this request or require any further details in order that you may complete the housing delivery table please do not hesitate to contact me.

Kind regards

Neil

Neil Bellerby | Strategic Planning Policy Officer (Land Use Monitoring)
Forward Planning
t: 01904 552411 | e: neil.bellerby@york.gov.uk

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COMMITTEE REPORT

Date: 17 June 2021
Team: East Area

Ward: Heworth
Parish: Heworth Planning Panel

Reference: 20/02034/FULM
Application at: Cherry Tree House 218 Fifth Avenue York YO31 0PN
For: Erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of existing building.
By: Cherry Tree Venture LLP
Application Type: Major Full Application
Target Date: 22 June 2021
Recommendation: Approve subject to S106

1.0 PROPOSAL

1.1 The proposal is for the demolition of the existing building and the construction of 3no. two storey buildings to form 48 apartments. The proposal includes 32 parking spaces (including 2 disabled spaces and 2 Electric Vehicle Charging Spaces) and bike and bin storage.

1.2 The existing building is a part single storey part two storey structure constructed around a central courtyard with parking to both sides. It was previously used by the NHS as a residential care facility but has become redundant following the opening of Foss Park Hospital on Haxby Road.

1.3 The site sits in a residential area and backs on to National Cycle Network Route 658/66 which follows a disused railway line. The houses in the locality are predominantly traditional semi-detached properties. To the west the site adjoins St Aelreds Church, presbytery and community centre.

2.0 POLICY CONTEXT

2.1 Emerging Local Plan (Submission draft 2018)

DP2 Sustainable Development
DP3 Sustainable Communities

[Type here]

Application Reference Number: 20/02034/FULM

Item No: 4b

SS1 Delivering Sustainable Growth for York
H2 Density of Residential Development
H3 Balancing the housing market
H10 Affordable housing
HW5 Healthcare services
D1 Placemaking
D2 Landscape and Setting
GI4 Trees and Hedgerows
CC1 Renewable and Low Carbon Energy Generation and Storage
CC2 Sustainable Design and Construction of New Development
ENV2 Managing Environmental Quality
ENV5 Sustainable Drainage
T1 Sustainable Access

2.2 Development Control Local Plan (including 4th set of changes) 2005

H4A Housing Windfalls
GP1 Design
HE11 Trees and landscape
L1c Open space

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

Waste Management

3.1 Bin provision is appropriate for the number of dwellings and location of bin stores is acceptable.

Public Protection

3.2 Conditions are recommended regarding noise insulation, CEMP, hours of construction, land contamination, lighting and EVCP.

Design, Conservation and Sustainable Development (Ecology)

3.3 A revised landscape design and lighting strategy have resolved earlier concerns about protection of bat habitat. Bat boxes and a hedgehog box are both proposed.

Education

[Type here]

Application Reference Number: 20/02034/FULM

Item No: 4b

3.4 As a result of there being only 8 eligible dwellings of 2 bedrooms or more, no education contribution is required.

Flood Risk Management

3.5 The submitted drainage details are acceptable and conditions are recommended.

Community Sports Development and Open Space

3.6 A contribution of £8456 for amenity open space, £4208 for play equipment and £11928 for sports provision is required. The amenity open space funds could be used to improve Melrosegate Field or Hull Road Park and the play equipment contribution could be used to provide more equipment at Hull Road Park. The closest voluntary sports club to this development is Heworth Tennis Club. This Section 106 contribution could be used to benefit the residents of the proposed development by enhancing the playing surface of the existing tennis courts, improving disabled access onto the East Parade site and through an electronic entry system to the Glen Gardens site to open the courts back up for public pay and play. It could also be used for improvements to Glen Gardens bowling green, or basketball court. The next closest voluntary sports clubs would be Heworth Cricket Club and then Heworth Amateur Rugby League Football Club.

Affordable Housing

3.7 An affordable housing contribution is required in accordance with Local Plan Policy H10. The policy target is 20% on site provision however para. 63 of the NPPF notes that 'where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount'. The site circumstances have been assessed against the Vacant Building Credit criteria outlined in the associated guidance on planning obligations issued by the Secretary of State. The applicant has provided floorspace details indicating a reduction of 68.48% in affordable housing obligation is required due to this government policy. This reduces the requirement from 9.6 homes equivalent to 3.03 equivalent. A contribution of £255,024 is therefore required and should be secured via S106 agreement.

Highways

3.8 Conditions are recommended and a contribution towards widening the cycle path on the east side of Melrosegate leading to the NCN route is required.

[Type here]

Application Reference Number: 20/02034/FULM

Item No: 4b

EXTERNAL

North Yorkshire Police

3.9 From a designing out crime perspective the overall design and layout of the proposed scheme is considered good. Natural surveillance is provided by the active frontages and lighting across the site is appropriate for safety and security.

Yorkshire Water

3.10 Condition re foul and surface water drainage recommended.

4.0 REPRESENTATIONS

4.1. Two letters of representation have been received, both objecting to the proposals. The issues raised are:

- Sustainability issues around demolishing existing building to replace it
- Insufficient parking and on-site turning areas
- Impact on highway safety to all road users as a result of increased traffic
- Noise and disturbance from additional households to neighbouring properties
- Loss of privacy to neighbours

5.0 APPRAISAL

5.1 Main Issues

- principle of development;
- housing density;
- affordable housing
- design;
- amenity;
- highways and parking;
- open space and sports provision;
- drainage;
- sustainability.

LEGISLATIVE AND POLICY CONTEXT

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise.

[Type here]

Application Reference Number: 20/02034/FULM

Item No: 4b

National Planning Policy Framework

5.3 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material planning consideration in the determination of this application.

5.4 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives.

5.5 Paragraph 11 states planning decisions should apply a presumption in favour of sustainable development and that for decision taking this means where there are no relevant development plan policies, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Publication Draft Local Plan 2018

5.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

[Type here]

Application Reference Number: 20/02034/FULM

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- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

It is considered that given the stage of preparation of the emerging plan, nature of objections and consistency with the NPPF that all the policies listed in para. 2.1 above should be given moderate weight except H10 which should be given limited weight.

5.7 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The directly relevant evidence base is:

- City of York Housing Needs Update (2019)
- Strategic Housing Land Availability Assessment and Appendices (2018)
- Strategic Housing Land Availability Assessment and Annexes (2017)
- City of York Strategic Housing Market Assessment Update (2017)
- City of York Council Strategic Housing Market Assessment (2016)
- City of York Council Strategic Housing Market Assessment Addendum (2016)

2005 Development Control Local Plan

5.8 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with very limited weight.

Principle of development

5.9 The site sits within a residential area and has an existing use as a residential institution (C2). It was previously owned and run by the NHS and has been vacant now for approximately a year having become redundant with the opening of the Haxby Road facility. Following discussions within the NHS and with the Council it was identified that there was no health or care demand for the building and it was marketed for redevelopment. Policy HW5 notes that the Council will work with the

[Type here]

NHS to understand their needs and help ensure sites are fit for purpose. Information has been provided by the NHS that this site is no longer necessary for secondary health care and has been made redundant by the improved facilities within the city and there is therefore no policy objection to the loss of the C2 use of the site; the proposal does not conflict with policy HW5.

5.10 The site appears to be incorrectly identified on the proposals map of the draft Local Plan as an educational establishment and the policies of Section 7: Education of the draft Local Plan are not considered relevant.

5.11 The development is on a brownfield site in a sustainable location with access to a range of services, shops, employment opportunities and public transport. Its use for housing is considered to be compatible with the surrounding area. Providing it can meet other material planning considerations it is considered that the proposal is acceptable in principle.

Housing density and mix

5.12 The site area is 0.36Ha and provides 48 dwellings intended for first time buyers; the proposed housing density therefore equates to 133 units per hectare. Policy H2 refers to housing density and recommends a density of 50 units/ Ha within the urban area however it also notes that within 400m of a high frequency public transport corridor then higher densities will be supported. This site falls within such an area. The NPPF also supports the effective use of land and notes that where there is a shortage of land for meeting identified housing needs that decision avoid homes being built at low densities. Providing the proposal can be shown not to result in significant harm to residential amenity as a result of the intensity of development it is considered that it meets relevant policy in this regard.

5.13 Policy H3 of the 2018 draft Local Plan seeks to balance the housing market by including a mix of types of housing which reflects the diverse mix of need across the city. The policy goes on to note that this includes flats and smaller houses for those accessing the housing market for the first time. This development includes one and two bedroom flats for first time buyers and sits within the York urban area as identified in the 2018 draft Local Plan. Within this area low-rise apartments are considered appropriate. Colleagues in Housing have indicated that there is a high local need for 1 and 2 bed properties across all tenures. Many of the large city centre developments have provided high numbers of properties aimed at a different

[Type here]

market with much higher expected values. Additionally the Tang Hall area is predominantly housing and the proposed development would provide a wider choice of accommodation in the locality. It is considered that the proposed housing mix is a good match between this location, the city-wide demand/ need for 1 and 2 bed properties, employment opportunities and transport connectivity.

Affordable housing

5.14 An affordable housing contribution is required in accordance with 2018 Draft Plan Policy H10, for this proposed application comprising 48 new homes. The local policy target is 20% of the total to be provided on site as affordable housing, however in this case paragraph 63 of the NPPF mandates that “where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”. A footnote to this paragraph suggests that this reduction should be equivalent to the existing gross floorspace of the existing buildings. Evidence has been provided that the building is vacant. Officers also note that the building is likely to be unattractive to other users as a result of its C2 residential use and the scale and form of the building.

5.15 The applicant has provided floorspace details indicating a reduction of 68.48% in affordable housing obligation is required due to vacant building credit. This reduces the requirement from 9.6 homes equivalent to 3.03 equivalent. Accordingly a commuted sum, calculated at the difference between estimated market value and affordable transfer value per home, in lieu of on-site affordable housing provision is required. This is to be fixed in a section 106 agreement and, informed by an independent valuation for typical apartment types, a contribution of £255,024 has been identified as policy compliant and is requested. This affordable housing sum can support development of much needed high quality, energy efficient affordable homes through schemes such as the council’s Housing Delivery Programme.

Design

5.16 Policy D1 of the 2018 Draft Local Plan requires that developments make a positive design contribution to the city. In this case, the proposed building is of good quality and replaces a building of little design quality. The existing building is a mix of single and two storey and appears functional in character. Access is via the two entrances on either side of the site with a long expanse of security type fencing

[Type here]

between them. Windows on the existing building are generally small and the building appears to turn its back on the street.

5.17 The proposed buildings approximately follow the footprint of the existing building. The form is of three blocks, one facing the highway with the others projecting to the rear and facing on to a small courtyard. The buildings are two storey in height with hipped roofs and constructed from buff brickwork.

5.18 The front block has some projecting bay details and properties are accessed by individual doors leading off Fifth Avenue, rather than a communal entrance. The block is set back from the highway following the building line of the dwellings to the East and providing small front gardens for the ground floor flats. The detailing to the elevations is good with some brick detailing around the windows and recessed elements above the doors. This brick detailing follows through in to the rear blocks although these are generally of a simpler form.

5.19 The use of buff bricks is less a feature of the local area however the site context is mixed. The neighbouring dwellings are traditional hipped roof properties and are predominantly red brick with some having a natural render/ pebble dash finish to the first floor. To the west the site adjoins St Aelreds Church, community centre and presbytery. The community centre sits behind the presbytery and is a modern single storey building while the presbytery is a traditional large two storey red brick dwelling with a predominantly hipped slate roof. The church is more modern in character, dating from the 1950's, with a shallow pitched green copper roof, and a linked tower to the West. The elevation facing onto Fifth Avenue is finished in a buff coloured cladding. Given the variety of materials in the locality and the position of the site between traditional housing and the more unique features of the church site it is considered that the proposed buff bricks are acceptable.

5.20 In terms of its height, the proposed buildings are similar in height to the neighbouring dwellings. The main body of the building sits in line with the dwellings to the east unlike the existing building which sits slightly closer to the highway. The building will result in a more imposing impact on the streetscene than the existing because it is fully two storey along the frontage however the interest in the facades and the good separation to neighbouring properties helps to mitigate this.

5.21 In conclusion, the design of the proposal is considered to meet the requirements of policy D1. The unique qualities of the site and poor design of the

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existing building allow for a replacement development which draws on local context, enhances the quality of the area and is large, yet not out of scale with neighbouring properties.

Amenity issues

5.22 In terms of overlooking, there are no windows in the end gables of the front building which are the closest point of the development to neighbouring residents. The windows in the rear west building are 12m from the church site and those in the rear east building are 18m from the nearest dwelling, No.222 Fifth Avenue. The first floor windows in the rear buildings serve bedroom windows and these distances are considered sufficient to prevent overlooking. It is noted that the windows facing the church site look mostly onto the back of the community centre and the side of the garage of the presbytery. There is no overlooking to the front of the presbytery while its rear garden is set away from the joint boundary and some distance from the proposed buildings.

5.23 The scale of the building and its setting away from the side boundaries will ensure that there is no significant overshadowing of neighbouring properties.

5.24 Amenity for residents of the new development is considered acceptable. Ground floor flats have small areas of garden although these are very small in some instances. Those garden areas to Fifth Avenue will have limited privacy and are north facing while the ones to the rear will be overshadowed later in the day as the result of the orientation of the buildings. However, there is some provision here for private outside amenity space and this is a positive feature of the scheme. Upper flats have Juliet balconies to their living rooms; those on the rear buildings face on to the courtyard.

5.25 All flats are considered to receive sufficient levels of natural light to provide good amenity for residents. Flats facing Fifth Avenue are single aspect however all other flats have windows facing more than one direction which will help to improve natural light levels.

5.26 There are one and two bedroom flats within the development. One bedroom flats are typically between 37m² and 39m² and two bedroom flats are between 57m² and 59m². While the nationally described space standards cannot be used as they do not form part of the 2018 Draft Local Plan, the flat sizes proposed are

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reasonably comparable. The national space standard suggests 37m² for a one bedroom flat and 61m² for a two bedroom flat. It should be noted that, within this development, the slightly smaller flats are typically on the ground floor but have the benefit of private external space.

5.27 It is noted that some of the parking spaces abut bedroom windows on the ground floor flats. There are small areas of landscaping below the windows to provide some separation but there is likely to be some disturbance from headlights and noise from vehicle movements to these rooms. It is likely that this will be minimal given the size of the site and its sustainable location which is likely to encourage more sustainable modes of transport.

5.28 The existing building is in a residential use and in a residential area. The proposal retains that residential use and is therefore unlikely to cause any significant conflict through noise and disturbance of neighbours. It is accepted that the proposal results in a more intensive use of the site however the site is large and no significant impact on neighbouring amenity is anticipated. As such the requirements of policy D1 that residents are not unduly affected by noise, disturbance, overlooking or overshadowing are fulfilled.

Highways and parking

5.29 The proposal retains the two existing vehicular entrances to either side of the site. These entrances lead to parking areas on either side providing 32 parking spaces (1 space per 1.4 dwellings) in total, which is in line with the Council's maximum parking standards. Following submission of a parking survey it has been accepted that visitor parking can be accommodated on-street without having a detrimental impact on the surrounding highway network.

5.30 Fifty cycle parking spaces are provided spread across the site within secure covered enclosures. Storage is also provided for bicycle accessories and recycling and waste storage.

5.31 While the preference would be for direct access from the site on to the cycle track to the south it is recognised that the level difference makes it difficult and there is already access to the cycle track, adjacent to the church, at a distance of approximately 60m from the site entrance. A contribution of £15,000 has been

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agreed towards improvements to this cycle access to make widen it and bring it into compliance with national guidance either as a segregated or shared use cycleway.

Open space and sports provision

5.32 The NPPF advises that planning decisions should aim to create healthy and inclusive places. Paragraph 96 states ‘access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate’.

5.33 Policy GI6 (new open space provision) of the 2018 Draft Plan states ‘all residential development proposals should contribute to the provision of open space for recreation and amenity’... ‘The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. Where there are deficiencies in certain types of open space provision in the area surrounding a proposed development, the Council will seek variations in the component elements to be provided by the developer in order to help to overcome them’. The policy goes on to state that the Council will encourage on-site provision where possible but off-site provision will be considered acceptable in certain circumstances.

5.34 The site is within the Heworth Ward. The ward has a deficit of all types of open space, except allotments, based on the Open Space and Green Infrastructure Update (September 2017).

5.35 The Open Space and Green Infrastructure Update 2017 (referred to in the 2018 Draft Plan) identifies the levels of amenity space required. This is not typically capable of being provided on urban sites as there is not the space. As such an off-site contribution can be requested. This must however meet the Community Infrastructure Levy Regulations – be necessary to make the development acceptable in planning terms, reasonable in scale and kind and directly related to the development. National guidance on the use of planning obligations is also to be

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mindful of viability and the need to prioritise/incentivise development of brownfield land.

5.36 No on-site open space is provided. As such an S106 contribution for £8,456 is sought towards amenity open space. The contribution would provide improvements to Melrosegate field or Hull Road Park. £4,208 is also sought as an off-site contribution for additional play equipment at Hull Road Park.

5.37 A contribution towards off site sports provision is agreed, calculated as £11,928. It would be used to procure the provision of, or improvement to, sport or active leisure facilities to include (in no particular order):

- Heworth Tennis Club
- Glen Gardens Bowling Green
- Heworth Cricket Club
- Heworth Amateur Rugby League Football Club.

Drainage

5.38 The application site is located within Flood Zone 1 and the risk from flooding is low.

5.39 It has been shown that discharging surface water via infiltration will not be possible and therefore the existing surface water connection to a public surface water sewer is to be used. The brownfield run off rate has been calculated and attenuation is to be provided under the western car parking area. Conditions are proposed to protect the local aquatic environment and public sewer infrastructure.

Sustainability

5.40 Policy CC1 encourages the development of renewable and low carbon energy generation and storage. It requires new buildings to achieve a 28% reduction in carbon emissions through the provision of renewable and low carbon technologies in the locality of development or through energy efficiency measures, unless it can be demonstrated that this is not viable. Applicants must submit an energy statement setting out how this will be achieved, taking into consideration the impact of the scheme on other planning considerations and demonstrate any viability issues with meeting the target.

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5.41 Policy CC2 sets out the sustainable design and construction requirements that all new development (by type) must adhere to and demonstrate in a Sustainability Statement. The policy requirements for new residential development are to deliver at least a 19% reduction in Dwellings Emission Rate (DER) compared to the Target Emission rate (TER) (calculated using SAP as per the Building Regulations) and a water consumption rate of 110 litres per person per day (calculated as part G of the Building Regulations). A sustainability statement is also required in line with Policy CC2 to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency.

5.42 An Energy Statement has been submitted which concludes that the development will achieve on average at least a 22% reduction in carbon emissions by comparing the Dwelling Emission Rate to the Target Emission exceeding the requirements of policy CC2. The water consumption rate will also meet the requirements of that policy. The requirements of policy CC1 which required a reduction in CO2 emissions of at least 28% will be met through energy efficiency measures including an air source heat pump and heat recovery system within the mechanical ventilation system.

5.43 Issues related to the sustainability of demolishing an existing modern building are considered outweighed by the provision of much needed housing and benefits from the increased density of development and modern energy efficient development.

Other issues

5.44 Revisions have been made to the scheme to incorporate measures to promote biodiversity. The site boundaries, particularly the southern boundary with the cycle path, have been strengthened with additional planting as possible and the addition of native trees. The scheme includes the provision of bird, bat and hedgehog boxes as well as a lighting scheme which takes into account the impact on wildlife, particularly in relation to the southern edge of the site.

6.0 CONCLUSION

6.1 This site within a sustainable residential location has become available for redevelopment as it is no longer required by the NHS. The form of the building is

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such that its retention would not result in an optimal use of the site and so demolition and redevelopment is being supported.

6.2 Para.11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development. Para.11d notes that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes applications for housing where a 5 year housing land supply cannot be demonstrated) then applications should be granted permission. The Council cannot currently demonstrate a 5 year housing land supply and the site is not within the Green Belt or impacts on a designated heritage asset and therefore the presumption in favour of sustainable development should apply.

6.3 The scheme provides 48 new flats with good levels of amenity for future residents and without significantly harming to the amenity of neighbours. The existing building is of little architectural merit and will be replaced by a development which enhances the local area. Financial contributions towards affordable housing, amenity open space, play areas, sports facilities and upgrades to the local cycle network will also be secured via a legal agreement.

6.4 The proposal is considered to meet draft Local Plan policy and policy contained within the NPPF and is therefore recommended for approval subject to conditions and the undertaking of a legal agreement .

7.0 RECOMMENDATION: Approve subject to S106

7.1 Approval is recommended subject to completion of a S106 agreement to include the obligations below, and the recommended conditions.

- Off-site sports facilities for clubs based in Heworth £11,928
- Amenity open space improvements to Melrosegate Field or Hull Road Park £8,456
- Play equipment improvements at Hull Road Park £4,208
- Affordable housing contribution of £255,024
- Improvements to cycle track £15,000

1 The development shall be begun not later than the expiration of three years from the date of this permission.

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Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

Location plan

External lighting layout 1295-ME-100 B

Proposed landscape plan 4115 - PL11 P

Proposed site plan 4115 - PL 12A

Proposed ground floor plan 4115 - PL 21C

Proposed first floor plan 4115 - PL 22C

Proposed north and south elevations 4115 - PL 31B

Proposed east elevations 4115 - PL 32B

Proposed south and west elevations 4115 - PL 33B

Proposed bicycle and bin stores 4115 - PL70 A

Bird and bat box location plan Received 26th November 2020

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 any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 The site shall be developed with separate systems of drainage for foul and surface water on and off site. The maximum surface water discharge rate shall be restricted to 26.9 (twenty six point nine) litres per second.

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Reason: In the interest of satisfactory and sustainable drainage

5 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The information shall include site specific details of:

- a) the surface water flow control device manhole the means by which the surface water discharge rate shall be restricted to a maximum rate of 26.9 (twenty six point nine) litres per second, and
- b) the attenuation tank the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance shall be achieved

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

6 Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

7 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site

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etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. All monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e.

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investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses

public.protection@york.gov.uk and planning.enforcement@york.gov.uk.

Reason: To protect the amenity of the locality.

8 Prior to the commencement of development, ground gas monitoring and risk assessment must be undertaken to assess the nature and extent of any ground gas contamination. The assessment must be undertaken by competent persons and a written report of the findings must be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from ground gas to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9 Prior to the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be submitted and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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10 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

11 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 Prior to first occupation, a minimum of 2 parking bays shall be provided which incorporate facilities for charging electric vehicles. Electric Vehicle Recharging Points shall be provided in a position and to a specification to be first agreed in writing by the Local Planning Authority. In addition, a minimum of 2 additional parking bays shall be identified for the future installation of additional Electric Vehicle Charging Points. Such additional bays shall be provided with all necessary cabling and groundwork to facilitate the addition of Electric Vehicle Charge Points in the future. The locations of these additional bays shall also be agreed in writing by the Local Planning Authority. Within 3 months of the first occupation of the development, an Electric Vehicle Recharging Point Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Electric Vehicle Recharging Point Management Plan will detail the management, maintenance, servicing and access/charging arrangements for each Electric Vehicle Recharging Point for a period of 10 years and will be fully implemented.

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Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

13 The development shall be constructed in accordance with the recommendations of the noise report NIA/925520/9293/v3/218 dated 14th December 2020.

Reason: In the interests of residential amenity.

14 The development shall not be occupied until the landscaping scheme on drawing 4115 - PL11 P has been fully implemented. Any trees or plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

15 The development hereby permitted shall achieve a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations 2013.

Prior to commencement of construction, details of the measures undertaken to secure compliance with this condition 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: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

16 A lighting strategy based on the submitted lighting layout 1295-ME-100 B shall be submitted and approved in writing prior to first occupation. This strategy shall include a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a

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description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary. It shall also take into consideration the impacts on ecology, and specifically bats, with particular attention to the existing vegetation to the south and the proposed bat boxes to the south west of the site.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for the appropriate Environmental Zone contained within the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

The approved strategy shall be fully implemented prior to occupation and retained and maintained for the lifetime of the development.

Reason: In the interest of residential amenity and to protect the habitats of European Protected Species.

17 The building 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.

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

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

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38)

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in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Imposed appropriate planning conditions to make the development acceptable.

2. The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link.

https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites

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 manufacturer's instructions.

There shall be no bonfires on the site.

Contact details:

Case Officer: Alison Stockdale

Tel No: 01904 555730

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Bellerby, Neil

From: Branigan, Sandra
Sent: 09 June 2022 17:11
To: Stockdale, Alison
Cc: Bellerby, Neil
Subject: RE: Sites With a Resolution to Grant Consent

Client: LCS1
DatabaseID: 800
DocID: 2292836
hasSignature: Yes
Matter: 3578
NorSaved: Yes
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Alison

There haven't been any developments on this s106 since I sent a draft agreement to the developer's solicitor last July. They haven't come back to me on the draft yet. I can chase the solicitor for a response but it doesn't seem as though the developer is actively progressing this matter at this time.

Regards,
Sandra

Sandra Branigan | Senior Solicitor
t: 01904 551040 e: sandra.branigan@york.gov.uk

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My working days are Monday to Thursday. Please note that I am working from home until further notice. Please continue to contact me by email or phone and your call will be diverted to me. Please scan and email documents wherever possible rather than post them to me.

From: Stockdale, Alison <Alison.Stockdale@york.gov.uk>
Sent: 08 June 2022 14:37
To: Branigan, Sandra <sandra.branigan@york.gov.uk>
Subject: FW: Sites With a Resolution to Grant Consent

Hi Sandra

Were you dealing with the S106 for Cherry Tree House 20/02034/FULM? Could you let me know how it's progressing, please, so I can update Neil?

Thanks, and see you soon!

Alison

Alison Stockdale | [Development Management Officer](#)
t: 01904 555730 | e: alison.stockdale@york.gov.uk

City of York Council | Development Management
Directorate of Economy and Place | West Offices Station Rise | York YO1 6GA
www.york.gov.uk | facebook.com/cityofyork | [@CityofYork](https://twitter.com/CityofYork)

Please note: My working days are Tuesday to Friday.

From: Bellerby, Neil <Neil.Bellerby@york.gov.uk>
Sent: 08 June 2022 13:21
To: Kenyon, Jonathan <Jonathan.Kenyon@york.gov.uk>; Stockdale, Alison <Alison.Stockdale@york.gov.uk>; Baldry, Mark <Mark.Baldry@york.gov.uk>
Subject: Sites With a Resolution to Grant Consent

Hi Jonathan, Alison & Mark

As case officers on the following sites please can you provide me with the latest position relating to the progress of the S106 legal agreement

19/02753/FULM	Barnitts 28A Colliergate York	Conversion of Drill Hall and upper floors of 28a Colliergate from retail to residential (Use class C3) creating 10no. townhouses and 2no. apartments, and associated alterations	JK	13/10/2021 - approved at Planning Sub-Committee S106 and conditions appr
20/02034/FULM	Cherry Tree House 218 Fifth Avenue York YO31 0PN	Erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of existing building.	AS	17/06/2021 - approved at Planning Committee - awa S106 and conditions appr
20/01626/FULM	Os Field 2800 Eastfield Lane Dunnington York	Erection of 83 dwellings, landscaping, public open space and associated infrastructure	MB	07/10/2021 - approved at Planning Committee - awa S106 and conditions appr

Each of these sites have been included within our latest housing trajectory as sites with a resolution to grant consent following approval at Planning Committees prior to 1st April 2022. The additional information relating to the legal agreement position assists us with the deliverability issues surrounding these sites.

Your earliest responses would be most appreciated as we are trying to collate information on sites within the trajectory before the end of this week to present to Counsel.

Thank you

Neil

Neil Bellerby | Strategic Planning Policy Officer (Land Use Monitoring)

Forward Planning

t: 01904 552411 | e: neil.bellerby@york.gov.uk

City of York Council | Forward Planning

Directorate of Place | West Offices | Station Rise | York | YO1 6GA



LOCAL DEMOCRACY DURING CORONAVIRUS

During coronavirus, we've made some changes to how we're running council meetings. See our [coronavirus updates](#) for more information on meetings and decisions.

Agenda item

Cherry Tree House, 218 Fifth Avenue, York YO31 0PN [20-02034-FULM]

- [Meeting of Planning Committee, Thursday, 17 June 2021 4.30 pm \(Item 31a\)](#)

Erection of three buildings to form 48no. apartments with associated works and infrastructure following the demolition of existing building [Heworth Ward]

Minutes:

Members considered a major full application from Cherry Tree Venture LLP for the erection of three buildings to form 48 apartments with associated works and infrastructure following the demolition of existing building at Cherry Tree House 218 Fifth Avenue York YO31 0PN.

The Head of Development Services gave a presentation on the applications and updated the Committee on a correction to paragraph 5.10 of the committee report noting that the site was wrongly identified and was not allocated in the Local Plan and the education allocation related to the adjoining presbytery and community centre. As a result the planning balance and recommendation remained unchanged from the published report.

Officers were asked and clarified that:

The education allocation was staying the same.

Access had been assessed by highways officers and it was acceptable to use the existing access points.

The depth of the aisle was sufficient for vehicles turning.

The landscaping to the rear of the site was being retained and the regarding planting trees on the verge, the verge was not within the line of the application site.

There was no affordable housing and an offsite contribution would be made.

The site had been granted vacant building credit and this was explained in the context of the NPPF and the application was policy compliant.

The location of the cycle and bin storage and electric vehicle charging were explained.

There was external amenity and good levels of light from the way the apartments were set out.

It was not reasonable to condition proof of first time buyers buying the apartments.

Housing officers were satisfied with the scheme and it was confirmed that there was a need for one two bedroom properties in the area.

The retained landscaping would fall under the existing landscaping condition.

There were not enough two bedroomed units for a S106 contribution to education.

Public Speakers

Killian Gallagher, the Agent for the Applicant, spoke in support of the application. He explained that Cherry Tree House has been sold by the NHS as it was surplus to requirements. No offers had been received to retain the building for its use. He explained the intended buyers of the apartments, that the design was energy efficient and measures in place for energy efficiency, cycle and car parking (including electric vehicle charging). In answer to questions from the Committee he and the Architect (in attendance to answer questions) confirmed that:

The Applicant in principle had no issue with putting in trees in the proviso that this could done technically. They would also be willing to make a contribution towards trees as part of the S106 agreement.

It was intended that the development would begin as soon as possible.

The scheme was in line with national policy and the development of brownfield sites. It was felt that £135,000 for an apartment in York within walking distance of the city centre was considered

affordable.

Purchasers would own a share of the freehold and would make their own decisions on this.

The retention of properties with owner occupiers would be similar to that of the Aura developments. A condition on the number of days for invites of advance offers from first time buyers fell outside planning policy.

Regarding the increase in property prices, lower prices would mean a lower percentage increase in the prices of the apartments.

[At this point the Senior Solicitor advised Members that the application was not for an affordable housing scheme].

The entry point of £130-£140,000 was at a level accessible for first time buyers and the provision for affordable housing would be made by way of an offsite contribution.

An explanation of the purchase of the site was given.

The allocation of disabled parking spaces was noted.

There was no direct access to the cycle track adjacent to the site as this this was not possible due to the typography of the site.

Members then asked officers further questions to which officers clarified that:

There was no time limit in applying for vacant building credit.

The sports contribution would go to publicly available sports sites in the area.

During debate, officers advised the Committee that S106 agreements needed to meet statutory requirements. Cllr Warters moved approval subject to the inclusion of red bricks being used, seconded by Cllr Rowley. Following debate a named vote was taken with the following result:

- Cllrs Barker, Crawshaw, Daubeney, Douglas, Fenton, Hollyer Looker, Melly, Pavlovic, Rowley, Warters, Waudby, Widdowson and Fisher voted for the motion;

The motion was unanimously carried and it was

Resolved: That the application be approved subject to the landscaping condition being amended to in perpetuity, and addition of an informative for red bricks to be incorporated into the building and for a S106 contribution for tree planting if so required following consultation with the Chair and Vice Chair of the Committee.

Reason:




This site within a sustainable residential location has become available for redevelopment as it is no longer required by the NHS. The form of the building is such that its retention would not result in an optimal use of the site and so demolition and redevelopment is being supported.

Para.11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development. Para.11d notes that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes applications for housing where a 5 year housing land supply cannot be demonstrated) then applications should be granted permission. The Council cannot currently demonstrate a 5 year housing land supply and the site is not within the Green Belt or impacts on a designated heritage asset and therefore the presumption in favour of sustainable development should apply.

The scheme provides 48 new flats with good levels of amenity for future residents and without significantly harming to the amenity of neighbours. The existing building is of little architectural merit and will be replaced by a development which enhances the local area. Financial contributions towards affordable housing, amenity open space, play areas, sports facilities and upgrades to the local cycle network will also be secured via a legal agreement.

The proposal is considered to meet draft Local Plan policy and policy contained within the NPPF and is therefore recommended for approval subject to conditions and the undertaking of a legal agreement.

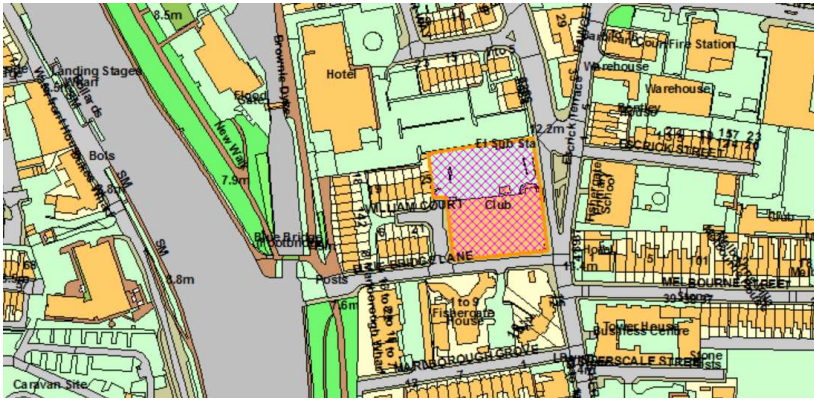
Supporting documents:

- [Cherry Tree House, 218 Fifth Avenue, York YO31 0PN - Report \[20-02034-FULM\], item 31a](#)
 PDF 352 KB [View as HTML](#) 122 KB
- [Cherry Tree House, 218 Fifth Avenue, York YO31 0PN - map \[20-02034-FULM\], item 31a](#) 
PDF 3 MB
- [Cherry Tree House, 218 Fifth Avenue, York YO31 0PN - presentation \[20-02034-FULM\], item 31a](#)  PDF 2 MB

COUNCIL AND DEMOCRACY

Calendar

SITES WITH RESOLUTION TO GRANT

Allocation Reference	N/A		
Site Name/Address	Mecca Bingo 68 Fishergate		
Site Overview	 <p>This is a brownfield site within the wider city centre area of York. It currently accommodates a bingo hall with car parking</p>		
Site planning status @ 1 April 2022	<p>Full planning application (21/01605/FULM) approved at Planning Committee 03/02/2022 - awaiting S106 and conditions approval</p> <p>for the demolition of existing buildings and redevelopment of the site to form 275no. room purpose built student accommodation (104 'cluster' flats) with associated car parking, landscaping and facilities</p>		
Delivery Record	None		
Capacity in May 2022 Trajectory	104	Site size (ha)	0.4
Delivery Projections	(Yr 3) 2024/25 - 104 homes		
Developer / Landowner	Petrina Ltd And Grantside (North Star West) Ltd		
SoCG/Proforma submitted:	No		
Have SoCG/Proforma projections been used for May 2022 trajectory?	No		
Site deemed deliverable?	Yes – clear evidence available to demonstrate there is a realistic prospect that housing will be delivered on the site within five years		
Assessment			
Application progress			
S106 signed 21/04/2022, decision issued 25.04.2022.			
Viability / ownership / infrastructure			
Viable scheme in a viable location. No significant ownership or infrastructure constraints known. Brownfield site with demolition works required, which are accounted for in development trajectory.			
Justification for lead-in and build rate			
No definitive project timescale has been suggested for the site, therefore the Council's standard 3 year lead in has been applied. This is realistic given the scope of pre-commencement conditions requiring discharge and site enabling works required.			
Accommodation to be developed in a single block and this is reflected in the delivery projection.			

Bellerby, Neil

From: William Marshall <william.marshall@dppukltd.com>
Sent: 06 May 2022 11:21
To: Bellerby, Neil
Subject: Mecca Bingo Start

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Neil,

I've tried to get in touch with our client again on this but to no avail.

As such, my best estimate for the completion date for the student scheme on the Mecca Bingo site would be September 2024.

William Marshall - Senior Planner
0792 0579 554
One Park Row, Leeds, LS1 5HN



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Winner - Residential Project of the Year - North East Insider Property Awards 2021
Finalist - Consultancy of the Year - Insider Wales Property Awards 2021
Finalist - Consultancy of the Year - Yorkshire Insider Property Awards 2021
Finalist - Chair's Award and Planning Excellence Award RTPI - North East Planning Excellence Awards 2021



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DATED

21st April

2022

(1) GRANTSIDE (NORTH STAR WEST) LTD

(2) TOGETHER COMMERCIAL FINANCE LIMITED

(3) PETRINA LIMITED

(4) THE COUNCIL OF THE CITY OF YORK

**PLANNING OBLIGATION BY DEED OF AGREEMENT UNDER SECTION 106 OF THE
TOWN AND COUNTRY PLANNING ACT 1990
relating to the development of land at Mecca Bingo 68 Fishergate York YO10 4AR
Application Reference: 21/01605/FULM**

THIS DEED is made the

21st day of April

2022

BETWEEN

- (1) GRANTSIDE (NORTH STAR WEST) LTD (Company Registration Number 12651511) whose registered office is situated at Middlethorpe Manor, Middlethorpe, York, North Yorkshire, England, YO23 2QB ("the Owner");
- (2) TOGETHER COMMERCIAL FINANCE LIMITED (Company Registration Number 02058813) whose registered office is situated at Lake View, Lakeside, Cheadle, Cheshire, SK8 3GW ("the Mortgagee");
- (3) PETRINA LIMITED (Company Registration Number 13169312) whose registered office is situated at 85 Buckingham Gate, London, England, SW1E 6PD ("the Developer");
- (4) THE COUNCIL OF THE CITY OF YORK of West Offices, Station Rise, York YO1 6GA ("the Council")

BACKGROUND

1. The Council is the local planning authority and local highway authority for the purposes of the Act in relation to the Site and is the authority by whom the planning obligations hereby created are enforceable.
2. The Owner is the freehold owner of the Site registered at the Land Registry with freehold title absolute under title numbers NYK294445 and NYK150240.
3. The Developer and Owner submitted the Application to the Council for planning permission to carry out the Development in the manner set out in the plans, specifications and particulars forming part of the Application.
4. The Mortgagee has a registered charge dated 21 September 2020 over the land within title numbers NYK294445 and NYK150240 and has agreed to enter into this Deed to give its consent to the terms of this Deed.
5. On 7 April 2021 the Developer entered into a contract to purchase the Site from the Owner subject to the grant of the Planning Permission.
6. The parties have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by the Council against the Owner and their successors in title pursuant to Section 106 of the Act in the event that the Planning Permission is granted.
7. On 3 February 2022 the Council's Planning Committee resolved to grant the Planning Permission for the Development subject to conditions and to the prior completion of this Deed
8. The parties to this Deed have given due consideration to the provisions of Regulation 122 of the CIL Regulations and agree that the obligations contained herein are compliant with Regulation 122 of the CIL Regulations and are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly related in scale and kind to the Development (to the extent relevant to the obligations in this Deed).

DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in this clause apply to this Deed:

Act	the Town and Country Planning Act 1990 (as amended);
Application	the application submitted to the Council for full planning permission for the demolition of existing buildings and redevelopment of the Site to from 275 no. room purpose built student accommodation with associated car parking, landscaping and facilities and allocated reference number 21/01605/FULM;
CIL Regulations	The Community Infrastructure Levy Regulations 2010 as amended;
Commencement of Development	the date upon which the Development shall begin by the carrying out of a material operation in accordance with the provisions of section 56(4) of the Act PROVIDED THAT any works of or associated with demolition, site clearance, remediation works, environmental or archaeological investigations, site and soil surveys, erection of contractors work compound, erection of site office, erection of fencing to site boundaries, marking of site boundaries shall for the purposes of this Deed and for no other purpose be deemed not to be material operations and " Commence Development " shall be construed accordingly;
Development	the development of the Site in accordance with planning permission as authorised by the Planning Permission granted pursuant to the Application;
Dwelling	any single unit of residential accommodation constructed on the Site pursuant to the Planning Permission intended for Occupation by one or more private individuals and Dwellings shall be construed accordingly;
Index Linked	adjusted in accordance with the Inflationary Index by multiplying the payment due by a fraction whose denominator shall be the first Inflationary Index monthly figure published after the date of this Deed and whose numerator shall be the last Inflationary Index monthly figure available before the date on which payment is due but which for the avoidance of doubt shall not fall below the original payment figure;
Inflationary Index	The Consumer Prices Index issued by the Office for National Statistics;
Interest	interest at 2% (two per cent) above the base lending rate of the Bank of England from time to time;
Occupation	occupation of a Dwelling for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and

“Occupy”, “Occupied”, and “Occupier” shall be construed accordingly;

Plan	the plan showing the Site attached to Appendix 1 of this Deed;
Planning Obligation	any of the obligations set out in Schedule 2 of this Deed and Planning Obligations shall be construed accordingly;
Planning Permission	the planning permission subject to conditions in the draft form attached to Appendix 2 of this Deed to be granted by the Council pursuant to the Application;
Site	the property described in Schedule 1 to this Deed and shown for the purposes of identification only edged red on the Plan;
Traffic Regulation Order	means the amendment of such traffic regulation order or orders under the Road Traffic Regulation Act 1984 as the Council may promote in order to amend existing waiting restrictions on Fishergate in York to 'No waiting or no Loading at any time' and alter a 12m section (minimum) of the existing parking bays immediately outside the entrance to the proposed building to be constructed as part of the Development on Blue Bridge Lane in York to 'Loading Only';
Traffic Regulation Order Contribution	means the sum of £6,000 Index Linked to be paid to the Council in accordance with Part 2 of Schedule 2 for the Traffic Regulation Order;
Travel Plan	means the travel plan submitted as part of the Application;
Travel Plan Monitoring Fee	means the sum of £10,000 Index Linked to be paid to the Council in accordance with Part 3 of Schedule 2 to ensure the Travel Plan is implemented reasonably over a five year period following Occupation;
Working Day	any day except any Saturday or Sunday or any bank holiday or public holiday in England and Wales and "Working Days" shall be construed accordingly.

- 1.2 The headings clauses, paragraphs, Schedules and Appendices within this Deed do not affect its interpretation.
- 1.3 Unless otherwise indicated, references to clauses and Schedules and Appendices are to clauses of and Schedules of and Appendices of this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule.
- 1.4 References to any statute or statutory provision include any modification, extension or re-enactment of that statute or statutory provision for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that statute or deriving validity from it.
- 1.5 References to the Site include any part of it.

- 1.6 References to any party in this Deed include the personal representatives successors in title and permitted assigns of that party and to any person deriving title through or under them. In addition, references to the Council include any successor local planning authority exercising planning powers under the Act and/or any successor local highway authority (as the case may be).
- 1.7 "Including" means "including, without limitation".
- 1.8 Any covenant by the Owner not to do any act or thing includes a covenant not to cause permit allow or suffer the doing of that act or thing.
- 1.9 Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or against each of them individually.
- 1.10 Where more than one party to this Deed undertakes an obligation all their obligations can be enforced against all of them jointly or against each individually.
- 1.11 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.12 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 1.13 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)
- 1.14 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

2. LEGAL BASIS

- 2.1 This Deed is made pursuant to Section 106 of the Act, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 2.2 To the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Deed are planning obligations and are enforceable by the Council in accordance with section 106 of the Act.
- 2.3 The covenants, restrictions and requirements imposed upon the Owner under this Deed are (amongst other things) planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as a local planning authority against the Owner.
- 2.4 The Owner enter into the covenants and obligations contained in this Deed for themselves and their successors in title with the Council with the intent that the obligations hereunder bind the interest held by the Owner in the Site and also the successors in title and assigns of the Owner and any person claiming through or under the Owner any interest or estate in the Site or any part or parts thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by them save as expressly provided otherwise in this Deed.

3. CONDITION PRECEDENT

This Deed is conditional upon:

- (a) the grant of the Planning Permission,

SAVE FOR the provisions of this clause and clauses 1, 2, 4, 7, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21 and 22 which shall come into effect immediately upon completion of this Deed.

4. CONDITION SUBSEQUENT

- 4.1 With the exception of clause 18.1 this Deed shall cease to have effect (insofar only as it has not already been complied with and without prejudice to the rights of any party against the other parties in respect of any antecedent breach) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 4.2 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

5. THE OWNER'S COVENANTS

- 5.1 The Owner on behalf of themselves and any person deriving title to the Site from the Owners hereafter hereby covenant with the Council so as to bind the Site to fully observe and perform the covenants restrictions and obligations in this Deed including those obligations set out in Schedule 2 to this Deed and hereby agree that the Site shall be permanently subject to the obligations specified herein, such obligations being planning obligations for the purpose of Section 106 of the Act.

6. COUNCIL'S COVENANTS

The Council covenants with the Owner as set out in Schedule 3.

7. LIABILITIES

- 7.1 No person shall be liable for any breach, non-performance and non-observance of the covenants, obligations and restrictions contained in this Deed occurring after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest nor shall this hinder or preclude the Council's right to require that the breach, non-performance or non-observance be remedied after that person has parted with its interest in the Site. Provided that for the purposes of determining whether or not any person has parted with its entire interest in the Site the inclusion in any disposition of that person's interest of any covenants restrictions or the reservation of rights over or affecting the Site shall not constitute an interest in the Site.
- 7.2 No tenant of an individual Dwelling and those deriving title from such tenants or their mortgagees shall be liable for any of the covenants and obligations contained in this Deed save that any individual tenant (and their occupiers and/or mortgagee) acquiring an interest in more than a single Dwelling shall be bound by the obligations contained in this Deed.

7.3 No statutory undertaker whose only interest in the Site consists of apparatus owned pursuant to their statutory undertaking shall be bound by the covenants and obligations contained in this Deed.

8. WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent or restrict the Council from enforcing any such covenants, terms or conditions or from acting upon any subsequent breach or default.

9. CHANGE IN OWNERSHIP

9.1 The Owner shall give to the Council ten Working Days written notice of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Site occurring before all of the obligations under this Deed have been discharged save in respect of the sale of individual Dwellings (if applicable) and disposals to statutory undertakers, such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with (unless the purchase relates to the entirety of the Site) the area of the Site or unit of occupation purchased by reference to a plan.

10. LOCAL LAND CHARGE

10.1 This Deed is a Local Land Charge and shall be registered as such by the Council.

10.2 Following the performance and satisfaction of all the obligations contained in this Deed to the Council's satisfaction, the Council shall on the written request of the Owner effect the cancellation of all entries made in the register of Local Land Charges in respect of this Deed.

11. NON-PROHIBITION ON DEVELOPMENT

Nothing in this Deed shall prohibit or limit the right to develop the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of the Planning Permission.

12. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

This Deed shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit, rights or claims whatsoever pursuant thereto.

13. INTEREST

If any payment (or part thereof) due under this Deed is paid after the due date the Owner shall pay to the Council Interest on that amount from the date payment is due to and including the date that payment is received.

14. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

15. NOTICES

Any notice or other written document required to be served on or sent to the parties hereto under this Deed shall be deemed to be validly served or sent if delivered personally or sent by recorded delivery service to the address of the relevant party set out at the beginning of this Deed or to such other address as one party or such other address from time to time as shall be notified to the parties. A notice given under this Deed must quote the planning reference number 21/01605/FULM.

16. MORTGAGEE'S CONSENT

The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that its interest in the Site shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Site provided that the Mortgagee (and any subsequent mortgagee or chargee with an interest in the Site) shall not become liable to perform the Planning Obligations contained in this Deed unless and until it shall become a mortgagee or chargee in possession of all or any part of the Site in which case it shall be liable as if it were a successor in title to the Owner.

17. DEVELOPER'S CONSENT

The Developer acknowledges and declares that this Deed has been entered into by the Owner with its consent and that upon acquiring a freehold or leasehold interest in the Site it will be subject to the obligations in this Deed as a person deriving title thereto provided that it shall have no liability to perform the Planning Obligations contained in Schedule 1 unless and until it acquires a freehold or leasehold interest in the Site.

18. MISCELLANEOUS

- 18.1 The Developer shall pay to the Council on or before the date of this Deed the sum of £1,750 as their reasonable legal costs incurred in the negotiation, preparation, execution and registration of this Deed.
- 18.2 If any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 18.3 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of their functions as a local authority.

19. DISPUTE PROVISIONS

- 19.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be in writing and reasoned and final and binding on the parties having regard to all of the evidence submitted by or on behalf of the parties in the absence of manifest error and any costs (including the expert's costs) shall be payable by the

parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 19.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 19.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 19.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight Working Days after the conclusion of any hearing that takes place or twenty-eight Working Days after he has received any file or written representation.
- 19.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within twenty Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten Working Days.
- 19.5 The expert is not to take oral representation from the parties without giving both parties opportunity to be present to give evidence and to cross examine each other.

20. INDEXATION

- 20.1 All payments and financial contributions (other than the sum mentioned in clause 18.1) referred to as payable to the Council under this Deed shall be Index Linked.
- 20.2 If the specified index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

21. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

22. DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

Schedule 1 – The Site

All that freehold land at Mecca Bingo 68 Fishergate York YO10 4AR being the land comprised in title numbers NYK294445 and NYK150240 registered at the Land Registry with title absolute and shown for the purposes of identification only edged red on the Plan attached to Appendix 1 of this Deed.

Schedule 2

The Owner's Covenants with the Council

The Owner hereby covenants with the Council as follows:

PART 1 – NOTIFICATIONS

To serve 10 Working Days written notice on the Council of its intention to Commence Development

PROVIDED THAT default in giving the requisite notice shall not prevent the occurrence of the Commencement of Development or the triggering of obligations contained in this Deed.

PART 2 – TRAFFIC REGULATION ORDER CONTRIBUTION

1. Not to Commence Development until it has paid the Traffic Regulation Order Contribution Index Linked to the Council.

PART 3 – TRAVEL PLAN MONITORING FEE

2. Not to Commence Development until it has paid the Travel Plan Monitoring Fee Index Linked to the Council..

Schedule 3

Council's Covenants

The Council covenants with the Owner as follows:

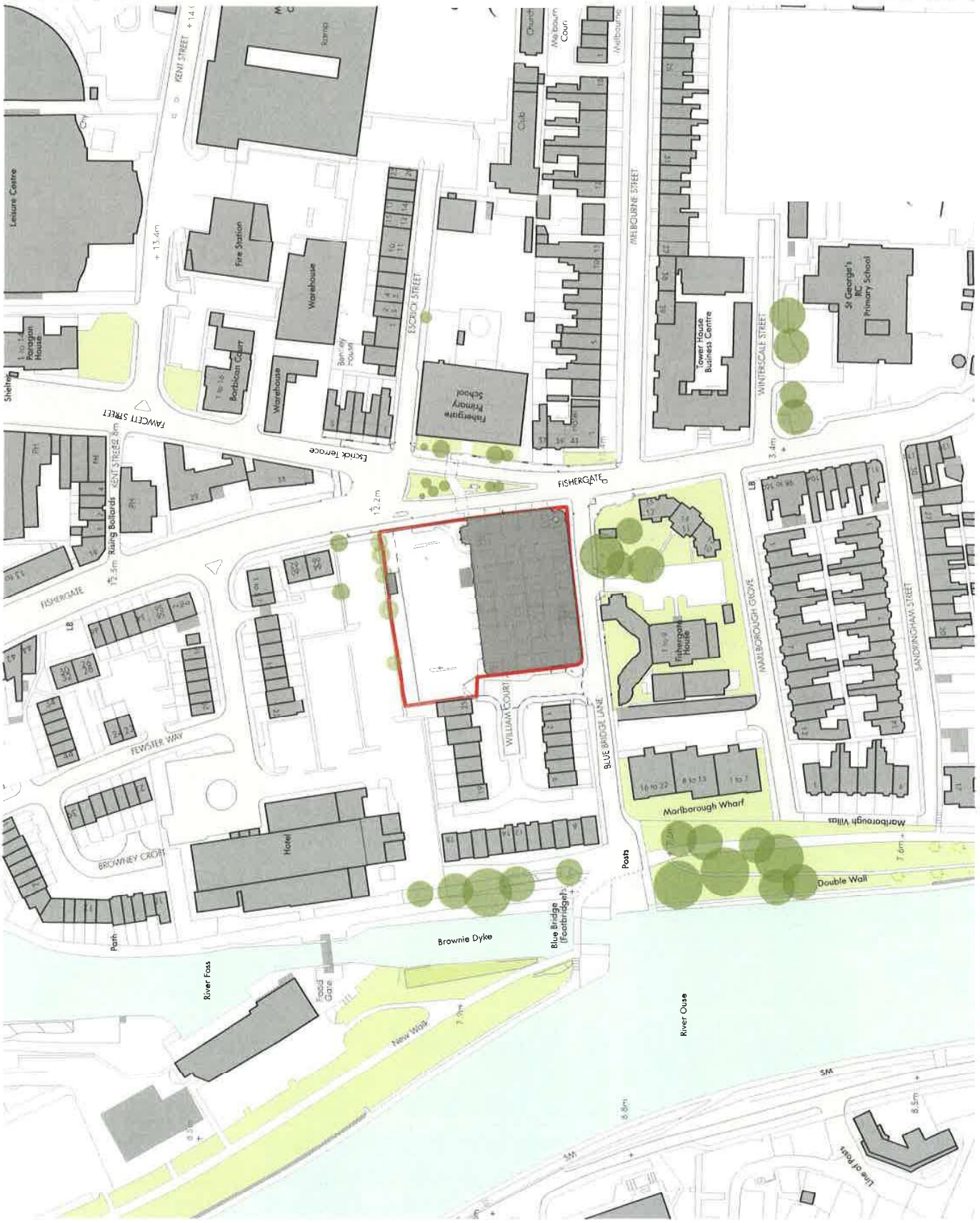
- 1 Save for the sum referred to in clause 18.1 to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree.
- 2 To pay to the party who made any payment to the Council under this Deed such amount of any payment which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within eleven years of the date of receipt by the Council of such payment if requested to do so in writing by the Owner within eleven years of the date of receipt of the payment.
- 3 Within twenty Working Days of receipt by Council of a written reasonable request of the Owner to provide written confirmation of the expenditure by the Council of the sums paid by the Owner under this Deed.
- 4 Upon the written request of the Owner or any party who paid any sum to the Council under this Deed, to provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

APPENDIX 1
The Plan

THIS PLAN HAS BEEN DRAWN BY THE ARCHITECTS AND ENGINEERS OF THE FIRM OF GUY, LAWRENCE & JONES, ARCHITECTS AND ENGINEERS, 15, RIVER STREET, SOUTHAMPTON, SOUTHAMPTON, SO9 1AR. THE ARCHITECTS AND ENGINEERS HAVE BEEN ADVISED BY THE CLIENT THAT THE INFORMATION PROVIDED TO THEM IS TRUE AND CORRECT. THE ARCHITECTS AND ENGINEERS ACCEPT NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM THE USE OF THIS PLAN, WHETHER OR NOT SUCH LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, INCLUDING NEGLIGENCE OF THE ARCHITECTS AND ENGINEERS. THE ARCHITECTS AND ENGINEERS ARE NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM THE USE OF THIS PLAN, WHETHER OR NOT SUCH LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, INCLUDING NEGLIGENCE OF THE ARCHITECTS AND ENGINEERS. THE ARCHITECTS AND ENGINEERS ARE NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL LOSS OR DAMAGE, ARISING FROM THE USE OF THIS PLAN, WHETHER OR NOT SUCH LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, INCLUDING NEGLIGENCE OF THE ARCHITECTS AND ENGINEERS.



Site Development Boundary
Extent of Site Title



NO.	DATE	REVISION	BY
01	15.04.11	Prepared as comment	Dr. CP
02	15.04.11	Comment	Dr. CP



GWPA
CONSULTING ARCHITECTS
15, RIVER STREET
SOUTHAMPTON, SOUTHAMPTON, SO9 1AR

PROJECT NO: 111250/043
DATE: 15.04.11
DRAWN BY: DR. CP
CHECKED BY: DR. CP
DATE: 15.04.11

Rialto House, Fishergate, York



Location Plan	
Name	2101-GWP-01-XX-DR-A-(PA)-0001
Scale	1:1750 @ A3
Drawn/Checked	Dr. CP
Revision	PK02
Project No.	111250/043
Sheet No.	15.04.11

APPENDIX 2
Draft Planning Permission

DRAFT DECISION



Approve Planning Permission

TOWN AND COUNTRY PLANNING ACT 1990

To:

Miss Charlotte Hatton
DPP
One Park Row
Leeds
LS1 5HN

Application at:

Mecca Bingo 68 Fishergate York YO10 4AR

For:

Demolition of existing buildings and redevelopment of the site to form 275no. room purpose built student accommodation with associated car parking, landscaping and facilities

By:

Petrina Ltd And Grantside (North Star West) Ltd,

Application Ref No:

21/01605/FULM

Application Received on:

15 July 2021

CONDITIONS OF APPROVAL:

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

Drawings 451 2101 GWP-

Location Plan

01 XX DR A PA 0001 PA02

Demolition Plan

01 XX DR A PA 0003 PA02

Site Plan

01 XX DR A PA 0010 PA16

Floor Plans

01 00 DR A PA - 0012 PA17, 0013 PA12, 0014 PA12, 0015 PA14, 0016 PA14

Elevations

01 XX DR A PA - 0020 PA13, 0021 PA13, 0022, PA10, 0023 PA10, 0024 PA10

Sections

01 XX DR A PA - 0031 PA06, 0032 PA06

Details

01 XX DR A PA - 0040 PA04, 0041 PA06, 0042 PA04, 0043 PA04

Sub-station

01 00 DR A PA 0050 PA10

Cycle provision

01 00 DR A PA 0055 PA15

Landscaping proposals by encon drawing A5102 01 rev J

Tree Protection Plan DR-5473-02 by Brooks Ecological (contained in Arboricultural Impact Assessment)

Construction management plan

Waste management strategy by Curtins revision V03.

Student Traffic Management Plan 078912-CUR-00-XX-RP-TP-004-V04_TS revision V04

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

3 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.

4 Restricted hours of construction

During the construction period, the hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

5 Construction Management

The construction of the development hereby permitted shall be carried out in full adherence with the construction management plan revision A dated 19.5.2021.

Reason: To minimise the impact on residential amenity and the highway network during construction, in accordance with NPPF paragraphs 110, 130 and 185.

6 Archaeology

A programme of post-determination archaeological mitigation initially an archaeological strip of the site followed by a level of excavation is required.

- a) No intrusive investigation or development shall commence until an Archaeological Remains Management Plan (ARMP) has been submitted to and approved by the local planning authority in writing. For land that is included within the ARMP, no intrusive investigation or development shall take place other than in accordance with the agreed ARMP.
- b) The initial site investigation shall be completed in accordance with the programme set out in the ARMP approved under (part a). The ARMP will be updated accordingly with a full mitigation strategy.
- c) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the approved ARMP and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the ARMP.
- d) A copy of a report and evidence of publication shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF as the site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be preserved in-situ or recorded prior to destruction.

7 Drainage - existing infrastructure

No development shall commence until measures to protect the public sewerage and water supply infrastructure that is laid within/adjacent to the site boundary have been implemented in accordance with details that have been submitted to and approved by the Local Planning Authority (in consultation with the statutory undertaker).

The details shall include -

- The means of ensuring that access to the pipe(s) for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.
- If the required stand-off or protection measures are to be achieved via diversion or closure of the sewer(s) or water main(s), the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

Reason: Required prior to commencement in the interests of public health and maintaining the public sewerage and public water networks (maintained by Yorkshire Water), in accordance with sections 12 and 15 of the NPPF.

8 On-site drainage

The site shall be developed in accordance with the drainage strategy as detailed in the Tier Consult report dated May 2021. Surface water will discharge via storage with a restricted discharge of 27.5 (twenty seven point five) litres per second.

Prior to development (excluding demolition) full details of the site drainage shall have been submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved details.

Details shall include -

- Consideration must be given to the use of soakaways. Discharge to the public sewer shall only be permitted if it can be evidenced soakaways are

unsuitable (through an appropriate assessment carried out under BRE Digest 365).

- Storage volume calculations, using computer modelling, which 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 30% 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.
- Existing and proposed ground levels.
- Future management and maintenance of the proposed drainage scheme.

Reason: In the interests of preventing increased flood risk, as required under NPPF section 15, policy ENV5 of the 2018 eLP and the City of York Council Sustainable Drainage Systems Guidance for Developers.

9 Land contamination - site investigation

Prior to development (excluding demolition) an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons. A written report of the findings shall be produced, submitted to and approved in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to

controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 Land contamination - remediation

Prior to development (excluding demolition), a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to

controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 Sustainable design and construction

Prior to commencement of construction of the development details of the proposed building design, to reduce carbon emissions, shall be submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

The details shall evidence either a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations 2013 or compliance with any approved Part L document dated 2021 or thereafter.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Publication Draft Local Plan 2018.

14 Materials

Manufacturer's details of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. They shall be made available for review on-site, at the discretion of the Local Planning Authority. The development shall be carried out using the approved materials.

Sample panels of the brickwork to be used shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork/ stonework and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works within that phase. These panels shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of good design, in accordance with section 12 of the NPPF.

15 Large scale details

Details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development and the works shall be carried out in accordance with the approved details.

- a) Typical sections at 1:20 or 1:10
- b) Detail of roof between paired gables on elevation 03 (where increased roof pitch introduced).
- c) Boundary treatment
- d) Cover to external cycle store

Reason: In the interests of good design, in accordance with section 12 of the NPPF.

16 Noise

Prior to commencement of construction of the development a detailed scheme of noise insulation measures for protecting the approved student accommodation rooms from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

The scheme shall demonstrate that the building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework paragraph 130.

17 Landscaping scheme

Prior to first occupation of the development hereby permitted the approved landscaping scheme, as shown on drawing Landscaping proposals by encon drawing A5102 01 rev J, and on the approved sub-station and site plan drawings shall have been fully completed.

Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority. The areas of landscaping, as shown on the approved plans, shall be maintained as such at all times.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of amenity, good design and the character and appearance of the conservation area.

18 Bat habitat

Prior to first occupation or use of the development four integrated features providing roosting facilities for bats shall be constructed within the fabric of the new building, and four boxes for nesting birds.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF.

19 Provision of servicing areas, cycle storage and making good of the highway

Prior to first occupation of the development hereby permitted the areas shown on the approved plans for parking and manoeuvring of vehicles and cycle parking facilities (as shown on 2101-GWP-01-00-DR-A-(PA)-0055 PA11) shall have been constructed and laid out in accordance with the approved plans, and all existing vehicular crossings not shown as being retained on the approved plans shall have been removed by reinstating the kerb and footway; to match adjacent levels. Thereafter all such servicing areas shall be retained solely for such purposes.

Reason: In the interests of highway safety and good design, in accordance with sections 9 and 12 of the NPPF.

20 Plant and machinery

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00, measured at the site boundary with any neighbouring dwelling, when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area, in accordance with the National Planning Policy Framework paragraph 130.

21 Electric vehicle charging facilities

Prior to first occupation of the development hereby permitted a minimum of 1 Electric Vehicle Recharging Point shall be provided on site which is accessible from the approved car parking spaces. The charging point shall incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle.

In addition, a minimum of 1 additional parking bay shall be identified for the future installation of additional Electric Vehicle Charging Point. This additional bay shall be provided with all necessary ducting, cabling and groundwork to facilitate the addition of Electric Vehicle Charge Points in the future, if required (passive provision).

The Electric Vehicle facilities shall be retained thereafter and reasonably maintained at all times and be available for the charging of electric vehicles.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and NPPF paragraph 112.

22 Site security

Prior to first occupation of the development hereby permitted a scheme detailing site security measures shall be submitted to and approved by the Local Planning Authority. The development shall operate in accordance with the approved details. The scheme shall detail -

- Access control measures at the site and into cores within the building.
- CCTV coverage for the cycle stores
- Access restriction measures to ground floor windows

Reason: In the interests of good design, in accordance with NPPF section 12.

23 Site and student management plan

Prior to first occupation of the development hereby permitted a site and student management plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times be managed and occupied in full accordance with the approved site and student management plan. The plan shall include the following details -

- Measures to prohibit student parking on or in the vicinity of the Site (save for temporary parking arrangements in accordance with the move-in procedure).

- Imposition of tenancy restrictions to prevent student tenants being a keeper of or in control of a car within 400m of the Site and measures taken to enforce such restriction, including annual parking surveys in the surrounding area.
- Maintenance of servicing and waste collection facilities.
- Provision of staff on-site.
- Strategy for dealing with any complaints from the public.
- Measures to ensure on-site staff will monitor excessive noise and raise issues with residents.
- That the student tenancy agreements include clauses relating to anti-social behaviour.
- Measures to ensure no deliveries or pick up /drop off by taxis etc. at the main entrance (where no parking is permitted on Fishergate).

Reason: In the interests of the amenity of local residents and highway safety, in accordance with NPPF sections 110 and 130.

24 Travel Plan

Within six months of first occupation of the development hereby permitted a Full Travel Plan, prepared by the site operator shall be submitted to the Local Planning Authority for approval in writing. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan as approved.

The plan shall adhere to National Planning Policy Guidance, in providing objectives, monitoring and meeting the identified objectives. It shall include details of the Travel Plan co-ordinator and details for monitoring cycle usage and providing extra facilities subject to demand.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly annual travel surveys carried out over period of 4 years from the first survey shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

25 Student accommodation only

The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City. The operator of the development shall keep an

up to date register of the name of each person in occupation of the development together with course(s) or conference(s) attended, and shall make the register available for inspection by the local planning authority on demand at all reasonable times.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, in accordance with Policy H7 of the 2018 Publication Draft Plan.

26 Use of parking spaces

The parking spaces within the site shall only be used for the following activities -

- Charging of electric vehicles
- Accessible parking
- As a space for use by city car club vehicles (or similar car share arrangement)
- Any temporary parking required in association with the servicing or maintenance of the development hereby permitted, or at the beginning/end of term time, as specified in the Student Traffic Management Plan (as referred to in condition 2).

Reason: In the interests of promoting sustainable travel and accessibility.

27 Communal uses

The development hereby permitted shall include the whole of the amenity space and facilities for occupants, in accordance with the approved floor plans, and retain them as such at all times.

Reason: In the interests of good design and amenity.

28 No gate, door or other opening shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

29 Sub-station(s)

The sub-station(s) hereby permitted shall be spaced at least 3 metres from the side boundary shared with 25 William Court, as shown on Sub-station drawing 01 00 DR A PA 0050 PA10. There shall be no louvres on the west elevation of the sub-station.

The combined noise level of the sub-station buildings and all associated plant shall not exceed 28dB(A) when measures at the site boundary with William Court (as defined in the Substation noise assessment dated 17.12.2021)

Reason: In the interests of neighbours amenity, in accordance with NPPF paragraph 130.

Date:

Becky Eades

Head of Planning and Development Services

FOR RIGHTS OF APPEAL, SEE OVERLEAF

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: sought amended plans to address issues regarding design and through the use of planning conditions.

2. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

3. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

Appeals to the Secretary of State

If you are aggrieved by the decision of the City Council to attach conditions to the grant of planning permission, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within SIX months of the date of this. You must use a form which you can get from The Planning Inspectorate, at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (tel: 0303 444 5433) or which can be downloaded from their web site (<https://www.gov.uk/appeal-planning-inspectorate>).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the City Council could not have granted planning permission for the proposed development, or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the Development Order and to any directions given under the Order.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

Purchase Notices

If either the City Council or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state, nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the City Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances, compensation may be claimed from the City Council if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 120 and related provisions of the Town and Country Planning Act 1990.

Note

This permission does not absolve you from the need to obtain approval under the Building Regulations, or to obtain approval under any other Bye-Laws, Local Acts, Orders, Regulations and statutory provision in force, and no part of the proposed development should be commenced until such further approval has been obtained.

**EXECUTED as a DEED by
GRANTSIDE (NORTH STAR WEST)
LTD**

acting by [a] ~~name of~~ ^{STEVE DAVIS} director in the presence of:



Witness' Signature:



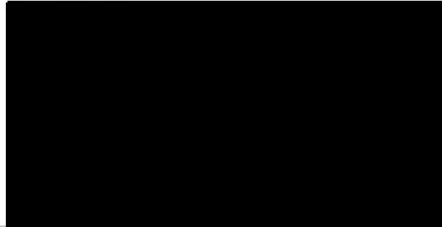
Witness' Name: ALESSANDRA NANI

Witness' Address:

Director
ANDREW JACKSON
SOLICITORS LLP
FOSS ISLANDS HOUSE
FOSS ISLANDS ROAD
YORK YO31 7UJ

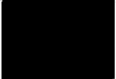
I confirm that I was physically present when

signed this deed



**EXECUTED as a DEED by
TOGETHER COMMERCIAL FINANCE
LIMITED**

acting by [a] ~~name of~~ ^{BARRY MATHEWS AS ATTORNEY} director in the presence of:



Director ATTORNEY

Witness' Signature:



Witness' Name:

Witness' Address:

Rhiannon Parker
Lake View
Lakeside
Cheadle
SK8 3GW
Post Funding Executive

I confirm that I was physically present when

signed this deed]

**EXECUTED as a DEED by
PETRINA LIMITED**

acting by [a] [name of] director in the presence of:



Director

Witness' Signature:



Witness' Name:

JULIA FINLAY

Witness' Address:

85 BUCKINGHAM GATE, LONDON, SW1E 6RD

I confirm that I was physically present when

signed this deed

EXECUTED AS A DEED but not)
delivered until the date hereof)
by affixing THE COMMON SEAL)
of THE COUNCIL OF THE CITY OF)
YORK in the presence of:)



13359



Authorised Signatory

Pseudonym: GERARD ALLEN