



DISTRICT DEVELOPMENT SUB-COMMITTEE

AGENDA ITEM 5

PLANNING APPLICATIONS REFERRED TO THE SUB-COMMITTEE FOR DETERMINATION

To determine applications made under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990.

IMPORTANT INFORMATION

1. Members of the public are entitled to inspect and to obtain a copy for a fee of Background Papers to published reports as well as the reports themselves. The reports are available as soon as the agenda for a Committee meeting has been printed. This is normally one week before the date of the meeting. They can be viewed at Planning Enquiries or at www.harrogate.gov.uk/planning. A list of Background Papers (if any) is set out at the end of each report. This list does not include letters received in response to consultations and publicity given to the application; these are also normally Background Papers which the public are entitled to see. Published documents such as the Harrogate District Local Plan, the Structure Plan, Planning Policy Guidance Statements, Government Circulars and the Council's published Design Guidance are not regarded as Background Papers. However, all this material is available to view at www.harrogate.gov.uk/planning or for inspection by the public at "Planning Enquiries", Department of Technical Services, Knapping Mount, West Grove Road, Harrogate, North Yorkshire, HG1 2AE. Tel: (01423) 500600, Fax: (01423) 556510. Opening hours: Monday to Friday 8.30am – 4.00pm.
2. The information contained in the reports is a summary of the relevant information available at the time the report is prepared. Any further relevant information received subsequently will be reported at the meeting. This may include correspondence, amended plans and other relevant information.
3. With each report is an A4 size extract from the latest edition of the Ordnance Survey showing the application site. Application plans, drawings and illustration materials will be displayed at the meeting and together with the

application reports and other published documents may be viewed on www.harrogate.gov.uk/planning. USE THE SHORT CODE at the head of each report to get quick access to the plans.

KEY TO APPLICATION TYPE CODES

APPLICATION TYPE CODES



(6.12.90.P.FUL)

CODE	TYPE OF APPLICATION
ADV	APPLICATION TO DISPLAY ADVERTISEMENTS
* CCA	APPLICATION BY NYCC TO SEC. OF STATE FOR CONSERVATION AREA CONSENT
* CLB	APPLICATION BY NYCC TO SEC. OF STATE FOR LISTED BUILDING CONSENT
* CMA	APPLICATION ON WHICH COUNTY COUNCIL WILL MAKE DECISION
CON	APPLICATION FOR CONSERVATION AREA CONSENT
COU	APPLICATION FOR PLANNING PERMISSION FOR CHANGE OF USE
* CROWND	NOTIFICATION OF PROPOSED CROWN DEVELOPMENT FOR HBC OBS. ONLY
DVCON	APPLICATION TO DELETE OR VARY CONDITION
EXTP	APPLICATION TO EXTEND A TEMPORARY PERMISSION
FUL	APPLICATION FOR FULL PLANNING PERMISSION
HEDGE	HEDGEROW REMOVAL NOTICE
HSC	APPLICATION FOR HAZARDOUS SUBSTANCES CONSENT
LB	APPLICATION FOR LISTED BUILDING CONSENT
LBDEM	APPLICATION FOR LISTED BUILDING CONSENT INCLUDING DEMOLITION
* OHL	NOTIFICATION OF PROPOSAL TO ERECT OVERHEAD ELECTRICITY LINE
OUT	APPLICATION FOR OUTLINE PLANNING PERMISSION
PDUCO	APPLICATION FOR PLANNING PERMISSION BECAUSE PERMITTED DEVELOPMENT C USE CLASS RIGHTS HAVE BEEN REMOVED
* PROW	APPLICATION TO DIVERT OR STOP-UP A PUBLIC RIGHT OF WAY
REM	APPLICATION FOR APPROVAL OF RESERVED MATTERS
RENEW	APPLICATION FOR RENEWAL OF AN UNIMPLEMENTED PERMISSION
RG3	APPLICATION BY HBC FOR ITS OWN DEVELOPMENT
RG4	APPLICATION BY HBC OR NYCC FOR DEVELOPMENT BY OTHERS
S106	APPLICATION TO MODIFY/DISCHARGE A SECTION 106 AGREEMENT
S17	APPLICATION FOR A CERTIFICATE OF ALTERNATIVE DEVELOPMENT
* SOSADV	APPLICATION BY HPC TO SEC.OF STATE FOR ADVERTISEMENT CONSENT
* SOSCON	APPLICATION BY HBC TO SEC.OF STATE FOR CONSERVATION AREA CONSENT
* SOSLB	APPLICATION BY HBC TO SEC. OF STATE FOR LISTED BUILDING CONSENT
* SOSLBD	APPLICATION BY HBC TO SEC.OF STATE FOR LISTED BUILDING CONSENT INCLUDI DEMOLITION
* SOSTPO	APPLICATION BY HBC TO SEC.OF STATE FOR TREE PRESERVATION ORDER CONSENT
TPO	APPLICATION FOR TREE PRESERVATION ORDER CONSENT

**Denotes applications on which the Borough Council is not making a determination – see Part B of List of Plans*

HARROGATE BOROUGH COUNCIL
DISTRICT DEVELOPMENT SUB – COMMITTEE – AGENDA ITEM 5
DATE: 26 July 2007

PLAN: **CASE NUMBER:** 07/02037/FULMAJ
GRID REF: EAST 432706 **NORTH** 456560
APPLICATION NO. 6.79.7354.C.FULMAJ **DATE MADE VALID:** 18.04.2007
TARGET DATE: 18.07.2007
CASE OFFICER: Mr R Forrester **WARD:** Starbeck

VIEW PLANS AT: <http://tinyurl.com/27bo9n>

APPLICANT: Barratt York

AGENT: Dacre, Son And Hartley

PROPOSAL: Erection of 38 dwellings including 19 affordable units, with associated garaging, hard and soft landscaping with formation of 3 new vehicular accesses onto Bogs Lane, felling and various works to various trees under Tree Preservation Order 40/2001 (site area 1.88ha, Revised Scheme)

LOCATION: Former Builders Yard Land To South Of Bogs Lane Harrogate North Yorkshire HG1 1JF

REPORT

SITE AND PROPOSAL

The above application was considered at the Planning Committee of 3 July 2007, following a Committee Site Visit.

The recommendation to grant permission was not followed and Committee were minded to refuse permission for the following reasons:-

- * The proposed development was unacceptable in terms of its design and would be harmful to the character of the area;
- * The proposed development would result in a loss of employment land and public open space; and
- * The Committee expressed highway safety concerns relating to the junctions with the A59.

The matter has been referred to the District Development Sub-Committee on the advice of the Council's Solicitor on the basis that there could be a potential risk of 'costs' should the application be refused and advanced to appeal.

The site is roughly rectangular in slope and relates to 1.9ha of land on the south side of

Bogs Lane, close to Henshaws College. It has several mature trees, in 3 belts across the site.

The site is in 2 distinct halves, the eastern element consisting of a dwelling and its curtilage, surrounded by allotments and the western half consisting of a former builders yard/skip depot (on the frontage) with a filled clay pit, (now overgrown) to the rear.

The site was the subject of a planning application - 6.79.7354.B.FULMAJ - for 50 dwellings submitted on 31st March 2006, and was Refused on 04.07.2006 for the following reasons:-

1. The site is predominantly 'greenfield' as defined in PPG3 Annex C and is not appropriate to release for housing at this time. The proposal is therefore contrary to the provision of Policy HX of the adopted Harrogate District Local Plan as amended and the aims of PPG3 - Housing.
2. The proposal makes insufficient provision for affordable housing and other exceptional community benefits to warrant the release of the site in accordance with Policy HX of the adopted Harrogate District Local Plan as amended and the aims of PPG3 - Housing.
3. The proposed development provides insufficient levels of open space and play equipment and therefore conflicts with the provisions of Policies R1 and R4 of the adopted Harrogate District Local Plan and the aims of PPG17 - Sport and Recreation.
4. The development would create conditions prejudicial to highway safety and in particular:
 1. Fails to acknowledge the impact of the proposed development traffic, both during and following development, upon the use and enjoyment of the road link between Bogs Lane and Kingsley Road by pedestrians, cyclists and horse riders. Without remedial measures and improvements, the development will result in increased risk to road users and increased severance within the community.
 2. Fails to provide a convenient and safe link to the local cycle network (Bilton Link) for pedestrians and cyclists.
 3. Fails to address safety concerns in respect of the increased use of the junction of Bogs Lane with the A59 and fails to deliver safe access to bus services for the disabled.
 4. Fails to provide a safe internal highway layout that protects the interests of pedestrians, cyclists and vehicle users. The proposal therefore conflicts with the provisions of Policy H6, A1, T1, T3, T21, T22a and T22b of the adopted Harrogate District Local Plan - Selective Amendment 2004, and the aims of PPG13.
5. The development is an inappropriate design that will create an 'urban' environment that is contrary to the rural setting of the settlement and the character of the locality. The loss of mature trees/hedgerows and the resulting impact of the development on the streetscene will be visually unacceptable and harmful to the approach in to the settlement. The proposal is therefore contrary to the provisions of Policies H6, HD16, HD20, C5, C5a and A1 of the adopted Harrogate District Local Plan and the aims of PPS1 - Delivering Sustainable Development and PPG3 - Housing.
6. The proposal fails to incorporate measures for the enhancements of the local biodiversity as required by PPS9 - Biodiversity and Geological Conservation and conflicts with the provisions of Policy NC7 of the adopted Harrogate District Local Plan.

The refusal was the subject of an appeal which was to be heard at a Public Inquiry in

March 2007 although this was Withdrawn at a late stage for several reasons being:-

1. Due to the release of the new PPS3 (which introduced a new method of calculating housing supply) there would no longer be an over-supply and therefore Policy HX carried less weight and refusal reason 1 had to be withdrawn before the appeal.
2. As Policy HX did not carry as much weight, the 50% 'affordable' housing proposed was then acceptable and the second reason had to be withdrawn.
3. Policy R4 was amended by the adoption of new recreation policy under Policy IMP2 and therefore reason for refusal 3 carried less weight.
4. Discussions between the applicant and the Councils Highway consultants, and the offer of off-site improvements, resulted in the need to withdraw the fourth reason for refusal.
5. The applicants demonstrated that the sixth reason could be overcome by retaining trees and wildlife habitat (reason 6)
6. The councils case then relied solely on the design and landscaping concerns and the applicants (in negotiation with council officers) proposed changes to the scheme which the Head of Planning Services in conjunction with the councils legal representatives considered would be offered officer support. The appeal was then withdrawn.

The current scheme reflects the discussions held before the appeal was withdrawn.

The current proposal is to redevelop the site for residential purposes, with 5 detached houses facing onto Bogs Lane, 4 being served from 2 private drives from Bogs Lane and the fifth served from the central spine road which is central on the site frontage.

The access road leads to a "T" junction with 2 cul-de-sacs serving a further 33 dwellings of which 19 are to be affordable units.

Apart from the dwellings on the Bogs Lane frontage, the proposed dwellings are arranged in terraced groups of 2, 2 1/2 and 3 storeys in height, with integral or detached garages and parking spaces for the affordable units.

At the "T" junction centrally within the site is an apartment block with communal parking spaces.

At the western side of the site is an area of recreation space and wildlife habitat with the majority of trees retained and a smaller area of landscaped open space leads to the southeast corner, where a footpath link is provided diagonally across the site.

A proposed cycleway leads from Bogs Lane to the southwest corner and will link to other cycle ways.

Off-site works to improve the situation for pedestrians crossing the A59, close to Bogs Lane and the junction with Knaresborough Road and the rail bridge to the west are proposed.

Included within the application are the following documents:

- * Design Statement
- * Planning Case Report
- * Ecological Appraisal and Bat Roost Potential Summary
- * Tree Survey Report on landscape proposals
- * Transport Assessment
- * Remedial Strategy
- * Flood Risk Assessment
- * Completed Affordable Housing Proforma

In support of the application, the applicant states:-

1.- *Since the previous application was made there have been a number of policy changes at national, regional and local levels. The national changes mainly relate to the replacement of PPG3 with PPS3. This new guidance maintains the importance of developing brownfield land within urban areas but places a much greater emphasis on availability and deliverability and the production of a 5 year available supply of housing land. Also at national level new guidance on residential highway layout and design places a considerably stronger emphasis on achieving less regimented highway layouts, speed reductions and pedestrian priority. Reduced sight line requirements and design speeds are recommended and this guidance has been taken on board in our revised layout.*

2.- *At the regional level the RSS has proceeded to an advanced stage (receipt of EIP panel report). While the annual housing requirement for the District has not been substantially increased RSS places a new emphasis on an urban focus for residential development with a concentration on Harrogate town.*

3.- *At the local level the Council have made significant progress on LDF preparation and as a result of this work and changes at the national and regional level now propose to rescind policy HX in the existing Local Plan and we understand that this is no longer being applied on new applications. Policy HX was the basis for the first two, and arguably three, of the six reasons for refusal of the earlier application. In formal correspondence Bob Power has already indicated that the Council would not be pursuing this policy basis on any subsequent application and would not have pursued this at the previously arranged public inquiry.*

4.- *Since the appeal against the refusal of the previous application considerable negotiation has taken place with officers of the Council. These negotiations included formal exchanges of correspondence, meetings, scheme revisions and initial drafting of a section 106 agreement. These negotiations were very productive and enabled us to withdraw the appeal and continue with the revised proposals.*

5.- *The new application proposals represent many significant changes to the scheme content, layout and design in order to meet a schedule of officer requirements, which would enable the three remaining design reasons for refusal to be overcome. The scheme has now been reduced to one of 38 dwellings, down from the original application proposal of 50. This reduction enabled the provision of the not less than 0.9 hectares of POS required by the Council. The 50% affordable housing provision has been maintained on a pro rata basis to the original proposals and Jenny Wood has accepted the level, disposition and rent/for sale split.*

6.-*The POS provided in the revised layout not only meets your requirements on quantum but also the qualitative considerations on layout, pedestrian access and biodiversity enhancement.*

7.-*The revised design proposals change the characteristics of the Bogs Lane frontage to provide a more rural interface as requested. Elevational treatments have been changed to meet the comments of your design colleagues.*

8.-*The revised proposals allow for a greater level of tree retention and new planting.*

9.-Heads of terms for a revised section 106 agreement have been arrived at. As a result of negotiations off-site highway improvements in the form of traffic management measures along Bogs Lane and improvements at the main road junction have been agreed together with the level of financial contributions, which the developer will provide.

In summary all 6 of the previous reasons for refusal have been fully addressed in these revised proposals and we have jointly achieved these in a spirit of full co-operation and negotiation.

A further letter/plan was received from the applicants which states:-

1. *I confirm that the applicant wishes to have the P.O.S adopted and maintained by the Council and is willing to pay the commuted sums set out in the revised version of the P.O.S commuted sum report in relation to on-site maintenance and off-site provision.*
2. *Whilst the applicant agreed before the appeal was withdrawn to provide 0.9ha of P.O.S we have measured the amount currently proposed at 0.85ha, the reduction arising from the re-alignment of the cul-de-sac to the front of Plots 9-11, siting of plots 18-22 and changes to the position of the apartments as requested by your design officer. There have also be qualitative changes during the course of consultations.*
3. *We have reviewed the request to make changes to the scheme in the light of comments from Highways, landscape and recreation, and amended plans will follow.*
4. *We are happy to amend the planting to the western boundary and trees along the main footway.*
5. *We are prepared to amend the plans in relation to most of the highway concerns.*
6. *We will provide the tactile paving to the main footway route as requested by Henshaws.*
7. *Unless it is considered to be essential, we are not prepared to amend the route of the footpaths across the open space as suggested by your Parks department.*

MAIN ISSUES

1. Policy Matters
2. Design and Landscaping
3. Highway Safety
4. Other Matters

RELEVANT SITE HISTORY

6.79.7354.A.PA - Use of land as skip hire - Approved 25.05.1994.
06/00146/REFPP - Appeal lodged - withdrawn 23 March 2007

CONSULTATIONS/NOTIFICATIONS

Harrogate Civic Society

Generally welcome improvements over the previous scheme.
Density is sensible at around 39/ha and 50% affordable is provided.
Houses fronting Bogs Lane are well spaced and moderately set back.
Appears to be contrary to Policy HX which is still part of the Local Plan
There remains an over-supply of land and Policy HX formed two of the principal reasons for previous refusal

DCS - Recreation (Brandreth)

Open space should be provided at 1.12ha (not 0.82) to replace 0.9ha of allotments and provide for the .023ha generated by the proposed housing. Cycleways should not dissect the open space and shrubs should be removed to give uninterrupted open space.

Police Architectural Liaison Officer

Development should be built to 'Secured-by-Design' principles. Concerns at open aspect created by footway/cycle links - may result in anti-social behaviour incidents. Surveillance of footway link could be improved and 'back gates' a potential problem.

DCS - Open Space (Brandreth)

Requires commuted sum of £50,041.70 for off-site and £48,819 for on-site provision of Public Open Space (no village Hall provision)

Conservation and Design Section

See assessment.

Yorkshire Water

No objection in principle - recommends 3 conditions. The previously submitted details were not acceptable, and amendments are required.

H.B.C Land Drainage

Existing private foul drains cross the site and should be protected. No details of on-site storage and connection is to a sewer of unknown outfall in an area of flooding. Advised conditions.

County Education Officer

No contribution required

Economic Development Officer (DDS - EDU)

No objection

Housing Department

As 19 of the 38 dwellings are to be affordable - this meets the requirements of Policy H5

Environment Agency

No objection in principle -advises 2 conditions.

Environmental Health (Springfield)

There is considerable contamination on site.

Landscape Officer

No objection subject to some minor changes. Advises 4 conditions.

Chief Engineer (H and T)

No objection in principle. Advises 5 conditions.

Local Plans Policy

See assessment

Rural Strategy Officer

No objection. Advises 2 conditions relating to the Ecological recommendations.

DCS Arboricultural Officer

No objection. Advises conditions relating to tree protection and compliance with mitigation statement.

RELEVANT PLANNING POLICY

PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS09	Planning Policy Statement 9, Biodiversity _ Geological Conservation
PPS03	Planning Policy Statement 3, Housing
PPG17	Planning Policy Guidance 17, Planning for open space, sport and recreation
LPHX	Harrogate District Local Plan (2001, as altered 2004) Policy HX, Managed Housing Site Release
LPH05	Harrogate District Local Plan (2001, as altered 2004) Policy H5, Affordable Housing
LPH06	Harrogate District Local Plan (2001, as altered 2004) Policy H6, Housing developments in the main settlements and villages
LPH13	Harrogate District Local Plan (2001, as altered 2004) Policy H13, Housing Density, Layout and Design
LPH17	Harrogate District Local Plan (2001, as altered 2004) Policy H17, Housing Type
LPA01	Harrogate District Local Plan (2001, as altered 2004) Policy A1, Impact on the Environment and Amenity
LPA08	Harrogate District Local Plan (2001, as altered 2004) Policy A8, Contaminated Land
LPHD13	Harrogate District Local Plan (2001, as altered 2004) Policy HD13, Trees and Woodlands
LPHD20	Harrogate District Local Plan (2001, as altered 2004) Policy HD20, Design of New Development and Redevelopment
LPR01	Harrogate District Local Plan (2001, as altered 2004) Policy R1, Existing Recreation Open Space

LPR04 Harrogate District Local Plan (2001, as altered 2004) Policy R4, Open Space Requirements for New Residential Development
LPE02 Harrogate District Local Plan (2001, as altered 2004) Policy E2, Retention of Industrial/Business Land and Premises
LPC05A Harrogate District Local Plan (2001, as altered 2004) Policy C5A, Protection of Hedgerows
LPNC07 Harrogate District Local Plan (2001, as altered 2004) Policy NC7, Enhancement of Nature Conservation

APPLICATION PUBLICITY

SITE NOTICE EXPIRY: 25.05.2007

PRESS NOTICE EXPIRY: 18.05.2007

REPRESENTATIONS - 45 letters of objection have been received from local residents and one from Ward member Cllr G Ward.

The points raised are summarised as follows:

POLICY MATTERS

- * Sets precedent for further development off Bogs Lane
- * There is no public transport, no shops or health centre near this site
- * Loss of allotments - should be more recreation land
- * Should remain in recreational use - Policy R1 protects the allotments
- * Would prefer light industry on site rather than houses - more business sites needed
- * Conflicts with Allotments Act 1922
- * Should not be considered in advance of Local Development Framework
- * Previous reasons for refusal still apply - concerns expressed in public consultation exercise not met
- * This is a Greenfield site - houses should only be built on brownfield part of the land
- * Primary School is over-subscribed and this will cause extra pressure
- * No new allotments provided
- * Contrary to Policy C18
- * Still contrary to Policy HX and P.P.G 3, R1 and R4 - has this changed
- * Site too far from local amenities - will encourage car use
- * Site is not identified for housing in the Local Plan
- * Will add to over-supply of housing in the District as identified in the 2004 Selective Amendment
- * Development on other sites has been resisted due to Policy/safety issues
- * Covenant restricts the use of land to allotments
- * Covenant in will says land can not be developed for 25 years
- * Land likely to be contaminated
- * Result in shrinking of the green belt
- * Council are adopting an inconsistent approach in relation to this site compared with the objectors site at the Rugby Ground on Claro Road which was refused.
- * Both sites are Greenfield, both are within the development limits, both are contrary to Policy HX but whereas the Bogs Lane is allocated for open space, the rugby ground is allocated for housing in the local plan.
- * If the Council accepts the principle of development at Bogs Lane, then it should accept it elsewhere and not continue to resist development at the objectors site.

- * Policy HX still forms part of the development plan and the proposal does not meet any of the criteria of that policy. If the Council does not accept the applicability of HX at this site it should set it aside elsewhere.
- * The case officers report does not refer to the site being within the development limits where Policy H6 applies (wrong - page 26 paragraph 3 states within development limits where H6 applies).
- * Development of this site is contrary to the Councils continued planning strategy for releasing sequentially preferable sites - such as brownfield or allocated sites - and therefore this site is contrary to Policy H6.
- * Development is contrary to Policy R1.
- * Development is premature in advance of L.D.F review.

HIGHWAY SAFETY

- * Extra 60-70 vehicles a danger
- * No footpath from Henshaws
- * Bogs Lane used by walkers, cyclists and horses
- * Unsafe for children
- * Lane used as rat-run to avoid crossing
- * Forest Lane junction already unsafe
- * Will cause major traffic problems
- * Barratts are proposing £43,000 to make a one-way-system - will they stop at nothing
- * Will cause grid-lock at peak times
- * One-way traffic is convenient for Barratts but inconvenient for residents
- 1998 study concluded that it would be unsafe to build more houses - what has changed
- * Any funding of road improvements should be extensive
- * Should provide footways all along Bogs Lane
- * Footway link should be via Diamond Grove
- * 3 accesses on to Bogs Lane unsafe for blind pedestrians
- * Roundabouts should be provided
- * Increases number of properties on Bogs Lane by 40%

TREES/WILDLIFE

- * Field is haven for wildlife - owls, deer, trees, foxes and birds
- * Too much countryside is disappearing
- * Removal of trees is unacceptable

DESIGN/CHARACTER

- * Semi-rural area - out-of-character
- * 2 1/2 and 3 storey development out-of-place and so contrary to Policy H6
- * Urban style of development
- * Layout is worse than earlier proposal
- * Open space should be next to existing dwellings
- * Does not enhance area
- * Loss of outlook/view
- * We have lost the open space that was next to us on the earlier scheme
- * Does not reflect scale and character of existing buildings
- * Site has 38 dwellings but Hillbank View only 28 - should be to same density
- * Policy H13 says density should be 30/ha unless this is detrimental to character of area
- * There are no units designed for the disabled and only 2 flats have a downstairs bedrooms and none have disabled bathrooms - already too many properties are inaccessible.

- * Should be 2 storey houses and bungalows
- * Single dwelling to the R.H side of access road is in the open space and should be removed

AMENITY

- * Will overlook neighbouring houses especially the 3 storey
- * Loss of privacy in gardens/dwellings
- * We will be looking out on brick walls
- * Loss of light
- * Late night car-parking and noise will be a problem for existing residents
- * Former clay pit is filled land and difficult to build on
- * Houses on Diamond View will lose rear access and ability to maintain boundary
- * Boundary details are not consistent and we would have a 1.8m fence to our boundary
- * New dwellings are too close to existing dwellings
- * Proposed new planting too close to existing property
- * Loss of privacy from people using the open space
- * Garden size of new houses inadequate

CRIME

- * We will not feel our children are safe in our garden with other development so close
- * Open areas will allow drug-users and vandals to congregate
- * Open space will give easy access to the rear of our home
- * Will encourage graffiti, rubbish and trespass
- * Will result in youths on motorbikes, noise and nuisance

DENSITY

- * Density too high despite reduction to 38 units
- * Urban capacity study said site only suitable for 28 dwellings on this site
- * Over-intensive
- * Sewage and drainage can not cope with more houses.

AFFORDABLE DWELLINGS

- * These are not 'integrated' and will create a ghetto
- * Problems will be caused as occurred at Old Hospital site, M.O.D site and The Avenues
- * These should not be placed near existing property

VOLUNTARY NEIGHBOUR NOTIFICATION- letter sent by applicant to local residents.

ASSESSMENT OF MAIN ISSUES

1. POLICY MATTERS - The proposed development raises several 'policy' issues which are discussed below:

A. Greenfield/Brownfield ratio:

The applicants contention is that the dwelling/builders yard and filled land is 'previously developed' and amounts to 50% of the site. They propose a "swap" in that some of the Greenfield part of the site be developed and some of the previously developed land be left as open space.

This matter has been considered and the applicants assertion that the former clay works are 'previously developed' is contested.

It is clear that the former clay pit has been filled, and the land has become established back into the landscape and the land is overgrown and has reverted back to scrub land and all trace of the former use has now gone.

Whilst it is accepted that the dwelling and its curtilage and the buildings and hard standing which related to the builders yard/skip operation are clearly 'previously developed', the other land is Greenfield (based on the definition in Annex B to PPS3).

The area of land that is 'previously developed' amounts to a lesser proportion of the total site area and not 50% as suggested by the applicant.

Previously this was fundamental to the acceptability of the scheme, as Policy HX the Council's 'plan, monitor and manage' policy which is a requirement of PPG3 (at that time) - Housing, did not allow for the release of Greenfield sites at that time

Policy HX now has far less importance.

Policy HX of the Harrogate District Local Plan states that previously developed sites of 0.3ha or more or 10 or more units will only be permitted for development where it is possible to demonstrate 'exceptional, substantial planning benefits'. This policy has been successful in minimising the overprovision of housing supply for the plan period 1991 to 2006. We have now started a new plan period from 2004 to 2021 and beyond.

From 1 April 2007, the recently published national planning policy statement, PPS3: Housing, requires all local planning authorities to maintain a five year supply of housing. Where it is not possible to demonstrate a five year supply PPS3 advises local planning authorities that they should consider favourably planning applications for housing.

Based on existing planning permissions and a 400 dwelling per annum District housing requirement up to 2021, it is estimated that the District only has a 4.3 year supply of housing land. Under these circumstances, it is recommended that the requirement for exceptional and substantial planning benefits under Policy HX should be relaxed as there is no longer any justification for restricting the release of larger brownfield sites. Applications will need to be determined in accordance with the requirements of relevant local planning policies, particularly Policy H6.

As little or no 'weight' can be attributed to Policy HX (hence the reason for withdrawing the reason for refusal at appeal), the development of the site should be considered against housing policies H5, H6, H13 and H17 and the level of "Greenfield" is no longer relevant.

The site falls within the development limits of the settlement, and is a sustainable location within the urban area and therefore complies with Policy H6 and the development provides for a range of dwelling types (including affordable) from modest flats to substantial detached houses and is an appropriate 'mix' of size/tenure as required by Policy H17 and PPS3.

The proposed provides for 38 dwellings on a site of approximately 1.0ha therefore falling within the 30-50 dwellings ha/density as required by Policy H13 and PPS3.

One of the letters of objection refers to the application being premature in advance of the L.D.F process, although in such instances, PPS3 is clear and the release of appropriate sites should not be resisted (particularly in this instance when the site falls within the development limit and accords with a recent development plan).

Clearly the current application site is 'available' whereas other sites - including those specifically "allocated" in the Local Plan - have some constraints preventing their release. PPS3, at paragraph 72 indicates that Local Planning Authority's should not refuse applications solely on the grounds of prematurity.

B. Level of Affordable Housing:

The scheme previously refused, provided for 50% affordable dwellings and formed a reason for refusal as Policy HX required a minimum of 60% affordable dwellings. Due to the policy changes outlined above and that little weight can now be attributed to Policy HX, then the 50% level of affordable dwellings is now appropriate and meets Policy H5. The housing officer is satisfied with the level and type of affordable dwellings.

C. Employment:

Whilst not in active use at present the site was active in the past and Policy E2 seeks to protect employment sites from other uses.

The activity at the site was however a constant source of complaints to the council enforcement section from 1993-2005. Policy E2 allows for the redevelopment of 'employment' sites when the continued use could cause unacceptable planning problems.

The builders yard/skip hire depot is not considered to be appropriate in the light of the residential property surrounding the site and redevelopment would not conflict with Policy E2.

Whilst the Members of the Planning Committee expressed concerns about the loss of this land for employment purposes, it must be said that the previous use did not fully utilise the site, and even then, it caused significant complaints to the Council.

A more intensive use which introduced commercial traffic/HGV's along Bogs Lane is not considered to be appropriate and the loss of employment land is considered to be acceptable in this instance.

D. Recreational Open Space:

Part of the site (the part which contains the allotments) is identified as Recreational Space by Policy R1 of the Local Plan which seeks to resist the loss of such areas unless a satisfactory replacement is provided.

The scheme proposes to replace the 'private' allotments with 'public' open space. There would also be a requirement for 'additional' space arising from the development itself.

From a policy point of view the land occupied by the former allotment gardens on this site measures 0.9 hectares(the applicant suggests that it is only 0.8ha).

Although private and no longer in use, these former allotment gardens, are protected from development by Policy R1 of the Harrogate District Local Plan and PPG17, Planning for

Open Space, Sport and Recreation.

This national and local planning policy context would allow the newly provided open space to be positioned differently on the site compared to the position of the former allotments and the applicants proposals include 0.82ha of recreational open-space albeit that before the appeal was withdrawn, they offered 0.9ha.

This 0.82ha includes 0.23ha (a requirement generated by the level of housing) and therefore 0.59ha of new "public" open space to off-set the loss of 0.9ha of "private" allotments.

The councils legal counsel at the time of the appeal indicated that when 'private' open space is changed to 'public' open space, this is rarely provided pro-rata, and the level offered by the applicant reflects the 'going rate' and is an appropriate replacement for the loss of allotments. The proposal now complies with Policy R1 and PPG17.

Whilst the Planning Committee indicated that they opposed the loss of the open space (allotments) it is considered that the "public" open space offered by the applicant, is a satisfactory "replacement" facility that will have a greater community benefit than the 'private' allotments which currently exist, albeit that the area involved is less.

The proposal now complies with Policy R1 and PPG17.

In relation to the previous scheme, this was judged against Policy R4 and failed to provide and equipped play area and the layout of the space was inappropriate.

Recreation policy has now changed and Policy R4 has been set aside in favour of Policy IMP2 and new SPG for open-space provision and village halls where appropriate.

The level of space provided is now in line with Policy IMP2 and subject to the re-positioning of the cycleway to create a useable informal play space, the recreational provision is compliant with Policy IMP2.

From the above it is apparent that there is no fundamental policy objection to the principle of development. Other 'policies' are discussed in other areas of this report.

2. DESIGN AND LANDSCAPING - There were several areas of concern relating to the previous proposal, which appeared to be a very harsh "urban" development imposed on Bogs Lane, which has a very open and rural appearance, the northern boundary of which constitutes the green belt.

The design and landscape impact formed the basis for the council's opposition to the previous scheme.

The new proposal provides a much 'softer' appearance, with fewer dwellings and the retention of the trees and 'ecological' sites, and from a landscape impact perspective, the proposal is appropriate.

The design and layout of the dwellings is unique to the application site as there is no single architectural style in the locality with bungalows on the north side of Bogs Lane, Victorian

terraced houses to the south , sub-urban dwellings to the east and another modern housing development to the southwest.

There is therefore no local distinctive style for the development to replicate.

The proposed dwellings fronting Bogs Lane now provide a more spacious character and an 'open' appearance that reflects the country lane/urban edge nature of the lane.

The remaining dwellings are grouped in terraced blocks that reflect the terraces in the locality and the 3 storey element is now located within the confines of the site.

The site is not a sensitive one (as defined in PPS7) and where PPS1 indicates that Local Planning Authorities should not be too prescriptive in terms of design

The proposed scheme provides an interesting appearance with a character of its own and whilst the councils design and conservation officer remains concerned at some details of the scheme, the design is not considered to be unduly harmful to the character of the locality , to the extent that a refusal of permission could be justified.

The development is an appropriate design and complies with local plan policy.

3. HIGHWAY SAFETY - It is apparent from the letters of objection that there are considerable concerns in relation to highway safety and in respect of the previous scheme, the Highway Officer commented as follows:-

"It is acknowledged that in percentage terms the increase in traffic following completion of development will be at the limit of being significant (of the order of 5%) given the large element of non residential traffic that currently uses Bogs Lane/ Kingsley Road as a means of avoiding Starbeck Level crossing.

The previous scheme also had some deficiencies in relation to the internal layout and in respect of inter-visibility between cars and pedestrians, conflict of vehicles with pedestrians at junctions, inadequate turning, and concerns over block paved surfacing, where parking obstruction is likely.

Based on the above it was concluded that in relation to the previous scheme, there would be highway safety problems.

These matters have been addressed by the new scheme (and some minor alterations have been addressed by the latest layout plan) which provides an appropriate layout and pedestrian/cycle links.

In addition the applicant proposes various off-site works to improve footways/cycleway links to the Bilton link footway/cycleway.

Whilst a precise scheme has not been drawn up, the applicant has offered the following in terms of off-site highway works:-

(i) Introduction of one-way traffic on the Bogs Lane/Kingsley Road route to the west of the site, the one-way route working eastbound (traffic travelling west to east) and to introduce

improvements for pedestrians, cyclists and horse riders.

(ii) A contribution of £35,000 index linked has been agreed.

(iii) The above is likely to reduce through traffic and reduce cross road movements between Forest Lane and Bogs Lane.

(iv) The applicant has agreed to provide a pedestrian island on the A59, High Street to afford safe access to the bus services for the disabled. The position of this island is shown and will require the relocation of the bus stop by 20m (southwards).

(v) The applicant is to provide a further £9000 (index-linked) to facilitate the off-site connection of their proposed cycle path to the others in the locality in order that the Council can create the 'link' at the south west corner of the site.

It is considered that the above highway proposals would:-

a) Make the Kingsley Road/Bogs Lane link less desirable to through traffic which would offset the additional traffic generated by the proposal and

b) Appropriate provision is made for cyclists and pedestrians and will not result in any harm to highway interests.

4. OTHER MATTERS - The Council's Ecology Officer previously had concerns that the development failed to enhance biodiversity as required by PPS9. This has been overcome by the retention of trees and wildlife habitat.

There are outstanding concerns in relation to contaminated land, although such matters would be addressed by condition.

The Police Architectural Liaison Officer has raised some concerns to elements of the design including use of back alleys, and easy access from public spaces which do not assist in the reduction of crime.

These are not concerns considered to be sufficient to resist the granting of permission and some can be tackled by minor adjustments to design or other measures (such as lockable gates).

The surrounding residents have objected on the grounds of loss of light/privacy and overlooking particularly from the 3 and 2 1/2 storey properties proposed. The proposed dwellings are however, situated an appropriate distance from other property and it is not considered that any appreciable loss of amenity would result.

CONCLUSION

The proposed development relates to a sustainable site within the built-up limits, that, with the proposed off-site highway works, would not be detrimental to highway safety. With changes to policy in relation to the release of housing sites, it is appropriate to release the site at present time. The development provides an appropriate level of public open space and retains mature trees/wildlife habitat. The scheme is acceptable in terms of design and landscape impact and will not be detrimental to the amenity of residents.

The development therefore addresses the reasons for refusal of the earlier scheme and complies with the development plan and there are no other material considerations which

would warrant a different conclusion.

CASE OFFICER: Mr R Forrester

RECOMMENDATION

That the application be APPROVED subject to the following conditions:-

- 1 The development hereby permitted shall be begun on or before .
- 2 The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details, as amended by letter and or drawings received by the Council of the Borough of Harrogate on the 25.06.07 and 03.07.07 and as modified by the conditions of this consent.
- 3 The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include
 - i. The timing of the construction of the affordable housing,
 - ii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing, and
 - iii. The occupancy criteria to be used for determining the identity of the prospective and successive occupiers of the affordable housing and the means by which such occupancy shall be enforced.
- 4 The development hereby permitted shall not begin until a scheme has been submitted and approved in writing by the Local Planning Authority for the provision of on-site and off-site public open space in accordance with Harrogate District Local Plan Policy IMP2. the provision for off-site public open space shall be provided in accordance with the approved scheme.
- 5 The occupation of the development authorised by this permission shall not begin until:
 - a) the local planning authority has approved in writing a full scheme of works of improvement to -
 - i) Introduce traffic management and road safety/pedestrian measures on the link between Bogs Lane and Kingsley Road including extensions to existing footways.
 - ii) Introduce a connecting cycle/footway link between the site and Diamond Place.
 - iii) Introduce a footway and speed platform on Bogs Lane as indicated on drawing PO7:3762:01 rev B.
 - iv) Introduce pedestrian facilities on the High Street as indicated on drawing 07-157-TR-PO7:3762:01 rev B.
 - b) the approved works have been completed in accordance with the local planning

authority's written approval and have been certified in writing as complete on behalf of the local planning authority,
unless alternative arrangements to secure the specified works have been approved in writing by the local planning authority.

- 6 Development shall not be begun until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public when and after the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.
- 7 A detailed scheme for landscaping, including the planting of trees and or shrubs and the use of surface materials shall be submitted to the Local Planning Authority and no development shall take place until the Local Planning Authority have approved a landscaping scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and the timing of implementation of the scheme, including any earthworks required.
- 8 In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.
- 9 Before any materials are brought onto the site or any development is commenced, the developer shall erect chestnut paling or similar fencing in accordance with details previously submitted to and approved in writing by the Local Planning Authority, around the trees and shrubs to be retained as indicated on the approved plan. The developers shall maintain such fences to the satisfaction of the Local Planning Authority until all development, the subject of this permission, is completed. The level of land within the fenced area shall not be altered without the prior written consent of the Local Planning Authority.
- 10 The development shall only be undertaken in accordance with the arboricultural method statement submitted with the application.

The trees shall be inspected on a monthly basis by the arboricultural specialist and any breaches, corrective works or new instructions shall be reported to and agreed in writing by the Local Planning Authority.
- 11 The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 12 No Development shall take place until details of the proposed means of disposal 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.
- 13 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.

- 14 The materials to be used in the construction of the exterior walls and roof of the development hereby approved shall be as may be approved by the Local Planning Authority, and no construction shall be commenced in advance of any such approval.
- 15 Notwithstanding the submitted plans, the precise line of the footway across the public open space shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the footway shall only be constructed in full accordance with the agreed scheme.
- 16 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
- 17 There should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.
- 18 Notwithstanding the layout and details shown upon the submitted drawing(s) PO7:3762:01 rev B the development hereby approved shall not be commenced prior to the submission to and approval by the Local Planning Authority in writing of an amended layout and full engineering details to provide for -
 - a) The construction of the proposed estate roads and footpaths/cycleways to an adoptable standard, including street lighting and drainage.
 - b) The realignment of proposed footpaths and cycleways through public open space.
 - c) The repositioning of the garage to unit 37 to achieve off drive visitor parking.
 - d) finished floor levels of units to achieve drive gradients not exceeding 1 in 12.

The development thereafter shall not be first occupied prior to the introduction of the same in accordance with the details approved by the Local Planning Authority.

- 19 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway and any footway or footpath from which it gains access is constructed to basecourse macadam level and or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The carriageway and footway or footpath wearing courses and street lighting shall be completed within three months of the date of commencement of construction of the penultimate dwelling of the development or within two years of the laying of the basecourse whichever is sooner, unless otherwise agreed in writing with the Local Planning Authority.

- 20 There shall be no means of vehicular access to or from the application site other than from Bogs Lane unless otherwise approved in writing by the Local Planning Authority.

- 21 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any subsequent Order, the garage(s) shall not be converted into a habitable room(s) without the express written approval of the Local Planning Authority.
- 22 The development shall not be commenced until vehicle wheel washing facilities have been installed on the access road to the site in accordance with details to be submitted to and approved by the Local Planning Authority. These facilities shall be kept in full working order at all times. All vehicles involved in the transport of waste materials or finished products to or from the site shall be thoroughly cleaned before leaving the site so that no mud or waste materials are deposited on the public highway.
- 23 The landscaping scheme required by condition 7 (above), shall incorporate the recommendations contained in paragraphs 5.8 - 5.13 of the submitted Ecological Appraisal.
- 24 The development hereby approved shall not be commenced, nor any shall any survey work involving the use of machinery be undertaken, until such time as the invasive weeds on the site have been eradicated in accordance with paragraphs 5.3 and 5.4 of the submitted Ecological Appraisal and thereafter, the development shall only be implemented in full accordance with paragraphs 5.1 and 5.2, (relating to bats) and paragraph 5.3 (in relation to birds) of the submitted Ecological Appraisal unless otherwise agreed in writing by the Local Planning Authority.

Reasons for Conditions:-

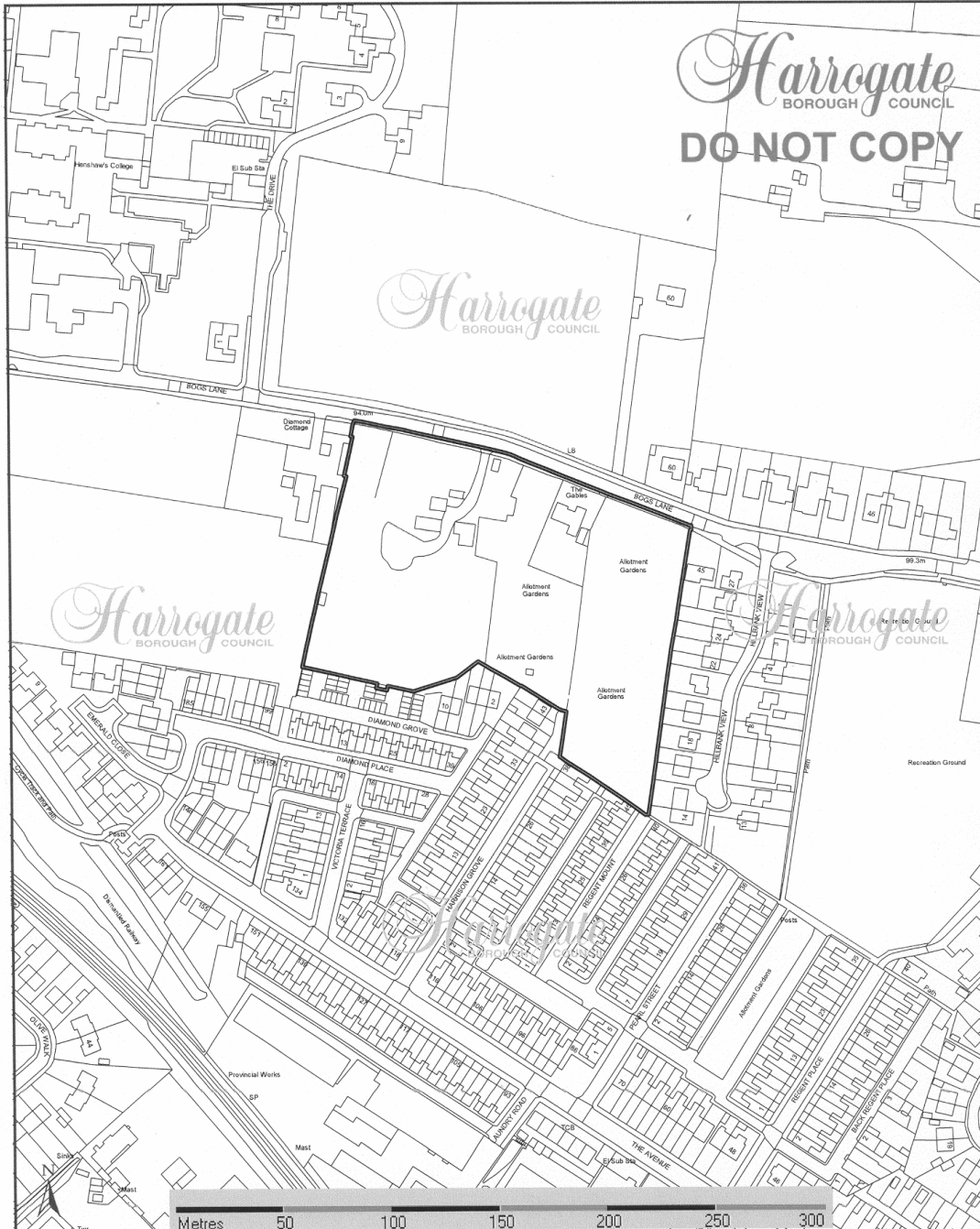
- 1 To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.
- 2 In order to ensure that the development is carried out in accordance with the approved drawings.
- 3 To ensure the provision of affordable housing in perpetuity in compliance with Policy H5 of the Harrogate District Local Plan.
- 4 In the interest of residential amenity and to ensure the provision of Public Open Space to meet local needs in accordance with Harrogate District Local Plan Policy R4 IMP2.
Footnote: the provision of Public Open Space can be met by payment of a commuted sum through the mechanism of either a unilateral obligation or through a section 106 agreement.
- 5 To ensure implementation of works necessary to make the development acceptable from a planning standpoint.
- 6 To provide a safe environment for the users of the development.
- 7 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 8 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 9 To ensure the protection of the trees or shrubs during the carrying out of the

- development.
- 10 In the interests of the maintenance of the health and amenity of the tree(s) and to ensure good arboricultural practice is followed.
 - 11 In the interest of satisfactory and sustainable drainage
 - 12 To ensure that the development can be properly drained.
 - 13 To ensure that no foul or surface water discharges take place until proper provision had been made for their disposal.
 - 14 To safeguard the rights of control by the Local Planning Authority and in the interests of general amenity.
 - 15 In order to provide an acceptable replacement open space to off-set the loss of the allotments and in order to comply with Policy R1 and IMP2 of the Harrogate District Local Plan.
 - 16 To prevent pollution of the water environment.
 - 17 To prevent pollution of the water environment.
 - 18 In the interests of road safety.
 - 19 To ensure safe and appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.
 - 20 In the interests of highway safety.
 - 21 To ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity of the development.
 - 22 To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
 - 23 In order to provide mitigation compensation and enhancement of bio-diversity as required by P.P.S 9.
 - 24 In order to prevent the spread of invasive Japanese Knotweed and to protect legally protected species and their habitat.

INFORMATIVES

- 1 Trees on the site to which this permission relates are subject to a Tree Preservation Order and may not be lopped, topped or felled without the prior written consent of the Borough Council, unless the tree work has already been approved under cover of a planning permission which is being implemented. Any person undertaking work to protected trees without written consent is liable to prosecution. Application forms are available from the Councils Department of Development Services.
- 2 All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and English Nature contacted for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given English Nature's contact details. English Nature, North and East Yorkshire Team, Genesis 1 University Road Heslington York YO10 5ZQ. Tel: 01904 435500.
- 3 For the avoidance of doubt, the term "affordable housing" means subsidised housing at below market prices or rents intended for those households who cannot afford housing at market rates. It is expected that the applicant or developer will enter into a planning obligation with the local planning authority to provide the affordable housing

in accordance with the approved scheme as agreed in principle.



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Harrogate Borough Council 1000 19628 2007.

PLANNING COMMITTEE

Item No. 4

App No./Case No. 07/02037/FULMAJ 6.79.7354.C.FULMAJ

Scale (at A4 size) 1:2500 **Site area** 1.88ha **Site boundary**

Drawn MDTT **Date** 03.07.2007