

COMMITTEE REPORT

Date: 13 December 2017 **Ward:** Holgate
Team: Major and **Parish:** Holgate Planning Panel
Commercial Team

Reference: 17/00476/FULM
Application at: The Carlton Tavern 140 Acomb Road York YO24 4HA
For: Erection of three-four storey 74 no. bedroom care home with associated parking, cycle racks and landscaping following demolition of existing public house
By: Crown Care
Application Type: Major Full Application (13 weeks)
Target Date: 25 September 2017
Recommendation: Approve

1.0 INTRODUCTION

1.1 Members will recall that this application was brought before the Committee in October. At that meeting Members resolved to approve the application. In law, planning permission does not exist until the Notice of Decision is formally issued. Following the Committee, but prior to a decision being issued, correspondence was received from Ms Ennis (a member of the public) and the Victorian Society. As the correspondence raised the prospect of a judicial challenge being made should the planning permission be issued, legal advice was sought by the Local Planning Authority.

1.2 The Officer Report (“OR”) has been updated to refer expressly to some matters that had not been summarised in the previous report, albeit the matters had been considered by Officers in reaching their recommendation, and this does not change. It is established law that ORs should not be interpreted forensically, and it is not necessary to summarise every aspect of the application within the OR. A requirement to do so would disproportionately frustrate the planning system. The purpose of this OR is to put beyond doubt that Officers have considered the building to be a non-designated heritage asset, and therefore a “Heritage Asset” for the purposes of the NPPF. Consequently, the policies in NPPF paragraphs 131, 135 and 136 have been applied. The previous OR had stated that NPPF paragraph 14 applied, because “non-designated heritage assets” were not included in footnote 9 at paragraph 14. However, this list is not “closed”. To clarify, the reason that the “tilted balance” in favour of sustainable development still applies is that neither NPPF paragraphs 131, 135 or 136 apply a higher, more restrictive test. If they did, they would dis-apply the presumption in favour of sustainable development at Paragraph 14. .

1.3 As the proposal involves the loss of a Heritage Asset, Officers had previously considered NPPF paragraph 136 and were satisfied that this had been met, in that

the developers had shown commitment to the build, and there is a need for this type of accommodation in the City. However, this had not been expressly stated in the OR.

1.4 Legal advice has confirmed that providing clarity for Members regarding these issues and remitting the decision back is appropriate in the circumstances. Members are therefore asked to consider the application on the basis of the updated advice in this OR.

1.5 For completeness, express reference is also now made in this OR at paragraph 5.76 to the legal tests relating to European Protected Species that were considered by Officers in reaching the recommendation

2.0 APPLICATION SITE

2.1 The Carlton Tavern Public House, (still trading), together with a smaller building used for accommodation, is situated on the northern side of Acomb Road, approximately 2.5km to the west of York City Centre.

2.2 The site measures approximately 0.5 hectares and rises up from the road with the public house broadly in the centre of the site. There is an amenity and play area to the front, and parking to the rear. A number of trees within the site, and particularly along the site frontage, are protected by a tree Preservation Order (TPO number CYC131).

2.3 The site is bounded by Acomb Road to the south, with residential development on its southern side. The site narrows to the rear with residential flats at Heritage House forming the northern boundary with the Heritage Museum and Bunker, a Scheduled Monument to the north east. Along the western boundary is a police station with the curtilage to an unoccupied old peoples' home beyond. Further residential properties are located on the north-western boundary.

2.4 The building is not listed, nor in a conservation area, however it is locally recognised for its architectural and historical merit. The building is identified on the York Open Planning Forum Local List (NB: this list has no formal planning status). It was constructed as a villa in the late-Victorian period. For the purposes of the NPPF, Officers have treated the building as a non-designated heritage asset, and thus it falls within the definition of "Heritage Asset", where referred to in the NPPF.

PROPOSAL

2.5 Permission is sought for the demolition of the existing Carlton Tavern Public House and associated six-bedroom building used for accommodation together with the construction of a care home over 3 and 4 floors. 22 car parking spaces will be provided together with 5 cycle racks and associated landscaping.

2.6 Highway access will remain as existing. Pedestrian access is provided adjacent to the existing driveway. This comprises an external platform lift adjacent to a small run of stairs. The parking will be provided along the eastern side of the building and at the northern extent. Access for a refuse vehicle will be provided, with bin storage to the north-west of the building.

2.7 The site rises up from the road, with a landscaped open area to the frontage. The layout includes the retention of most of the trees covered by the Tree Preservation Order to the front and sides of the site. However throughout the site some trees will be removed. Landscaped areas to the front of the building and along its western boundary will remain although re-modelled to take account of the larger building proposed and address the needs future residents.

2.8 The proposed care home will be set approximately 21m further forward on the site than the Carlton Tavern. It is also approximately 6m forward of Shelley House which lies to the east, however it will broadly extend the same distance to the north as that building.

2.9 The Design and Access Statement states that it is intended that the building will have a more contemporary design than the apartments to the north and east of the site. Other key considerations stated are to retain the landscaped setting of the building, and utilise the existing entrance. The front of the building has a footprint of approximately 26m by 15m. The width of the site at this point is approximately 50m. The rear section is narrower varying between 17m and 14.5m. The total depth of the building is 15.75m. The ridge height at the frontage is approximately 12.4m.

2.10 It is centrally located within the site and retains much of the existing landscaping around it. However the open space to the front of the building will be reduced due to the position of the care home, forward of the location of the Carlton Tavern. The proposed building is set over four floors, under a mansard roof. The fourth floor is set within the roof space. The front of the building has a relatively contemporary design with a three bay central area, together with two gable elements to either side. Two contrasting bricks will be utilised to visually break up the mass of the building. The right hand element of the front elevation will have projecting brick detailing which has been introduced to make reference to traditional tile hanging. An external chimney is shown on the gable, and the front gables have an overhanging verge to them. The side elevations are also divided with some gables. Balconies are provided to the rooms set back, with angled windows on the projecting gables.

2.11 Discussions have been on-going with the applicant and they were advised of responses from consultees and objectors, together with concerns from Officers in respect to aspects of the design. In the light of this, revised plans and documents were submitted. Of particular importance is that the size of the building was reduced from 79 bedrooms to 76. The changes to the layout included a reduction in the

height of the northern end of the building where it is adjacent to some of the properties on Baildon Close. Further changes were submitted throughout the application process. The changes culminated in a final set of revised plans received. The main changes include:-

- Room numbers reduced to 74 (originally 76) A reduction in the height of the north western part of the building to single storey where it abuts the northern block on Baildon Close.
- A reduction in the ridge height of the rear of the building
- The green buffer between the care home and Shelley House widened to include planting.
- Angled windows to some rooms.
- Deletion of balcony's where they face Baildon Close and Shelley House.
- A reduction in the level of fenestration on the eastern elevation towards the north of the building by reducing the width of the windows.
- A greater offset distance between the care home and neighbouring properties. The distance is now a minimum of 22m from Shelley House and 21m from Baildon Close.

2.12 The bedrooms are grouped together with lounge and dining areas and will be located on the ground, first and second floors. The third floor is within the roof and includes laundries, staff room, cinema, gym, activity room, therapy room, hairdressers and nail bar. The building will be constructed from a palette of bricks under a slate roof.

3.0 POLICY AND LEGISLATIVE CONTEXT

3.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no adopted plan in York. In the absence of a formally adopted local plan, the most up-to date representation of key policy is the NPPF, and it is against this Framework that the application should principally be addressed.

3.2 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017.

3.3 National Planning Policy Framework (NPPF) - See body of the report for relevant sections.

OTHER MATERIAL CONSIDERATIONS

Development Control Draft Local Plan 2005 (DCLP)

3.4 Although there is no formally adopted local plan, the 'City of York Draft Local Plan Incorporating the Fourth Set of Changes' was approved for development control purposes in April 2005. Whilst it does not form part of the Statutory development plan for the purposes of S38, its policies are considered to be capable of being material in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. Such policies carry limited weight. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are:

GP1 Design
C3 Change of use of community facilities
GP3 Crime Prevention
GP4A Sustainability
GP6 Contaminated land
GP9 Landscaping
GP11 Accessibility
GP15A Development and Flood Risk
L1c Provision of new open space in developments
T4 Cycle parking standards
T5 Traffic and Pedestrian safety
T13a Travel Plans and contributions
NE1 Trees Woodlands and Hedgerows
NE6 Species protected by law
HE10 Archaeology
H17 Residential Institutions
SP6 Locational Strategy
SP8 Reducing dependence on the car

Emerging Local Plan

3.5 The Pre - Publication Draft Local Plan is currently being consulted on until October 30th 2017. It is considered that the draft Local Plan policies carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of planning applications.

3.6 The up to date evidence considered relevant to this application includes:

- Strategic Housing Market Assessment (SHMA) 2016
- Strategic Housing Market Assessment Addendum (SHMA) 2016
- City of York Heritage Topic Paper update September 2014
- The Local Plan (2012) preferred options supporting documents - Biodiversity Action plan.

- The Local Plan (2012) Preferred Options supporting document -local Heritage List for York SPD

3.7 The Application has been screened against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This application will fall to be considered under Schedule 2 (10)(b) Infrastructure projects. This application does not meet the thresholds set out in Column 2 of that Schedule and is not considered likely to have significant environmental effects when assessed against Schedule 3 of the Regulations.

4.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management (Forward Planning)

4.1 Initial comments concluded:-

"The provision of additional care home bed space supports the Local Plan's emerging approach, and reflects evidence from the Strategic Housing Market Assessment regarding likely demand due to demographic changes over the period to 2032 and beyond. The involvement of the private sector in delivering such further accommodation is further stated in the Council's Older Persons Accommodation Programme and Older Persons Housing Strategy. As such, we have no objection to the principle of the development."

4.2 In order to address concerns in relation to the loss of the Community Facility the applicant submitted a document entitled Community Use Assessment. In view of this document, the comments of Planning and Environmental Management conclude that on balance they concur that the pub, whilst valued by a sector of the community, is not in wider community use to such a degree that its closure would cause demonstrable harm to community cohesion and well-being, and its loss would not reduce the community's ability to meet its day to day needs. The site's proposed new use as a care home would provide significant community benefit. In the context of NPPF and draft Local Plan policy we would therefore not object to loss of the site's use as a pub.

Planning and Environmental Management (Design and Sustainability)

4.3 Original Comments;- The existing buildings can be considered as a non-designated Heritage Asset. Key to determining a suitable change must be that the balance of benefits of the change when compared with the existing should be positive. The proposed complete demolition of Carlton Tavern is the loss of non-designated heritage assets. This makes it necessary to provide a replacement of sufficiently high quality to counter this loss.

4.4 Due to the value of the existing building, intensification of use should first consider less harmful options, but no evidence of this.

4.5 Because the proposed building is much further forward it will undermine the landscape setting.

4.6 The proposal does not relate to the topography of the site. The site rises up from Acomb road and then tapers down to the rear. The proposal occupies approximately 70% of the plot length and takes the high spot at the peak creating distinctive plinths and unnecessarily raising the building up.

4.7 The height and massing are out of character with the area and the building is too close to Baildon close in places. Suggest exploring the retention and adaptation of existing building as part of a larger scheme with further development to the rear. The building should be articulated as a series of smaller buildings in a landscape setting. Varying component form heights should be considered, i.e. number of floors. Would support the need for interior alterations.

4.8 Further comments:- In relation to the additional information, the previous observations still stand. If no other design comes forward the officer should be satisfied that there are sufficient merits for the overall proposal to balance these comments.

Landscape Architect

4.9 Original comments: Consider that the building is too large for the site; the protected trees are threatened by construction operations and the proximity of the canopies to the building; and the outdoor amenity space for residents and visitors is unsatisfactory.

4.10 Revised comments following a meeting between the Landscape Architect, and the Arboriculturist acting for the applicant.

4.11 In summary the revised comments conclude that the risk to the trees posed by the development, in theory could be reduced to an acceptable minimum with a suitably detailed AMS and supervision on site, with the exception of the proposed steps and wheelchair lift at the entrance Oak tree T8 should be retained by reinstating the 'as existing' kerb line on the drawings.

4.12 For information tree T8 has now been retained.3.19. There is still concern over the degree of shading to living quarters in the south west and south east portions of the building.

Network Management - Highways

4.13 The proposed development re-uses the existing vehicular access. It is considered to be suitable to serve the proposed development in terms of width and

visibility. Car parking is in accordance with CYC maximum standards and is supported by the applicant's experience of operating other sites.

4.14 The site is in a sustainable location with bus stops and local facilities within recognised national walking/cycling distances.

4.15 The surrounding highway is protected by various traffic regulation orders and the applicant has indicated that they are willing to provide funding towards any traffic restrictions that may be necessary. Officers would therefore seek £3,000 for traffic restrictions (NB works or alternative arrangements including a contribution to works can be secured by condition). Recommend conditions.

Planning and Environmental Management (Ecology)

4.16 An initial bat survey of the building concluded that the public house currently supports small numbers of roosting Common Pipistrelle bats, which emerged from under the wooden fascia on the north eastern elevation. Six trees were identified as having potential to support roosting bats; these will all be retained as part of the proposals. In combination all of the trees provide suitable foraging habitat for bats and provide connectivity into the wider area.

4.17 The vegetation on site, and the buildings, provide suitable nesting habitat for birds. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended).

4.18 In the light of the survey, there is no objection to the development subject to conditions to secure bat mitigation, and the submission of a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or 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.

Planning and Environmental Management (Archaeology)

4.19 The site is of archaeological interest due to its historical, architectural and social significance from its use as a nursery and public house. The smaller building at the back is more recent. The adjacent villa, Shelley House, was demolished several years ago leaving the Carlton Tavern as one of the last Victorian villas on Acomb Road. Therefore strongly recommend that the building is converted and extended instead of being demolished.

4.20 There has been no known archaeological intervention on this site. Whilst it is outside the Acomb Area of Archaeological Importance, the proposed development runs along a possible Roman route way from York to Acomb following higher ground. Evidence of Roman activity in the area is attested by burials in the West Park area to the south west, and a Roman Mosaic pavement at Acomb House, Front Street.

Later archaeological deposits relating to the medieval period onwards may also exist on the site, particularly within undisturbed area.

4.21 As recommended, archaeological evaluation by trial trenching has been carried out, the finding of the trenches concludes that it is unlikely that any remains survive to the south of the building. However it is possible that less damage has occurred to the rear of the building.

4.22 Having reviewed the results, recommended that any permission on the site is conditioned to require a Written Scheme of Investigation.

Adult Social Care

4.23 (NB: Figures updated in the light of recent planning consents for two care homes at Burnholme and Fordlands).

4.24 Support the proposed care home development because;

- It delivers good quality residential and nursing care provision, giving life to the CYC's Older Persons Accommodation Programme as agreed by Executive on 30th July 2015.
- Using national benchmarks, York is currently short of 657 residential and care beds and because of anticipated 50% increase in 75+ population in the city and the expected closure of care homes that are no longer fit for purpose that shortfall will have risen to 820 by 2020, if no new homes built and 1520 by 2030. Even if the calculation takes into account sites that are subject to planning applications that are currently being considered, and in the knowledge that a further planning application may be forthcoming on land at Lowfield Green, York will still have a shortfall in care beds of 608 in 2020 and 1290 in 2030.
- The proposed residential care facility is in a good location of older residents as close to shops and other facilities.
- Particularly pleased with design and layout taking into account the needs of older people and particularly those with dementia. Especially the provision of a range of communal facilities that promote health and being, socialisation, café area and options for sitting and meeting friends, accessible and safe external gardens and terraces which will allow easy walking which is very beneficial for those with dementia.
- The provision of care suites which are large enough to accommodate couples is in short supply. Care home of this quality should be available to all citizens, and urge the developer to work with the Council and make

available some beds for local authority nominated clients, by negotiation and at a price that references the Actual Cost of Care rate paid by the Council.

Public Protection (Environmental Health)

4.25 Based on submitted noise levels, noise is not a limiting factor subject to a condition requiring a noise insulation scheme. Require condition in relation details of all machinery, plant and equipment to protect neighbour amenity.

4.26 Recommend condition regarding Construction Environmental Management Plan, together with lighting details, and a condition requiring details for treatment of cooking odours.

4.27 In relation to contamination, the report found low risk of contamination but a condition in respect of unexpected contamination is recommended.

4.28 Recommend one space for electric vehicle re-charging.

EXTERNAL

Holgate Planning Panel

Object on planning grounds:

- Loss of local amenity
- Loss of local community asset
- Loss of Heritage building important to the local area.

Yorkshire Water

4.29 No objection, however no evidence of positive drainage has been provided and the discharge rate is based on areas only assumed to drain to public sewer. Evidence of existing impermeable areas positively draining to the public sewer is required to prove rate of discharge. Recommend condition.
Ainsty internal Drainage Board

4.30 The Board recommends that the applicant carries out soakaway testing to accommodate a 1:30 year storm event, plus a 20% allowance for climate change. If testing proves unsatisfactory, the applicant will have to re-consider their drainage strategy. Conditions recommended.

Victorian Society

4.31 Comments initially made

Object:

- The development will entail the total and unjustified loss of a locally significant building, and harm to the quality and character of the local streetscape. The building is referred to in the Buildings of England as one of "two large 1880s gabled villas, tile-hung and half timbered". Inclusion within the book is evidence of the building's merit and interest.
- Its generous proportions, richness of elevation treatment, tall chimneys and notable detailing, make it an accomplished and highly impressive edifice. The historical and community associations derive not just from the building's use as a public house, but from its former guise as the Godfrey Walker Nursery, a use it served from 1946. In our view the building satisfies the selection criteria for inclusion on the Council's list.
- A core planning principle is that heritage assets are "conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations"
- Reference is made to the National Planning Policy Framework and the weight to be attached to the desirability of preserving or enhancing the significance of heritage assets, and account to be taken of the effect of applications (*relating to a heritage assets*) on the significance of a non-designated heritage assets.
- National policy presumes in favour of sustainable development. The protection and sensitive management of the historic environment is a key part of the environmental aspect, the scheme neglects this by proposing the loss of a locally significant building.
- The NPPF asserts that good design is a key to sustainable development, new development should respond to local character and history and reflect the identity of local surroundings and materials, and should promote or reinforce local distinctiveness. The proposed building would fall short of the quality and character the site, its surroundings and national policy demand. Therefore it is not sustainable development.

The Council should inscribe the building on its Local List and ensure its preservation, in the first place by refusing this inappropriate and harmful application.

4.32 Additional comments received after Planning Committee on 18th October 2017.

- Concerned to note that the decision to approve appears to have been taken on the basis of several crucial errors.
- insufficient evidence for the justification for the demolition of The Carlton Tavern. Cannot find reference in any of the Design and Access Statement Documents of Heritage Statement to the justification set out in paragraph 4.29 of the officers' report.
- Concern that it was stated by several Councillors that the Carlton Tavern is not a heritage asset. This is incorrect. The Carlton Tavern is explicitly considered by all parties, including the Local Authority to be a non-designated heritage asset. It is therefore a 'heritage asset' in the formal terms of the NPPF.
- There are different degrees of heritage significance. There is a sliding scale of heritage significance within the wider category of 'non designated heritage asset'. In the case of the Carlton Tavern the degree of significance is clearly at the upper end of the scale. It is not necessary to have an adopted local list to confirm this.
- Taking this into account, the relevant national planning policy that should be used as a guide to decision making in the case of the proposed demolition of The Carlton Tavern is NPPF Paragraph 131.
- The relevant test when considering harm to a non-designated heritage asset is paragraph 135 of the NPPF.
- It is a statutory duty of the local planning authority to make decisions in line with national and local policies. Any exceptions would require 'clear and convincing reasons' which are not demonstrated here.
- Any harm arising to the non-designated heritage asset will clearly require robust justification, which again is not considered to be provided here.

Conservation Areas Advisory Panel

4.33 Whilst the existing building is not listed the Panel understand that it had been proposed for the Local List and recommended for an ACV (Asset of Community Value). The possible loss of this building, in the style of Pentyl, is regretted and it is felt that the replacement building would be a poor substitute.

York Civic Trust

4.34 Objects, stating:

- The Carlton Tavern is an important non designated heritage asset. Acknowledge the submission of a quality heritage statement as part of the revisions and agrees with the Heritage Statement's assessment of the significance of the Carlton Tavern to be considerable.
- Well preserved example of a late Victorian villa set in its own grounds with many of the key features identified with the Domestic Revival style.
- Historic significance
- Aesthetic significance
- The Civic Trust agrees with the Heritage statements assessment that the impact of the demolition of the Carlton Tavern is 'considered to cause substantial harm to (this) non designated heritage asset' (p40)
- Applicant's argument that the Carlton Tavern would have to be demolished is not sufficiently compelling. Queries whether it is not possible through the positive use of constructive conservation and good design that the existing villa can be connected with a new development wing of care home bedrooms to the rear. Also whether some of these non-residential functions could be housed in the existing Victorian villa.

4.35 In conclusion, the Trust believes that the demolition of the Victorian villa is not justified due to its heritage associations, good condition and existing use. Therefore the objection is maintained. The Trust further believes that a solution can be found to incorporate the villa with new residential care provision and attached to the rear. Urge applicants to consider this.

Council for British Archaeology (CBA)

4.36 The CBA objects to the application for the demolition of The Carlton Tavern which is a locally listed building of clear heritage value. Demolition would result in significant harm to the heritage asset. The applicant has not provided a clear and convincing justification for demolition in accordance with paragraph 132 of the NPPF. The CBA advocates conversion.

SAVE Britain's Heritage

4.37 Strong objection; The Carlton tavern has considerable historic and architectural interest, which is evidenced in the local listing. Its demolition would substantially harm the character and quality of the local area. The applicant's own Heritage Statement concludes that the building has considerable evidential, historic and architectural value and demolition would cause substantial harm. There are significant local and national objections to this application. The building is being

used currently and is clearly capable of being used for an alternative purpose. The onus is on the applicant to demonstrate why demolition is necessary but no case has been made.

York Conservation Trust

4.38 Object to the demolition of the villa. The property has sufficient historic, architectural and communal significance to ensure that it should be saved if at all possible. The justification provided for demolition does not consider other possible uses.

PUBLICITY

4.39 A letter has been received from Councillor Keith Myers (Acomb Ward) who objects to the proposed demolition of 'this unique building in Acomb' and would like to encourage the developers to keep the building intact and incorporate it into a new scheme so that future generations can admire this wonderful mansion.'

4.40 Councillor Sonia Crisp – Holgate Councillor, objects for the following reasons:

- Loss of community facility as it was a viable public house.
- Destruction the street scene. A beautifully designed house set back in lovely grounds. To demolish it would be a crime.
- Over saturation of care homes. Oak Haven is to be re-developed almost next door.
- We must preserve much loved houses outside the city centre. Everyone knows this building in Holgate and Acomb. To demolish it would be a crime.

The consultation was poor and not conducted in an appropriate place.

4.41 A letter from Councillor Andrew Waller, states that whilst the application is outside the Westfield Ward he has received concerns about the loss of a historic building. There has been considerable interest in other parts of the city to retain buildings which have character and retain links to the heritage of a place. The Carlton Tavern does fall into this category as it is close to the historic Front street Core of Acomb. New life was brought to the former Acomb School building to retain its distinctive appearance to local community and I hope that the same can be done with the plans for the Carlton Tavern building.

4.42 The application was advertised by consultation with immediate neighbours and the erection of a site notice. To date 148 letters of objection have been received which raise the following points;

- The building is of great historic, architectural, community and historic value. This is recognised by the Heritage Statement submitted by the applicant. It is

also recognised by the inclusion of the building in the York Open Forum Local List. The importance of local lists has also been recognised by Historic England who recently issued a Local Heritage Listing Advice note.

- The building fulfils all the criteria of a non designated heritage asset. The building has many interesting features including mullioned windows, tile hanging, half timbering and superb brickwork on the chimneys. Its position behind trees and lawns is a pleasant contrast to the more mundane buildings that surround it. Once destroyed it can never be recreated.
- There are significant local and national objections to the development. The loss of the building would harm the character of the area. The main contribution being the local townscape as a landmark building, its historical significance and contribution to our understanding of the development of York's suburbs, as a children's care home, and for its social and communal significance as a public house. According to the Local Heritage List for York, Supplementary Planning Document (Consultation Draft 2013), 'the City of York Council values York's local heritage.
- The application runs counter to national planning policy in the NPPF by resulting in the loss of an existing heritage asset.
- The building is an example of how architects used to value the aesthetics of the outside of the building whilst combining it with the practicalities on the inside. Residents of a care home will appreciate the older style of building rather than monotonous boxes. Revised plans should be submitted by a conservation accredited architect.
- A 'Sense of Place' is identified by CYC as key objective of forthcoming regeneration vision for Acomb. A beautiful building like this can only help with the drive to make Acomb one of the affluent areas of York. The building forms part of the wider destruction of Victorian and Edwardian early 20th century in the suburbs immediately outside York City Centre.
- No clear case for demolition. Re-development alongside existing should not be a financial objection, with living quarters in the new build. Other business options should be explored including intergenerational community needs including hotels and pubs. We should be preserving our history, i.e. the cold war bunker and Holgate windmill. Visitors to the windmill and bunker are welcome to use the car parking facilities. The only building of age left in the Acomb area. To lose this handsome building and replace it with a bland edifice would be a disaster. It wouldn't be demolished if it was within the city walls.

- Agree in providing care facilities and recognise they are needed in the community, but object to the demolition of an architecturally significant building- an Edwardian Villa on a key thoroughfare that is part of the architectural character of Acomb.
- The proposed building aesthetically detracts from its surroundings due to lack of architectural and historic merit, whereas the current building enhances them.
- As a 16 year old I did my Duke of Edinburgh and had to visit the Godfrey walker children's home every Saturday to help with the children. I now live in Hobgate opposite the building and visit it regularly for a meal.
- Already too many buildings of this period have been demolished to make use of their space for commercial gain. Two organisations, neither from York, are combining to rob our locality of an important building.
- The building could be readily modified to house residents, either as a home or apartments, and there are already too few green spaces along this stretch of streetscape. The Old Rectory on the corner of the Green in Acomb was developed and preserved with buildings erected around it rather than knocked down which was a good compromise and retained a beautiful building whilst recognising the inevitable economics.
- The existing building could be used for a community hub for projects for the local community if the pub is to close?
- if retained, the front of the building could be used for a car park with the existing rear car park used for an extension.
- loss of healthy trees outside which will result in looking into windows.
- The building is a comforting relic of an age of 'dignity and high standards.' It is an excellent example of a type of building that was once common in Acomb. . The negative impacts of the loss of a largely original arts and crafts building and grounds and replacement of a building of questionable quality are not balanced by any local public benefit.
- Despite strong objections, Oak Haven was closed by the council in 2016. There is an empty care home next door but one, and should also consider Low Field Green, and the Old Manor School.
- Should ensure that all the trees shown on the plans are kept as part of the development, they are a pleasing aspect of the area.

- Despite some of the noise from the public house, it is a lovely building architecturally.
- Huge loss to community, and negative impact on Acomb. It is one of the largest pubs in the area, and has the biggest garden, car parking area and one of the few pubs that provides food on a daily basis. Asset of Community Value should be a material consideration. Accessible to those without a car.
- Dispute Marston's claim that it is not a profitable pub. No evidence that different owners would not be able to make the business viable.
- do Question the location for the care home given the loss of amenity that will result. Likely to be a number of potential sites in York suitable for a new care home, but once the Carlton tavern has gone, they will have lost an asset for ever.
- It is a waste of resources and not environmentally friendly to destroy a building and rebuild on the same site.
- Not a good idea to have so many similar premises in the same area. Oak Haven is virtually next door. Uphill access not appropriate for a care home.
- The care home will increase traffic congestion. Insufficient parking spaces provided. Opposed to the plans for a pedestrian access which is directly adjacent to neighbouring property
- Does appear to be a master plan for care provision covering this site, the neighbouring Police and Oak Haven sites together with others in Acomb including Low Field Green.
- Bat roosting- A European protected species licence will need to be secured to lawfully protect bats.
- Four storey building, as it will allow no light to an adjacent property. Which only gets natural daylight during the afternoons and evenings. The solar study is not a true representation of the impact of natural light and should be re-calculated. The building is unsightly and overbearing and will take away light and outlook of sky and trees. Lounge/dining will look overlook into adjacent property. Loss of daylight, will require electric lighting at a cost. . Residents and visitors can look over balcony to adjacent property.
- It might appear the revised plans are better but that is only because it was so enormous originally
- The original notification of the care home plan did not include the fact that it

was to be four storeys high? Issues with notification letters arriving later.

- Concern that those with dementia will be on the top floor and rarely get out. They need fresh air, sunshine and daylight.
- The Carlton Tavern is a haven of green space amongst concrete modern construction where families can gather. Desirable to retain the garden to the front and trees.
- A shame that the council is allowing the applicant and owner from outside community to push through an 'expedient' solution rather than trying to invest in, and preserve our history.
- Do not object to conversion to care home but so many of the Victorian Villas of York's grandees have been swept away in the last forty years; Nunthorpe Hall, The Ashcroft, Burnholme, Burton Croft et cetera. The City is losing a contiguous part of its history, every time a villa of the 1870s-1890s is destroyed. As a city saying that our representative stock of fine architecture has a gap between the 1880s to the 1980s? It tells York's story and gives the city its special character.
- A community project would create community cohesion and bring more jobs to the area in the long run. It would help regenerate Acomb. Acomb/Holgate is now a popular area full of young working families with no resources
- There are enough luxury flats in York
- As a childminder I ensure that the children in my care know all about the history of this wonderful building. To lose it would be a terrible shame and would undoubtedly mean that its story would be lost in history too.
- Demolition is not a sustainable option as The Carlton Tavern building is capable of continuing use.
- Object to the construction of a nursing home on the site. I feel that it would be far better suited to a community use as proposed by Social Vision. There is a lack of facilities in the immediate area.
- It is important to have a mix of housing and businesses in Holgate Ward.

4.43 letter of objection has been received from Councillor Stuart Barnes, and

includes the following;

- Plans for a new venture at the site that has been referred to in the Press.
- Given the heritage value of the site and its status as an Asset of community Value, time should be given for the delivery of an alternative proposal.
- Many of the residents from the Acomb Ward use the pub and are familiar with the site. I have repeatedly heard residents stating that the area needs more quality restaurants. It appears that there is a possibility of supporting others to deliver this whilst enhancing the heritage features of the Carlton Tavern.

In relation to the objection to the pedestrian access, this has now been deleted from its location adjacent to Baildon Close.

5.0 APPRAISAL

Key Considerations:

- Principle of use Sustainability of location
- Loss of public house
- Community benefits of the proposal
- Demolition of The Carlton Tavern.
- Design
- Sustainability
- Impact on neighbouring occupiers
- Landscape assessment summing up required.
- Open space
- Ecology
- Access
- Drainage
- Air quality, noise and emissions

PRINCIPLE OF PROPOSED USE

5.1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. In terms of decision taking, the NPPF advises that this means in those cases where there are no up-to-date Local Plan Policies (such as in York), granting permission unless, either:-

(a) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework as a whole, or

(b) There are specific Policies within the Framework which would indicate that development should be restricted.

In terms of 14(b), the footnote to Paragraph 14 details the types of issues which could be considered to fall within this category. Case law confirms this list of examples is not closed, and therefore the fact that non-designated heritage assets are not listed in the footnote does not in itself take the application out of 14(b). However, the specific Policies in the Framework that apply to non-designated heritage assets are at paragraphs 131, 135 and 136. Whilst these policies refer to matters that should be taken into account when determining the application, the policies do not require a more restrictive higher test to be applied in the planning balance, and thus the “tilted balance” in favour of sustainable development still applies. (see *Telford and Wrekin BC v Secretary of State for Communities and Local Government* [2016] EWHC 3073).

Paragraph 17 sets out the Core Planning Principles. These include a number of relevance to this Application. They are that planning should:-

- proactively drive and support sustainable economic development to deliver the homes that the country needs
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- support the transition to a low carbon future in a changing climate and encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment and reducing pollution.
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

5.2 One of the core principles within the NPPF (para.17) states that in decision making, planning should "proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and

thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Section 6 of the NPPF seeks to ensure the delivery of a wide choice of high quality homes. Para 57 references the need to boost significantly the supply of housing.

5.3 The National Planning Practice Guidance (NPPG) (Revision date 01.04.2016) includes a specific reference to housing for older people and states:

“The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013)”.

5.4 The Council does not have an up to date adopted plan, and therefore the NPPF and supporting guidance in the NPPG carries most weight. However some weight can be afforded to the evidence base that underpins the emerging plan. The Council’s Forward Planning team has advised that the provision of additional care home bed space supports the Local Plan’s emerging approach, and reflects evidence from the strategic Housing Market Assessment regarding likely demand due to demographic changes over the period to 2032 and beyond. The involvement of the private sector in delivering such accommodation is further stated in the Council’s Older Person’s Accommodation Programme and Older Persons Housing Strategy.

5.5 This position is reinforced by the response from the Council’s Adult and Social Care Officer who states that York has a significant under-supply of good quality residential and nursing care accommodation which will continue to rise if no new care homes are built. This would have a profound and negative impact on the care and health “system” in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers. It is noted that planning applications have been approved for care provision at Fordlands Lane, Fulford, and Burnholme, with a further planning application likely to be submitted at Lowfield Green. Notwithstanding these applications, the shortfall of residential and nursing care beds is still projected to be 820 by 2020.

5.6 Policy CYH17 of the Draft Local Plan states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions of unimplemented planning permission would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport. It is considered that this policy carries little weight; nevertheless the proposed development does not conflict with it. The nearby care home has closed, and even if re-developed for a similar purpose, it is not considered that the two sites would have an adverse impact on the area. It is considered however that access to facilities is of particular importance to the acceptability of the siting of a care home in this location. In this

case, there are a number of local amenities within walking distance of the site including shops, post office, bank, doctors' surgery, pharmacy, church and library.

5.7 Subject to the consideration below of paragraphs 135 and 136 (loss of Heritage Asset), and section 8, paragraph 70 (loss of community facility), the proposed use accords with the NPPF, and emerging Local Plan policy.

LOSS OF PUBLIC HOUSE AND RESTAURANT

5.8 Policy C3 (Change of use of Community Facilities) of the Draft Local Plan states:-

“Planning permission will only be granted for the redevelopment or change of use of social, health care homes, community and religious facilities where;

A) the proposal is of a scale and design appropriate to the character and appearance of the locality; and

b) it can be demonstrated that the existing land of buildings are surplus to, or no longer capable of meeting the existing or future needs of the local community, or

c) it can be demonstrated that alternative sites for the existing use can be provided.”

Because the Plan is not up to date, or adopted, the weight given to this policy is very limited. Nevertheless, it is considered that it broadly accords with the value that the NPPF gives to community facilities.

5.9 Section 8 of the NPPF relates to promoting healthy communities. Paragraph 70 is particularly relevant to the loss of a public house and includes the following;

“ To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the communities abilities to meet its day-to-day needs.*
- Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”.*

5.10 Letters from objectors demonstrate that the public house is valued locally and provides a community place for different members of society, including families, groups and individuals. This value is heightened by the history and architectural value associated with the building.

5.11 The support in the community for the Carlton Tavern is emphasised by its nomination and listing as an Asset of Community Value (ACV). This means that a qualifying community group can, within six weeks of the listing, notify the Local Authority in writing that they wish to be treated as a potential bidder. On doing so, a six month moratorium on sale is imposed, giving the qualifying community group the opportunity to bid to acquire the ACV. Crucially however, the owner is under no

obligation to sell to them. As such, the owner of the asset may still choose to sell on the open market at the end of the six month moratorium. The application by The Friends of The Carlton Tavern (The Friends), to list the public house as an ACV was received on 21st March 2017 and it was listed on 6th April 2017. The Owner notified the Local Authority of their intention to dispose of the property on 10th April 2017. The Friends confirmed that they wished to be treated as a potential bidder on April 28th 2017. The six month moratorium on the owner selling to anyone else therefore expired on October 10th 2017. The Owner is now free to dispose of the ACV as they wish, and this position is protected until 10th October 2018.

5.12 The applicant has provided information to demonstrate that the groups nominated in the ACV make relatively limited use of the Carlton Tavern. Nevertheless whether that is the case or not does not in itself demonstrate that the public house does not play an important role as a community asset. It is considered however that an appropriate test is to ascertain whether the development would result in the 'unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs' (Paragraph 70 NPPF).

5.13 The proposed demolition has arisen as a result of Marston's decision to sell the site. However the application has also arisen due to the significant need for care provision in the City of York. It has been stated earlier in the report that using national benchmarks, York is currently short of 657 residential and nursing care beds and that this shortfall is likely to rise to 672 by 2020 even with planned provision elsewhere. It is also considered that there are some challenges to finding suitable sites, because, much of York is constrained by Green Belt, and the scale of the building required can be such that locations within conservation areas, or the setting of listed buildings are not acceptable on heritage grounds. The need for the accommodation weighs heavily in the planning balance.

5.14 In terms of The Carlton Tavern, it is noted that the facilities are such that they may appeal to a wide range of customers. Food and drink is served, and the outside space includes attractive grounds and a play area. The applicant has also provided information to demonstrate that whilst the development would result in the loss of a community asset, the day to day needs of the community can in fact be met by other facilities. They state that there are nine pubs within 1 mile of the Carlton Tavern. These include The Inn on the Green, The Fox Inn, The Marcia Grey, The Clockhouse, The Sun Inn, The Puss 'N' Boots, The Ainsty, The Beagle and The Green Tree. It is acknowledged that such facilities do not necessarily provide all the facilities that are available at The Carlton Tavern. The facilities include drinking establishments, and those that provide food. Other facilities such as the play area and outdoor seating can be provided by parks and other open space in the locality, with community buildings providing meeting rooms. It is also of importance that the care home itself as proposed can be considered to provide community facilities that can be used by local people and not just residents.

5.15 The NPPF advises, in Paragraph 69, that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities To help deliver the social, recreational and cultural facilities and services the community needs, Paragraph 70 advises that planning decisions should plan positively for the provision and use of shared space, community and other local services to enhance the sustainability of communities and residential environments;

5.16 The site is located within close proximity to many facilities as detailed above and also residential development. This will provide benefits of integration between the care home and the local community. Furthermore, the submitted documents (Community use assessment, Design and Access Statement, and Addendum A to the Design and Access Statement), state that the care home will ' incorporate space which is accessible and available to the local community both to provide a facility (e.g. a meeting room) and to facilitate inclusion and interaction within the care home'.

5.17 The care home contains an activity room on the third floor which will be available for the wider community to use for meetings and other activities. This can be booked through the on site management team. The applicant has confirmed that they will guarantee the availability of this room for a specified number of hours per week. In addition, the care home has a café/dining facility at ground floor which will be open to the wider community during visitor opening hours. At the third floor level there is a cinema, gym and therapy room which will be open to the over 55's who live in the area. The applicant has advised that they are willing to enter into a section 106 agreement to commit to ensure that there are opportunities for the wider community in particular the wider older population to utilise the facilities.

5.18 It is concluded therefore that the public house is valued by a sector of the community, however given the level of other public houses, open space, cafes restaurants, and places for people to meet, it is not considered that the closure of the Carlton Tavern would harm the well-being of the community, or indeed reduce its ability to meet day to day needs. Furthermore, the use of the site as a care home would also provide community uses, in particular for older people. As such it is considered that the benefits of the development in providing much need care for the elderly and the community facilities to be provided, outweigh the limited weight afforded to policy C3 of the Draft local Plan, and accords with the relevant parts of Paragraph 70 of the NPPF.

DEMOLITION OF THE CARLTON TAVERN

5.19 One of the Government's Core Planning principles as set out in the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In determining planning applications, Paragraph 131 of the NPPF states that local planning authorities should take account of the desirability of

sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Para 135 of the NPPF specifically relates to non-designated heritage assets and states;

“135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

5.20 Historic England reported on September 2017 that they received a request to assess the Carlton Tavern for listing in the national List as a building of special or architectural interest. They concluded that although the Carlton Tavern does not meet the criteria for listing in the national context it undoubtedly adds to the historic character of the neighbourhood and clearly illustrates the middle-class suburban development associated with certain areas of York. As such it is a good example of a particular type of locally listed building which is increasingly coming under threat of demolition. Nevertheless, in a national context, the building does not have the necessary level of interest to be added to the List. Whilst The Carlton Tavern is not included on the statutory list of buildings of special or architectural interest, it is considered that it meets many of the criteria of non-designated heritage assets. It has community value; it has unquestionable architectural value and a high aesthetic design. The site is not within a conservation area, but is roughly equidistant between Acomb Conservation Area, which lies 0.7km to the west, and the St Paul's Square/Holgate Road Conservation Area, 0.8km to the east. Originally called West Garth, the house was built in the early 1880s, and is an example of a late Victorian villa built in the Domestic Revival Style. It formed part of the initial phase of suburban expansion along Acomb Road, and that West Garth was originally one of two villa properties in this area; the second being Shelley House to the west. Shelley House has since been demolished and has been replaced by a large building accommodating flats.

5.21 The house was originally occupied as a private residence, however in 1946 was occupied as a nursery by the Godfrey Walker Home for girls. In 1976, the nursery closed and the building became a children's care home. The building was purchased by Marston's Brewery in 1993 and converted for use as a public house.

5.22 City of York Council does not have an adopted Local List, however the building is locally valued and is identified on the York Open Planning Forum. The forum states that a Local List is a community created register of buildings and structures that are of importance and interest to local communities because of their historic or architectural interest. It is clearly considered to have some significance therefore. The application is accompanied by a robust Heritage Statement that includes an assessment of significance, and justification of harm and proposed mitigation strategy. Whilst the asset is non-designated, the report has followed the criteria as

set out in the document Conservation principles, Policies and Guidance for the Sustainable Management of the Historic Environment (English Heritage, 2008).

5.23 The report ascribes considerable evidential value to the house. This is on the basis that the building is a well preserved example of a late Victorian villa set in its own grounds and including many of the key features identified with the domestic revival style. In terms of historic values, considerable value is placed on the contribution of the building to an understanding of the late Victorian villa development. Neutral value has been placed on the use of the building as The Godfrey Walker Nursery, because 134 Acomb Road was the original property associated with the foundation of the home. Considerable aesthetic value has also been ascribed to the building as a good example of the late Victorian domestic revival. However it states that it is not a specifically regional style, but is found nationally. Considerable value is also ascribed to the visual interest of the building with the 'eye drawn upwards by the chimneys oversized gables and mock jetties. A neutral is attributed to the communal value of the building which it states is related to its amenity value as a public house. Marginal value in terms of bringing together those who lived or worked at the Godfrey Walker Home and later children's care home has been ascribed.

5.24 Of particular importance is that the Heritage Statement states that whilst the building has had a varied history, the exterior of the building remains largely unaltered except for the addition of a single storey extension to the west side and the replacement of conservatory.

5.25 The value of the building has been highlighted by the objections from National bodies, The Victorian Society , Council for British Archaeology and SAVE, with concerns regarding the loss of the building from the Conservation Advisory Pane. The Victorian Society states that the fact that the building is mentioned in Pevsner's 'The Buildings of England' is evidence enough of the building's merit and interest, and with its generous proportions, richness of elevational treatment, tall chimneys and notable detailing, considers that it is an accomplished and highly impressive edifice and, as a result, consider that the building satisfies the selection criteria for inclusion of the Council's Local List. They have pointed out that historical and community associations derive not just from the building's use as a public house. In a similar vein, SAVE Britain's Heritage argue that the building has considerable historic and architectural interest. Consequently, both these bodies consider that the loss of this building would result in substantial harm to the significance of this building and, as a result, this application should be refused.

5.26 York Civic Trust and The Council for British Archaeology also make reference to the rich history of the building which relates to the urban development of western York and social care provision in the City. They further state that The Carlton Tavern is the last of the four grand Victorian/Edwardian villas that were once seen along Acomb Road. The Trust suggests a revision of the proposed scheme to use

constructive conservation and incorporate the existing Carlton Tavern building onto the nursing home scheme.

5.27 In determining applications affecting non-designated heritage assets such as this building the NPPF advises, in Paragraph 135 as mentioned above , that "a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".

5.28 Clearly, the demolition of the Carlton Tavern will constitute substantial harm to an asset which is of local importance. In determining whether this loss is acceptable, consideration needs to be taken of whether the benefits provided by the nursing home outweigh the loss of this non-designated asset. Whilst it is accepted that the building itself is too small to accommodate a building of the size required, in line with paragraph 131 of the NPPF, the applicants were asked to demonstrate whether the building could be converted and extended to provide the accommodation required.

5.29 The Addendum to the Design and Access statement which accompanied the application states that, the applicant had evaluated whether it was possible to reuse the existing building as part of the development. An additional report titled 'Justification for demolition' has also been provided. . This concluded that:

- The square shape of the existing building proves problematic to a re-design for a care home as the partition layout would create a number of oversized or cramped rooms, and also split windows between bedrooms. The footprint is too small, would not represent good economies of scale which requires 68-75 bedrooms and would limit the provision of communal space.
- The existing building does not meet the requirements of Part M of the Building Regulations due to internal level changes. It would not lend itself to a lift being incorporated, and the staircase does not provide adequate provision to satisfy part B of the building regulations in providing refuge zones.
- It does not provide the required level of fire and acoustic separation.
- High standards of acoustic thermal and fire attenuation need to be provided, and the building needs to be constructed of brick and block walls with concrete floor details to ensure fire, sound and heat attenuation.
- Window openings are not an appropriate height for a care home to enable anyone in bed to be able to see out. Views out of a window and natural light are identified as important design considerations.
- New build would be more energy-efficient than upgrading the existing public house.

5.30 Further details refer to the shape of the building and why it would not provide the correct level and layout of building. They advise that utilising the existing building

for the communal space with a new wing of accommodation to the rear has been fully explored and is not feasible because it would not provide sufficient bedrooms. In terms of a care home, the ground floor must incorporate a secure medical store and nurse station, manager's office, accessible WC, administration office lounge and dining space equivalent to 70sq metres. These have to have the correct relationship with each other and proximity to lifts etc. Retention and re-use of the existing building would require the entrance to be at the front of the building. This does not provide level access and would require increased walking from the car park. It is also clear that because the proposed building will be set significantly forward of the existing building that achieving the same level of accommodation is unlikely to be achieved.

5.31 It is considered therefore that sufficient information has been provided to demonstrate why the level of care proposed cannot be accommodated in the existing building with an extension to the rear. It is considered that weight must be given to the experience of the applicant in operating care homes elsewhere and the required working model. As such the decision is required to be made in relation to the submitted application for the demolition of the existing building.

5.32 The consultation response from Adult Social Care states that York has a significant under supply of good residential and nursing care accommodation caused by historic under investment and the strong competition that care home providers face to acquire land. It further states that the shortfall will remain even if planned accommodation comes forward. Members will be aware that other potential sites in the area include nearby Oak Haven. However Officers have been advised that for the type of accommodation proposed, the site is not large enough, and furthermore the site is being considered for the provision of 'extra care' accommodation.

5.33 In relation to the balancing exercise, the loss of the building will harm the character of the street scene and remove a tangible link to the history of the area. In view of the comments by three national conservation bodies, and the analysis in the submitted Heritage Statement. The Carlton Tavern is considered to be a non-designated heritage asset. Whilst considering the balanced judgment required in paragraph 135 of the NPPF it has to be born in mind that it is still not a building of sufficient significance to warrant inclusion on the National List for England, and it is not within a conservation area. In addition, City of York Council does not have an adopted local list. Therefore, the weight that needs to be given to retaining this building is considerably less than if it was a designated heritage asset. Accordingly, a "balanced judgement" has to be reached weighing up the benefits of this application as a whole against the dis-benefits that would result from the loss of this locally important building.

5.34 In reaching a balanced judgement, it is considered that the loss of this non designated heritage asset does not significantly and demonstrably outweigh the benefit of the delivery of accommodation for 74 residents. It is recommended

however that if permission is granted, the proposed mitigation in the Heritage Statement should be subject to conditions. This includes:

- The comprehensive archaeological buildings record of the house and grounds in accordance with Historic England's levels 2/3 providing a descriptive and analytical record of the building comprising a written, drawn and photographic survey.
- Archaeological evaluation
- Careful demolition and salvage of historic fabric to be used in the proposed building or in the conservation of other buildings in the city
- The retention of the boundary walls and;
- Consider preserving the historic value of the former house in ways such as naming the care home to reflect its history and the preparation of publication material on the history of the site to be kept in the building for both residents and members of the public.

OTHER HERITAGE CONSIDERATIONS

5.35 NPPF paragraph 136 states:

“136. Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.”

5.36 Officers are satisfied that there is sufficient evidence from the developer that the development will proceed after the loss has occurred. However, it is open to Members to include a condition requiring the letting of contracts for the redevelopment prior to demolition of the building, if it is felt that such a further step is reasonable to comply with paragraph 136 of the NPPF.

5.37 The Heritage statement identifies that the new development will not be readily visible from Acomb Conservation Area, or St Paul's Square/Holgate Road Conservation Area. Given the distance of the site from these conservation areas, and the context of the site, it is not considered that the proposed development will harm the setting of either conservation area.

SETTING OF COLD WAR BUNKER

5.38 York Cold War Bunker lies to the rear of the Shelley House to the north east of the application site. A small area of its curtilage shares a common boundary. It is a monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979. The monument includes a semi-sunken earth covered headquarters, together with its internal and external fixtures and fittings. The monument was opened on 16th December 1961, replacing a World War II surface building near to York race course. Next to this office building is a small store for radioactive isotopes and the

footings for a timber hut which was used as a cinema for staff training purposes. Although these structures are not included within the area of the monument, the listing advises that they should be regarded as contributors to its setting. The scheduled monument itself is partly underground, and its historic associations are considered to be associated with its interior and history rather than its wider setting. It is therefore considered that the proposal would preserve the significance of the heritage asset.

ARCHAEOLOGY

5.39 There are no recorded archaeological sites within the application site. However there have been a number of features identified in the wider area. In view of this pre-determination evaluation was requested. The evaluation has just been completed, and comprised two 2m by 10m trial trenches in the lawned area to the front of The Carlton Tavern, in order to determine the presence or absence of significant archaeological deposits. The findings confirm that there are little archaeological remains surviving to the south of the building. However there is potential that less damage has been suffered to the north, and therefore it is recommended that any approval on the site is conditioned to require a Written Scheme of Investigation.

DESIGN

5.40 The government attaches great importance to the design of the built environment. Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

5.41 Paragraph 60 states that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. Paragraph 61 continues that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

5.42 However, Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

5.43 Policy GP1 of the Draft Local Plan carries little weight, however it broadly reflects the thrust of the NPPF in seek good design that reinforces local distinctiveness, and is of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate materials.

Para 131 states that:

“ In determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation*
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and*
- The desirability of new development making a positive contribution to local character and distinctiveness”.*

5.44 The applicant has responded to the comments by the Planning and Environmental Management and advised that their design team has amended the proposals to ensure a high quality design solution which compensates for the loss of the villa, with an 'equally aesthetically and architecturally appropriate form of development. They have further stated that the building will be set back 20m from the site boundary which is sufficient to ensure an appropriate landscaped setting to the building. In relation to topography, they state that the need for level access throughout the building dictates finished floor levels. The finished floor level has been set at the existing level at the main entrance, in order to minimise any level changes to the access road which may impact on the root protection areas. In terms of the scale of the building, there is a critical mass and number of bed spaces for a viable care home, and it is not possible to step the building down at the north due to the need for level access.

5.45 Detailed negotiations have been carried out with the applicant throughout the application process, and revisions have been made to the original design, including a reduction in the height of part of the rear portion of the building. The front elevation has also been revised to respond to more traditional detailing in the area. The architects have assessed characteristics of the area and advice that: 'A dramatic roof form, strongly expressed gables, decorative gable chimney, bay windows, and a responsive palette of materials which make historic references to the former building have been incorporated into the design'.

5.46 In terms of scale, there are a number of buildings in the locality of significant scale. This does not just relate to Shelley House, but to the terrace housing that lies to the east and fronts Acomb Road. They are over four storey in height. Indeed whilst set slightly further forward, the ridge height of the proposed building is slightly lower than that of Shelley House. The buildings to the west are of a significantly smaller scale, however the set back of the building, and the mature setting of significant trees, softens the transition between the buildings. It is not considered on balance therefore that the height of the building in itself is unacceptable in the streetscene.

5.47 It is also considered that some of the design elements proposed relate to detailing of buildings in the area. The proportions of the windows set in deep reveals make reference to the windows in the terrace houses to the east of the site. The use of overhanging eaves and the detail of the gable, and brickwork makes reference to some design features on The Carlton Tavern and older houses in the vicinity. It is considered that subject to the use of a high quality palette of materials the building will be of a higher quality than the existing development to the west of the site. Furthermore the choice of materials and the robust detailing of the design are likely to stand the test of time better than inferior quality buildings that have poor quality.

5.48 The Carlton Tavern itself has significant aesthetic interest and architectural detailing, and is also enhanced by its location set back from the road in a well landscaped spacious setting. The buildings that lie immediately to the west of the site do not have a strong aesthetic, and do not in themselves re-enforce local distinctiveness. The police station, former nursing home and Baildon Close are of limited quality. Indeed this is true of much of the development on this side of the road, westwards along Acomb Road. Shelley House makes some reference to elements of surrounding buildings, but again is not truly reflective of the area. It is recognised that by its very nature, a care home is inevitably a large building and inevitably will be designed in a manner where form follows function. This has been demonstrated further in the need for providing level access throughout the building. It is also recognised that in order to provide the level of accommodation required in a building of perhaps two storeys would take a far greater site area that could be unviable. It is regrettable that a viable scheme could not be delivered that retains the original building to the front, with for example a contemporary extension to the rear. This suggestion has been considered in more detail in the Heritage Section.

5.49 The loss of the Carlton Tavern will be a significant loss to the character of the area, both from an architectural viewpoint, of a high quality building in a landscaped setting, but also because of the history of the building which is important to local people. Given the loss of a building of such architectural merit, it is not considered that the development will result in an enhancement to the character of the area. The proposed building has however picked up on some elements of local distinctiveness in terms of the quality of the materials, the deep eaves, bay window jettied out, strong chimney and the proportions of the windows and depth of the reveals. Furthermore, it is not considered that the new build would be out of keeping with the general character of development on this part of the northern side of Acomb Road. The integration of the building and use in the locality, and the provision that it will itself provide accords with that part of Paragraph 64 that relates to improving the way it functions.

5.50 The acceptability of the building in design terms is finely balanced and is inter-related with the demolition of a building of local significance. However, it is considered that subject to a high specification for all materials, the scale of the building is acceptable, and the design references to characteristics of local vernacular are on balance acceptable.

SUSTAINABILITY

5.51 Policy GP4a of the Draft Local Plan states that all development should have regard to the principles of sustainable development. This requires that development demonstrates the accessibility of the site by methods other than the car, and to be within 400m of a frequent public transport route. Section 10 of the NPPF relates to meeting the challenge of climate change, flooding and coastal change, and within Paragraph 95 states that local planning authorities should plan for new development in locations and ways which reduce greenhouse gases.

5.52 The application site is within close proximity to public transport routes. The Design and Access statement identifies that the closest bus stop to the site is less than 300m. This provides access to a number of destinations including York City Centre, Wiggington, Chapelfields, Tadcaster, and other parts of Acomb. There are also many facilities within 400m of the site including shops, a church, and dentist.

5.53 There are also significant facilities within 900m of the site, including more shops, cash points, post office, school, library and working men's club. The site is also within a residential area which will support the potential for those working at the care home to access the site by walking, cycling or the bus. As such it is considered that the development accords with Policy GP4a a) of the Draft Local Plan.

5.54 In terms of the building, the Design and Access Statement advises that the scheme will achieve a level of energy efficiency equivalent to the former Code for Sustainable Homes Level 4, and will incorporate energy-efficiency into the building fabric as per Part L of the building Regulations. Low water-use sanitary ware will be installed. It is also proposed to re-use some of the materials from the existing building where possible. The Design and Access Statement further states that measures to maximise solar gain will be implemented but that overheating of the building is also avoided through passive measures in order to reduce the need for mechanical cooling. Lower water-use sanitary ware and appliances will also be specified. The revised plans show that a green roof will be provided over part of the building, to reduce surface water run-off in addition to benefiting ecology and visual impact. The updated energy statement also advises that photovoltaic panels will be incorporated on the roof. To ensure full compliance with policy GP4a of the Draft Development Plan and section 10 of the NPPF, it is recommended that any permission should be conditioned to require specific details to deliver energy efficiency throughout the building and site.

NEIGHBOUR IMPACT ASSESSMENT

5.55 In terms of the impact of the development on neighbouring occupiers, Policy GP1 i) states that development will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. This is re-affirmed in one of the core planning

principles of the NPPF which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

5.56 The site is surrounded by existing residential development, with flats to the north, west and east of the site, and two storey dwellings to the south across Acomb Road. It is considered that the separation distance between the proposed building and those dwellings to the south is well in excess of distances commonly considered acceptable. It is also considered that the distance of at least 26m from Heritage House to the north is acceptable. Officers however raised significant concerns regarding the proximity of the proposed development to Baildon Close, to the west, and Shelley House to the east. This was in relation to the potential for overlooking, and the overbearing impact. A detailed letter of objection has been received from an occupant on the ground floor of Shelley House. In relation to neighbour amenity the main objections relate to the overbearing impact of the building, loss of outlook, overlooking and appearance of the building. The resident further states that her flat gets very little light due to its location at a lower ground level, and overshadowing from a boundary wall. Consequently the only time of day that the flat receives light will be affected by the new care home. In view of this, the plans have been revised on a number of occasions as detailed in the proposal section of the report.

5.57 Of particular importance is the increase in the separation distances between the Care Home and both Baildon Close and Shelley House. The two and three storey element of the building is now a minimum of 21m Baildon Close. The rear section closest to that property has been reduced to single storey. This element has a separation of 16m. Whilst this would otherwise particularly given the change in levels, at present the site is screened by a broad area of existing planting which includes some evergreen species. In view of this, those properties have for many years been affected by the overshadowing of the trees. Accordingly if this landscaping is retained, the additional impact on their existing amenities will be less significant than would otherwise be. The proposed landscape management plan has been revised to include a wider section of planting in this area, to include an instant Laurel hedge at approximately 2.5m to 3m high. In addition some of the existing trees in this area will be retained. Overshadowing will occur at certain times of the day, but it is not considered that this in itself will have a significant adverse impact on their existing amenities. This is in particular as the existing planting on the boundary already causes some overshadowing. On balance, it is considered that the proposal is acceptable in relation to the occupiers of Baildon Close.

5.58 It is not considered that the proposed development will have a significant adverse impact on the existing amenities of those flats within the more central part of Shelley House. This is because they are already affected by The Carlton Tavern itself. The side windows on the southern part of Shelley House lie to the front of The Carlton Tavern, and the proposed building will be within 16m of Shelley House at its closest. However whilst this will have some impact on residents' amenity, this area is currently overshadowed by a large group of mature trees. The plans also

show that windows on the end of the care home at this point will be obscure glazed. It is also considered that the relationship between buildings that front a main street is characteristic of an urban area. As such it is not considered that the development will have a significant adverse impact on their existing amenities.

5.59 Significant concerns were initially also raised by Officers in relation to the impact of the development on that part of Shelley House that lies beyond the rear wall of The Carlton Tavern. The separation distance has now been increased to a minimum of 22m on this part of the building. Of particular importance is a reduction in a significant part of the building to a height of 9.3m as opposed to 12m that was originally proposed. The width of the windows has been reduced, and the balconies removed. The revised layout also provides for the planting of trees between the building and the parking spaces. It is considered that these revisions are a significant improvement on the previous plans.

5.60 Whilst loss of a view carries very little weight as a material planning consideration, the impact of a building by virtue of its overbearing presence and loss of outlook carries more weight. The reduction in the height of the building, will improve the outlook from Shelley House, and also reduce overbearing impact. Removal of the proposed balconies will reduce the perception of being overlooked. The impact of the neighbour on the ground floor in terms of loss of light will also be mitigated by the reduction in the height of the building. A final amendment to the solar report has been submitted. This demonstrates that in March, the hedge will cast a shadow over some parts of the curtilage to the rear part of Shelley House at 3pm, but that it will not impact on the building until 4pm. In June the impact on the building is from 6pm. In September, overshadowing occurs from 5pm. In December, the impact is from 2pm when the sun is lowest in the sky. Officers have taken account of the concern by the neighbouring occupier that this is the only time that the flat receives light. It is for this reason that so many changes have been sought. However it is not considered that the overshadowing will be so great as to warrant refusing the application. The reduction in the height of the building will be of greatest benefit in terms of reducing the impact of over shadowing. Nevertheless it is also noted that much of the impact on the lower parts of Shelly House are a consequence of the location of Shelley House at only 6-7m from the common boundary. And furthermore the ground floor flats are at a low level with little natural light due to their orientation on the western side of Shelley House and location in close proximity to a boundary wall. In contrast, the proposed building is set further away at approximately 13m to 16m from the shared boundary at this part of the site. It is further noted that there is a large coniferous tree close to the boundary with Shelley House which adds to the loss of light to some of the properties, and given its low value, is proposed be removed. This will certainly provide benefits to some of the flats. Whilst the neighbour concurs that the tree does overshadow, she expresses concern that its removal will increase the view of the proposed building. Additional hedge planting is proposed adjacent to the boundary wall, with tree planting to the rear of the parking spaces. This will provide some 'softening' of the view of the building. The reduction in the size of the windows that look towards

Shelley House, and the deletion of the balconies will reduce the perception of overlooking.

5.61 There is potential for an increase in vehicular movements along the driveway at certain times of the day and night. However it is considered that this is balanced by a reduction in the existing noise levels that can occur with those arriving and leaving the public house.

5.62 Taking into account the site situation, and its relationship with neighbouring properties, it is considered that the revised plans have reduced the potential for the development to have a significant adverse impact on existing amenities of neighbouring occupiers. Accordingly it is considered that the development accords with a core principle in the NPPF, and policy GP1 (i)

OPEN SPACE.

5.63 Chapter 8 (Promoting healthy communities) of the NPPF at Paragraph 73 refers to access to high quality open space. Paragraph 74 relates protecting existing open space. The Carlton Tavern currently has outside amenity areas associated with it. These include a children's play area. The play area will be lost as part of the development, and the open space reduced. The Council's Landscape architect has expressed concerns regarding the limited amount of open space associated with the development. The supporting information states however that 0.26 hectares of external amenity space will be retained, and will be tailored to the needs of the residents. It will form a series of functional spaces suitable for elderly residents. The main terrace to the south will provide a multi-purpose external space associated with the main lounge area allowing for activities, eating and socialising. This will be partly enclosed by a long border of herbaceous planting provided seasonal interest, colour and texture. There will be a sensory garden at the end of the terrace, in a series of raised planters. Footpath routes to the south of this area and through the trees will be formed, and these will run along the western side of the building. Around the woodland walk will be informal seating areas, sculpture, bird feeding stations and botanical labelling of plants. In addition to these more natural areas will be outdoor space directly adjacent to the building. Some of the areas will include semi private enclosures through the use of decorative screens and climbing plants. There will also be a continuous pathway directly adjacent to the building. Additional tree planting will also be planting alongside the eastern elevation of the building, together with a hedge along the boundary with Shelley House.

5.64 Accordingly it is considered that the amenity area proposed will be well designed to reflect the needs of the occupants, and the benefits of a garden designed for the elderly outweighs the loss of the existing amenity area associated with the Carlton Tavern.

LANDSCAPING

5.65 The application was accompanied by an Arboricultural Impact Assessment. However, as set out in section 3 above, the Council's Landscape Architect concluded that the building is too large for the site; and protected trees would be threatened by construction operations and the proximity of the canopies to the building. In response to this, the applicants submitted a revised landscape plan. This included revising the kerb line on the access to allow the retention of an Oak and Sycamore. The 'Grasscrete' to the north of the site will be retained to avoid potential damage to root tissue. The woodland walks to the west of the building will be no-dig construction. Further information in relation to the construction methodology was also provided, together with more details of the steps and lift to the front of the site.

5.66 The Council's Landscape Architect revised her comments in the light of the revised information and after a meeting was held with the applicant's arboriculturalist on site.

5.67 She remains concerned that the tightness of the scheme poses a risk of damage to the perimeter trees. However she confirms that with professional supervision and adherence to a detailed method statement, it would be possible to construct the proposed building with an acceptable degree of risk. This however is with the exception of the steps and wheelchair lift to provide pedestrian access. She advises that: the excavations would be considerably deep and close to the oak tree (whose rooting zone is already limited by the existing access road) and remains unconvinced that this submitted detail to address the issue is acceptable in itself.

5.68 The architect responded to these concerns by stating that any building would require an acceptable level access. They have considered alternative options, but other possibilities also impact on the trees. The position of the lift and stairs has been optimised to lessen the impact to the trees affected by as much as possible. Whilst loss of root tissue is likely to occur during excavations to install the lift their arboriculturalist is of the opinion the trees would not be significantly affected either structurally or physiologically. They also state that the excavations will be undertaken under supervision of an arboriculturalist to document the actual impact and ensure that it is kept as minimal as possible. It is proposed that the stairs are created in situ with concrete poured into a form that matches the profile of the existing bank as far as possible in order to reduce further excavations within the RPA. The trees have good vitality and are likely to respond to any loss of roots with regeneration of new root tissue. Soil improvement works could also be undertaken, such as de-compaction and mulching, to further encourage root growth.

5.69 It is considered that the trees subject to a Tree preservation Order have significant amenity value. Whilst concern has been raised in relation to the impact of the development on trees elsewhere on the site, on balance the Council's Landscape Architect considers that any potential harm can be mitigated by a management plan. Concern remains in relation to the impact of the development as a result of the pedestrian ramp/lift. However it is not considered that the impact is so

great to the three trees concerned, that it would stand as a reason for the refusal of the application on its own. Accordingly, it is considered that subject to the requirement for a detailed method statement, to include an on-site arboriculturalist, the impact on trees is acceptable.

ECOLOGY

5.70 The NPPF makes it clear that the planning system should contribute to and enhance the natural and local environment by:-

- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible,;
- When determining planning applications, Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged;

5.71 To proceed with any development that may affect a bat roost, there is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 for a European Protected Species Licence granted by Natural England.

5.72 The Preliminary Ecological Appraisal (PEA) undertaken in January 2017 found an accumulation of approximately 150-200 bat droppings in the roof void of the public house, subsequent DNA analysis confirmed these to be from Common Pipistrelle bat. The private dwelling has features that could support roosting bats such as gaps leading beneath roof and ridge tiles.

5.73 Dusk and dawn activity surveys were undertaken in June and July 2017. This concluded that the public house currently supports small numbers of roosting Common Pipistrelle bats, which emerged from under the wooden fascia on the north eastern elevation. Due to the number of old droppings found within the roof space a maternity roost may have been previously present (and therefore could be again in future years). No bats were recorded roosting in the separate private dwelling.

5.74 All of the trees were assessed from the ground and six trees were identified as having potential to support roosting bats, these will all be retained as part of the proposals. In combination all of the trees provide suitable foraging habitat for bats and provide connectivity into the wider area.

5.75 The vegetation on site, and the buildings, provide suitable nesting habitat for birds. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. The proposed development requires the total demolition of the building, and works to trees and shrubs. Accordingly it is not considered that there is an alternative that would have less harm.

5.76 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017, contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). For development activities this licence is normally obtained after planning permission has been obtained. The three tests are that:

- 1) the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- 2) there must be no satisfactory alternative; and
- 3) favourable conservation status of the species must be maintained.

5.77 Notwithstanding the licensing regime, the LPA must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm a EPS.

5.78 With regards to the Carlton Tavern, in relation to tests 1 and 2, the submitted information from Adult Social Care has demonstrated that there are overriding public interests. Furthermore it is considered that the applicant has demonstrated that there is no satisfactory alternative to the demolition of the building. In relation to test 3, the building currently supports a small number of roosting Common Pipistrelle bats which are common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence and the exclusion of bats from the building prior to works will prevent any from harm and the mitigation proposed (five Schwegler bat boxes to be erected on adjacent trees) will maintain roosting opportunities on site. As such the Council's Ecologist is satisfied that the development will not significantly affect the local distribution or abundance of the species and therefore than the third test for maintenance of favourable conservation status is met.

5.79 The Council's Ecologist has taken account of the survey results together with the mitigation, and has not objected to the application subject to the imposition of conditions in relation to mitigation, and the requirements for a Natural England Licence. She further recommends a condition requiring the erection of bat boxes to be erected on adjacent trees in advance of development commencing. One bat box should be suitable for a maternity roost.

ACCESS

5.80 Paragraph 32 of the NPPF advises that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

5.81 The access is retained in the same position as the existing driveway that serves the public house. 19 parking spaces together with 3 disabled spaces will be provided. The levels on the site are such that it has proved more challenging to provide suitable pedestrian access to the building from Acomb Road. This will be provided from the vehicular access point, with an external platform-lift which will be sited alongside a set of steps. Both of these will connect into a path which will form a route to the entrance. A covered cycle store is provided for staff, visitors and residents to the north western part of the site. Highway Network Management have not objected to the development and state that proposed parking is in accordance with City of York Council's maximum parking standards, and is supported by experience of the operator on other sites. The surrounding highway is protected by various traffic regulation orders, and the applicant has indicated that they are willing to provide funding towards any traffic restriction that may be necessary. Officers would suggest a condition requiring highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) to be carried out.

DRAINAGE

5.82 Paragraph 99 of the NPPF states that new development should be planned to avoid increased vulnerability to the range of impacts arising as a result of climate change. The initial plans and details submitted with the application stated that it was proposed to discharge both foul and surface water into the existing combined sewer on Acomb Road. Surface water would discharge at a restricted rate of 27.01 litres per second. This incorporates a 30% reduction for climate change. The surface water would be restricted using a hydro brake optimum flow control unit. A storage tank would be utilised to the front of the proposed building. Yorkshire Water Services do not object to the proposed development; however they have advised that the submitted information is not acceptable because no evidence of positive drainage has been provided and the discharge rate is based upon areas only assumed to drain to public sewer. Evidence of existing impermeable areas positively

draining to the public sewer is required to prove rate of discharge. Draining surface water to the main sewer should be the last resort. In the light of these comments, the applicant commissioned a utility survey to ascertain of-site connections together with a soil infiltration test. The test results have not however been accepted by the Senior Flood Engineer who advises that the soakaway test does not comply with BRE Digest 365 (2016). It is therefore recommended that ground condition be re-assessed if the use of SuDS is to be discounted. However the Flood Risk Management Team has raised no objection to the proposed development subject to conditions.

NOISE, AIR QUALITY AND CONTAMINATION

5.83 One of the principles of the NPPF requires that planning should provide a good standard of amenity for all existing and future occupants of land and buildings. The submitted noise assessment found that noise levels to the front of the development site were acceptable, and therefore noise would not be a limiting factor to the development. However suitable glazing and ventilation would be necessary to ensure that internal noise levels in the residential rooms would meet the requirements of BS8233:2014. An appropriate specification is provided within the report. In terms of the impact of noise from the proposed development on the nearby residential properties the primary issue of concern would be noise associated with any plant or equipment provided as part of the scheme. Provided suitable plant is selected then Public Protection would not have any objections recommend conditions to require details of any mechanical extraction etc. It is also recommend that due to the proximity of residential properties, a construction management plan should be required, together with a restriction on deliveries once the home is in use.

5.84 In relation to air quality and emissions, Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.

5.85 The application site is situated in a particularly sustainable location. However it is still considered that opportunities for low emission vehicles should be provided. In relation to this application 22 car parking spaces are proposed. It is therefore recommended that the provision of one electric charging point be provided.

5.86 In terms of land contamination, the NPPF states at paragraph 121 that planning decisions should ensure that the site is suitable for the proposed use taking account of ground conditions. The submitted phase 1 assessment for the site found that the was a very low risk to the proposed end users due to contamination but still recommended that a Phase 2 ground investigations assessment was carried out. It is the view of Public Protection that such ground investigations are unnecessary give the very low risk, but it is recommended that a condition in respect of unexpected contamination be attached to any approval granted.

OTHER MATERIAL CONSIDERATIONS

5.87 The applicant carried out a consultation event in advance of the submission of the planning application. Members of the public were invited by a leaflet drop of 200 households and businesses in the vicinity of the site. Ward Councillors were also invited to attend. The event was held at The Memorial Hall on Poppleton Road. The report states that 10 people attended. Some criticism has been received that the venue chosen was not close enough, and also that insufficient publicity was carried out. Nevertheless, the applicant has taken account of objections made in relation to the application itself, and also concerns raised by Officers, and has submitted a significant amount of additional information, together with revised plans to try and address concerns raised.

6.0 CONCLUSION

6.1 Paragraph 14 of the NPPF makes it clear that, at the heart of the planning system is a presumption in favour of sustainable development. For decision taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless;

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

6.2 As this application concerns a non-designated Heritage Asset, the policies in NPPF paragraphs 135 and 136 apply. Paragraph 135 requires the LPA to take into account the effect of an application on the significance of a non-designated heritage asset, when applying the “tilted balance” in favour of sustainable development. A balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.

6.3 For the purposes of paragraph 135, the scale of loss is significant, in that the building is proposed for total demolition. However, the significance of the heritage asset is more limited, as it is a non-designated heritage asset.

6.4 Paragraph 136 requires all reasonable steps must be taken by the LPA to ensure that the new development will proceed after the loss has occurred. For the purposes of paragraph 136, there is considered to be sufficient evidence presented with the application to show that the development will proceed following demolition. However, Members may wish to include a further condition requiring contracts to be let for the redevelopment prior to demolition of the building, in order to provide a further safeguard.

6.5 Paragraph 6 of the NPPF explains that there are three dimensions to sustainable development - economic, social and environmental.

6.6 In terms of the economic dimension, this proposal will result in the loss of the jobs associated with the existing public house. However, these will be more than

compensated for by those created through this development (i.e. the 30 FTE employed in the Care Home itself, in its supply chain, and in construction of the facility). Whilst the development will result in the loss of the Business Rates generated from the Public House, this loss will be offset by the Council Tax receipts it will generate. Therefore, this application is considered to be sustainable in terms of the economic dimension of sustainable development.

6.7 In the case of the social dimension, the balance of factors is in favour of the scheme. Whilst the demolition of the Public House will result in the loss of a local community facility and the function rooms and outdoor play area that it currently provides, the Carlton Tavern is not the only Public House serving this community (there are, in fact over 10 others within a mile of this site) and the development will include a publically-available meeting room, hairdressers, at the third level is a cinema, gym and therapy room that will be open to over 55's who live in the area. The provision of Class C2 facilities including traditional residential care facilities will help to meet a pressing need within York for this type of accommodation. Therefore, this application will make a considerable contribution to the meeting an element of the housing needs of the City that is currently underprovided for. The revised plans have reduced the impact of the development on the existing amenities of neighbouring occupiers to a level that is considered to be on balance. It is recommended however that a condition be imposed that restricts use of the building to Use Class C2:

The premises shall be used only as a Care Home, for elderly persons over the age of 55, within Use Class C2 and shall not be used for any other purpose, including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: In order to allow a consideration of the impact of any changes on amenity.

6.8 With regard to the environmental role, again the position is balanced. In terms of its location this development could not be more sustainable - it is well-served by existing public transport; it is within easy walking distance of existing shops, doctors and other community facilities; it is in a low flood-risk area. The design of the building, itself, is also very sustainable - the development will be very energy-efficient (equivalent to Level 4 of the Code for Sustainable Homes); it is proposed to be built using sustainably-sourced timber from managed forests, with sedum on the roof, and photovoltaic panels. In addition, the use would generate less movements than those of the current building. However, this has to be weighed against the fact that this application would involve the demolition of a building which, although not listed, is undoubtedly of architectural and historic interest in a local context and which makes a valued contribution to the character of the locality. Moreover, the development has raised some concerns over the longevity of the trees along the site's frontage, trees whose importance to the streetscene are recognised by virtue of the fact that they are protected by a TPO.

6.9 The loss of the community facilities provided by the Carlton Tavern are considered to be considerably outweighed by the benefits to the community of York, as a whole, which would derive from the provision of a form of accommodation for which there is a pressing need in the City and for which there are few suitable alternative sites in the authority's area.

6.10 In conclusion, therefore, the overall judgement is balanced. The presumption in favour of sustainable development at paragraph 14 applies, and the adverse impacts of granting planning permission are not considered to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It is considered that the loss of this non –designated heritage asset, even one of the undoubted local importance of the Carlton Tavern, the loss of a listed Asset of Community Value and the possible harm to part of the root zone of the nearest tree to create the lift platform are not sufficient to significantly and demonstrably outweigh the significant benefits which the Care home would provide.

7.0 RECOMMENDATION: Approve

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:-

Site Location Plan PLO1

Existing Site Layout PL02

Existing Site Sections PLO3

Proposed Site Layout PLO4 REV F

Proposed Ground and first Floor PLO5 REV E

Proposed Second and First Floor PLO6 REV E

Proposed Roof Plan PLO7 REV D

Proposed Site Sections PLO8 REV D

Proposed Elevations PLO9 REV E

Proposed Boundary Treatment PL10 REV C

Proposed Streetscape along Acomb Road PL11 REV A

Proposed site Sections in relation to existing Buildings PL12 REV E

Proposed Site Layout in context of Neighbouring Windows PL 13 REV A

Proposed Access Arrangements PL14

Proposed Site Layout in context of Shelley House PL15 REV C

Proposed Site Section cut and fill PL 16

Artists Impressions Sheet 1 A101 REV A

Artists Impressions Sheet 2 A102 REV A
Artists Impressions Sheet 1 Trees Ghosted A103
Artists Impressions Sheet 2 Trees Ghosted A104
Artists Impressions of Principal Elevation A105
Proposed Principal Elevation Study PPES1
Internal Perspectives IPO1
Shelley House Perspectives - Existing SHO1
Shelley House Perspectives Proposed SHO2 REV B
Shelley House Perspectives Combined SHO3
Aerial Axonometric AA01
Eastern Elevation Artist Impression EE01
Landscape Master plan REV D
Western Boundary Landscape Proposal
Design and Access Statement REV B
Addendum A to the Design and Access Statement.
Archaeological Evaluation - Written Scheme of Investigation
Arboriculture Impact Assessment
Heritage Statement
Bat Survey Report RO2
Solar Study Report Rev C

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

3 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 development and the works shall be carried out in accordance with the approved details.

Verge and eaves details

rainwater goods

window details including depth of reveal, materials and method of opening, reveals, and a profile of any glazing bars.

Reason: So that the Local Planning Authority may be satisfied with these details.

4 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 the construction of 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

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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.

5 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an area of archaeological interest and the development may affect important archaeological deposits which must be recorded during the construction programme.

6 There shall be no demolition, construction or other invasive works on site until an Arboricultural Management Plan has been submitted to, and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved plan.

Reason: In the interests of the protection of existing trees on site that are subject to a Tree Preservation Order.

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the windows identified on dwg. PLO9 REV E to be obscure glazed, shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

8 The development hereby permitted shall be implemented in accordance with the scheme of mitigation set out in Section H.2 Avoidance and Mitigation Strategy of the Bat Survey report by E3 Ecology Ltd dated August 2017, including in advance of works five Schwegler bat boxes to be erected on adjacent trees under guidance from a Suitably Qualified Ecologist. One bat box should be suitable for a maternity roost.

Reason: To take account of and to enhance the habitat for a protected species. It should be noted that under National Planning Policy Framework the replacement/mitigation proposed should provide a net gain in wildlife value.

9 Works to the roof of to the Carlton Tavern Public House, including removal of
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fascia boards, roof stripping and/or maintenance work including internal work that would impact the roof void 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 2010 authorizing 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.

Reason: To prevent harm to a European Protected Species.

10 Unless details have first been submitted to, and approved in writing by the Local Planning Authority, the site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interests of satisfactory and sustainable drainage.

11 No work (demolition, alteration, removal of fabric) shall take place until the applicant has secured the implementation of an agreed programme of archaeological work written description and photographic recording of the standing building to Historic England Level of Recording 2 which has been agreed in writing by the LPA and the applicant has submitted a report and copies of the survey and record to the LPA and these have been agreed in writing by the LPA.

Reason: The buildings on this site are of archaeological interest and must be recorded prior to alteration/removal of fabric.

12 Prior to the first use of the building, or such longer period as may be agreed in writing by the LPA, a management plan for the community use and access of a meeting room within the building, together with the use of the cinema, cinema, gym and therapy room for use by over 55's who live in the Ward. Thereafter the operation of the building shall be carried in accordance with the approved plan, unless an amendment has first been agreed in writing by the local planning authority.

Reason: In the interests of securing community benefits.

13 The premises shall be used only as a Care Home for elderly persons over the age of 55, within Use Class C2 and shall not be used for any other purpose, including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: In order to allow a consideration of the impact of any changes on amenity.

14 Prior to the demolition of the existing buildings on site, a strategy for the

identification of those parts of the buildings to salvage and re-use within the proposed building shall be submitted to, and approved in writing by the LPA. Thereafter the development shall be carried out in accordance with the approved strategy.

Reason: In the interests of retaining elements of significance of the existing buildings on site.

15 Notwithstanding the submitted details, the construction of the building hereby approved shall not commence until a detailed landscaping scheme (which shall illustrate the number, species, height and position of trees and shrubs) and boundary treatments (including full boundary treatment details) has been submitted to, and approved in writing by the Local Planning Authority. This scheme shall be implemented in full prior to the occupation of the building unless a longer period has first been agreed in writing by the LPA. Any trees or plants which within a period of five years from the completion of the development 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 submitted details shall include planting along the boundary of the site with both Baildon Close and Shelley House, and include details of planting, spacing and height to be maintained.

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.

16 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 3 months of occupation of the building. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

17 The development hereby permitted shall not be brought into use until highway works (which by definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which

shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of highway safety

18 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 08.00 to 18.00
- Saturday 09.00 to 13.00
- Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

19 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (LA_{max}(f)) and average sound levels (LA_{eq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be 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 46dB(A) L₉₀ 1 hour during the hours of 07:00 to 23:00 or 38dB(A) L₉₀ 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 safeguard the amenity of occupants of neighbouring premises

20 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall

provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozon treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of future residents and nearby residents.

21 One (1) electric vehicle recharge point, serving one dedicated car parking bay, should be installed prior to first occupation of the site. The bay should be marked out for the exclusive use of electric vehicles. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority. Prior to first occupation of the site an Electric Vehicle Recharging Point Plan shall be submitted to and approved in writing by the local planning authority that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

22 No development shall take place until a detailed scheme of noise insulation measures for protecting the approved residential and hotel rooms from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

NOTE: 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 to ensure that the internal LAFMax level during the night (23:00-07:00 hours) does not exceed 50dB(A) on any occasion or 45dB(A) on more than 10 occasions in any night time period. These noise levels shall be observed with all windows open in the habitable rooms or with windows shut 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.

23 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. 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).

For dust details should be provided on measures the developer will use to minimise dust blow off from site. Such 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. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any). 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/>

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.

Reason: To protect the amenity of neighbouring occupiers and the area.

24 Upon completion of the development, delivery vehicles to the development shall be confined to the following hours:

- Monday to Saturday 07:00 to 18:00
- Sundays and Bank Holidays 09:00 to 17:00

Reason: To protect the amenity of local residents and businesses.

25 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.

26 No removal of any existing landscaping on the boundary of the site with Baildon Close shall take place until the applicant has submitted a timescale for its removal and replacement in accordance with the details submitted to discharge condition 15. Thereafter the work shall be carried out in accordance with the agreed timescale.

27 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.

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

28 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.

Surface water 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 (SuD's). 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 SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Council's Strategic Flood Risk Assessment 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). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha or if shall be used for the above. For the smaller developments where the Greenfield run-off rate is less than 1.4 l/sec/ha and

becomes impractical and unsustainable then a lowest rate of 2 l/sec shall be used.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

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.

Foul water design considerations

Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network. Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies, bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence.

7.0 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 (paragraphs 186 and 187) 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 detailed information relating to and including:

- Justification for demolition
- Loss of a Asset of Community Value
- Heritage statement
- Archaeological evaluation

- Drainage strategy
- Landscape details
- Detailed revisions to the design of the building
- Revisions to mitigate impact on amenity of neighbouring occupiers.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present

3. i) 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.

ii) The applicant is advised that the Internal Drainage Board's prior consent is required 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.

Contact details:

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