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- Meeting:** Harrogate and Knaresborough Area Constituency Planning Committee
- Members:** Councillors John Mann (Chair), Chris Aldred (Vice-Chair), Philip Broadbank, Hannah Gostlow, Mike Schofield, Robert Windass and Peter Lacey.
- Date:** Tuesday, 25th June, 2024
- Time:** 2.00 pm
- Venue:** Council Chamber - Civic Centre, St Luke's Avenue, Harrogate, HG1 2AE

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact the named democratic services officer supporting this committee if you have any queries.

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The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of three minutes to put their case. If you wish to register to speak through this scheme, then please notify Dawn Drury, Democratic Services Officer by midday on Thursday 20 June 2024.

This meeting is being held as an in-person meeting that is being live-streamed and will be available to view via the following link <http://www.northyorks.gov.uk/livemeetings> Please contact the named democratic services officer supporting this committee if you would like to find out more.

Agenda

1. **Apologies for Absence**

2. **Minutes for the Meeting held on 28 May 2024** (Pages 3 - 6)
3. **Declarations of Interests**
All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.
4. **ZC23/03697/FUL - Former Council Offices, Crescent Gardens, Harrogate, North Yorkshire** (Pages 7 - 26)
Report of the Assistant Director Planning – Community Development Services
5. **ZC24/00887/FUL - Oak Back, 22 Ashgarth Court, Harrogate, North Yorkshire, HG2 9LE** (Pages 27 - 46)
Report of the Assistant Director Planning – Community Development Services
6. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
7. **Date of Next Meeting**
Tuesday, 30 July 2024 at 2.00 pm.

Members are reminded that in order to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

Agenda Contact Officer:

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Monday, 17 June 2024

North Yorkshire Council

Harrogate and Knaresborough Area Constituency Planning Committee

Minutes of the meeting held on Tuesday, 28th May, 2024 commencing at 2.00 pm.

Councillor John Mann in the Chair plus Councillors Chris Aldred, Philip Broadbank, Mike Schofield and Robert Windass.

Officers present: Catriona Gatrell – Head of Legal (Property, Planning and Environment), Nick Turpin – Planning Manager (Development Management), Andy Hough – Senior Planning Officer, Harriet Clark, Senior Democratic Services Officer; and Dawn Drury, Democratic Services Officer.

Apologies: Hannah Gostlow and Peter Lacey

Copies of all documents considered are in the Minute Book

8 Apologies for Absence

Apologies noted (see above).

9 Minutes for the Meeting held on 7 May 2024

The minutes of the meeting held on 7 May 2024 were confirmed and signed as an accurate record.

10 Declarations of Interest

There were no declarations of interest.

The Chair informed Members that following the meeting of Full Council on 15 May 2024, there had been two membership changes on the Committee. Councillor Paul Haslam had come off the Committee, with Councillor Peter Lacey replacing him.

The Chair thanked Councillor Haslam for his service and contribution to the Planning Committee, and welcomed Councillor Lacey, and also Councillor Mike Schofield, who had now received the necessary training, to enable him to take part in the meetings.

Planning Applications

The Committee considered a report of the Assistant Director Planning – Community Development Services relating to an application for planning permission. During the meeting, Officers referred to additional information and representations which had

been received.

The conditions as set out in the report and the appropriate time limit conditions were considered.

In considering the report of the Assistant Director Planning – Community Development Services, regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations.

The Committee resolved that they were minded to approve the grant of planning permission, but delegated the final decision to be taken by the Assistant Director – Planning, in consultation with the Chair and Vice-Chair of the Planning Committee.

11 23/00214/FULMAJ - Land comprising field at 436940 462883 - Minskip Road, Staveley, North Yorkshire

Considered :-

The Assistant Director Planning – Community Development Services sought determination of a full planning application for the erection of 76 No. residential dwellings and associated infrastructure on land at 436940 462883, Minskip Road, Staveley, North Yorkshire.

The Senior Planning Officer advised Members that since publication of the agenda pack, the County Ecologist had recommended two additional conditions be included to cover a construction and environmental management plan, and a long-term enhancement plan for the development site. Together with the suggested inclusion within the S106 agreement that the biodiversity and enhancement management plan be a living document which progressed throughout the lifetime of the application.

In addition, two further representations had been received by the authority, but it was confirmed that neither objection had raised any issues which had not already been referred to within the Committee report. Staveley and Copgrove Parish Council had also reiterated their objection to the application; this referred to unstable land and highlighted concerns regarding development and suggested that the land would not have been allocated in the Harrogate District Local Plan 2014-2035, had Gypsum been a known issue at that time.

Members heard that the developer had produced King's Counsel opinion that the issue of unstable land had been satisfactorily addressed under the provision of Policy NE9, and provided two independent engineers reports, as required by the Policy.

The Solicitor asked that the officer reiterate the recommendation as set out in the Committee report.

John Carter spoke objecting to the application.

Graham Bowland spoke on behalf of Staveley and Copgrove Parish Council objecting to the application.

The applicant's agent, Matt Burrow, spoke in support of the application.

The Chair allowed the applicant's agent to speak again, over the three minutes given to each speaker, in response to a request from a Committee Member that the speaker be allowed to finish his submission. The two representors were offered the same consideration, with just Mr Carter adding to his submission.

During consideration of the above application, the Committee discussed the following issues:-

- Clarification on the points of pedestrian access to the site.
- Members queried if the 20 mile per hour national road speed limit on the main road applied to the whole length of road adjacent to the site, and if not, was there scope to request that the speed limit applied to the entire length of the road. It was confirmed that should the planning application be approved, that officers could take back Members comments to the Highways Authority for examination.
- The distance between the application site and the Nature Reserve.
- Discussion took place regarding the availability of pupil school places at Staveley Primary School.
- Clarification was sought on whether some of the affordable housing to be provided on the site would be shared ownership, and if so, what proportion would be for rent and shared ownership.
- Members raised concerns around the unstable ground conditions and the possibility of Gypsum being present at the site.
- If there was considered to be a demand for housing in this particular area.
- Would public transport be available to the site, and how regularly the bus service travelled through the area, daily.
- Clarification was sought on biodiversity, and in particular the hedgerow on the boundary of the site.
- In terms of ground stability, it was queried if a condition could be added that an excavation be carried out at the application site.

The Decision :-

That the Committee was **minded to approve** the application subject to the conditions set out in Section 12 of the committee report and a Section 106 agreement and delegates the decision to the Assistant Director – Planning in consultation with the Chair and Vice-Chair of the Planning Committee, including the finalisation of conditions and the terms of the Section 106 to include:

Affordable Housing
Travel Plan contributions
BNG management
Education Contributions
Village Hall Contributions
Open Space Contributions

Members amended the officer recommendation to require the decision of the

Assistant Director – Planning to be in consultation with the Chair and Vice-Chair of the Planning Committee, including the finalisation of conditions and the terms of the Section 106.

Voting Record

A vote was taken, and the motion was declared carried with 3 votes for, 1 vote against and 1 abstention.

12 Any other items

There were no urgent items of business.

13 Date of Next Meeting

Tuesday 25 June 2024 – Civic Centre, Harrogate

The meeting concluded at 3.26 pm.

North Yorkshire Council

Community Development Services

HARROGATE AND KNARESBOROUGH AREA CONSTITUENCY PLANNING COMMITTEE

25 JUNE 2024

**ZC23/03697/FUL - INSTALLATION OF ACCESS CONTROL BOLLARDS,
CONSTRUCTION OF PLANTERS, AND BLOCK PAVING TO ROADWAY.**

AT

**FORMER COUNCIL OFFICES CRESCENT GARDENS HARROGATE NORTH
YORKSHIRE**

**ON BEHALF OF
IMPALA ESTATES LTD**

Report of the Assistant Director, Planning

The application was deferred at the Harrogate and Knaresborough Area Constituency Committee on 7th May 2024 because members did not feel that they had sufficient information to make an informed decision, and that in view of a potential application to the Secretary of State for a Stopping up Order, which if granted would allow for a public right of way to be extinguished, there was a need to understand the full consequences of granting the planning application.

The following further information is provided:

Appendix B - Disposal of Crescent Gardens Highway Report to Cabinet – Place Shaping and Economic Growth – 20.7.22.

Appendix C - Minutes of the above Cabinet Meeting.

Appendix D – Summary of Supplementary Information provided by the applicant on 28.5.24.

1.0 Purpose of the Report

- 1.1 To determine a planning application for Full Planning Permission for the Installation of Access Control Bollards, Construction of Planters, and Block Paving to Roadway on land to the front of Former Council Offices Crescent Gardens Harrogate North Yorkshire.
- 1.2 This application is brought to the Area Planning Committee as the land is in the ownership of North Yorkshire Council.

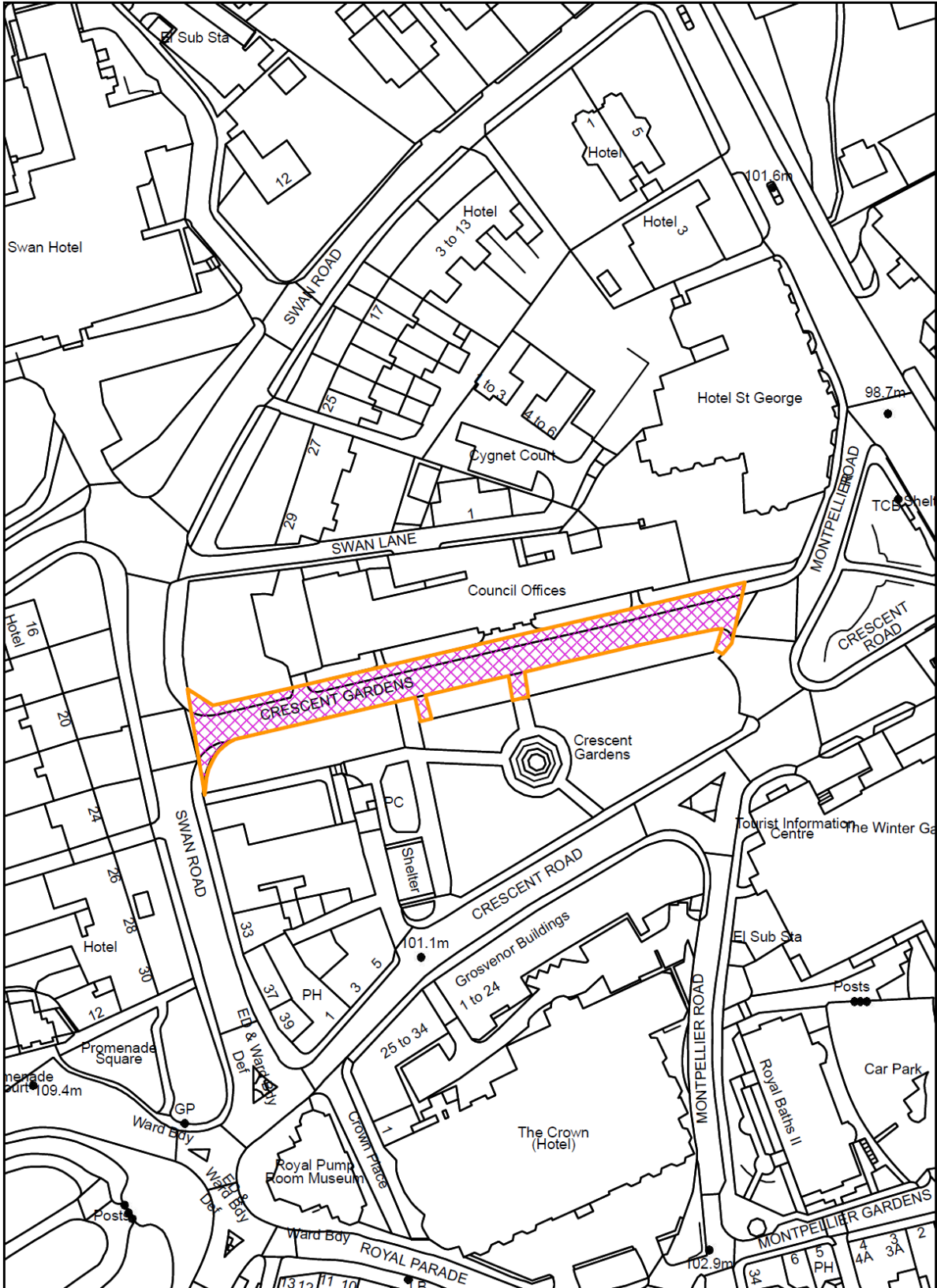
2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to conditions listed below.

- 2.1. This application seeks Full Planning Permission for the Installation of Access Control Bollards, Construction of Planters, and Block Paving to the Roadway to the front of the former Council Offices, Crescent Gardens, Harrogate, running between Swan

Road to the west and Montpellier Road to the east. Public open Space (Queen Elizabeth Memorial Gardens) lies immediately to the south of the site. The site extends to 0.13 ha in area and is comprised of the Crescent Gardens carriageway and footway. The application site excludes the off-carriageway parking bays to the south of the Crescent Gardens roadway except for the replacement of tarmac with soft landscaping around two trees.

- 2.2. Five 600mm high automatic telescopic bollards are proposed, two at the western end of Crescent Gardens, and three at the eastern end. Low level planted areas are proposed either side of the bollards formed in kerb edge to match the existing kerbs. The area between the planters will be finished in stone block sets. It is also proposed to construct a block paved section of road to the front of the Crescent Gardens Building main entrance, thereby forming a clear pedestrian connection between the building and the Queen Elizabeth Memorial Gardens opposite.
- 2.3. The construction, installation, and operation of the access controls proposed by this application would prevent public vehicular access.
- 2.4. For clarification, a separate permission is required from the Secretary of State for Transport (SoS) under s247 Town & Country Planning Act 1990 (As amended by the Growth and Infrastructure Act, 2013) for a “Stopping up Order” (highway land ceases to be a highway and the public rights of way are extinguished in law, once the order is made). The proposed development could not be implemented unless and until such an order is granted.
- 2.5. An order to stop up the Highway Land cannot be made under section 247 of the 1990 Act without a valid and relevant planning permission, hence why this application has been brought forward at this stage rather than after any Stopping Up Order has been granted.
- 2.6. This “Stopping Up” application process is subject to its own consultation process. Notice of the intention to make the order must be advertised in a local newspaper and the applicant must display and maintain a copy of the notice in a prominent position at each end of the area of highway/footpath to be “stopped-up”. There is a period of no less than 28 days from the date of publication in which to make an objection to the proposed order.
- 2.7. The Council’s Highways Team have no objection to the proposed development subject to proposed conditions requiring the submission of a Bollard and Access Management Plan, a Construction Phase Management Plan, and provision of a tactile pedestrian crossing at the junction of Crescent Gardens / Swan Road to improve the pedestrian facilities on the remaining highway.
- 2.8. Officers consider that the proposed development will have a minor positive impact on the character and appearance of the conservation area and no significant impact on the setting of nearby listed buildings.
- 2.9. Having regard to the overall planning balance, the development is considered to be acceptable, and approval is recommended subject to the conditions below.



Location Plan

Scale 1:1,250

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3.0 Preliminary Matters

Access to the case file on Public Access can be found [here](#).

- 3.1. There is one relevant planning application for this application which is detailed below.

21/01336/FULMAJ - Change of use of former Council Headquarters to Class E (commercial, business and service) use comprising offices and restaurant / bar with ancillary residential and gym use; erection of a two storey roof-top extension, replacement fenestration and new electricity substation and alterations to parking, landscaping and other associated works – Granted 20.05.22.

4.0 Site and Surroundings

- 4.1. The site is the road to the front of the Crescent Gardens Building in Harrogate town, running between Swan Road to the west and Montpellier Road to the east. Queen Elizabeth Memorial Gardens lies to the south of the site. The site extends to 0.13 ha in area and is comprised of the Crescent Gardens carriageway and footway.

5.0 Description of Proposal

This application seeks Full Planning Permission for the Installation of Access Control Bollards, Construction of Planters, and Block Paving to Crescent Garden Roadway. Within the area of existing off-carriageway parking bays, the tarmac surface will be removed from the area immediately around two existing trees and shall be replaced by soft landscaping in the form of low-level planting.

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
The Harrogate District Local Plan 2014 - 2035 (adopted 2020).

Emerging Development Plan – Material Consideration

The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- National Design Guide 2021
- Harrogate Conservation Area Character Appraisals 2010.
- Harrogate Town Centre Strategy and Masterplan 2016

7.0 **Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **NYC Highways:** No objection subject to proposed conditions requiring the submission of a Bollard and Access Management Plan, a Construction Phase Management Plan, and provision of a tactile pedestrian crossing at the junction of Crescent Gardens / Swan Road to improve the pedestrian facilities on the remaining highway.
- 7.3. **NYC Estates:** No Objections.

Local Representations

- 7.4. Seven local representations objecting to the proposal have been received. Comments have also been received from the Civic Society objecting to the application. A summary of the comments is provided below, however, please see website for full comments.

7.5. **Objections:**

- Object to the loss of parking spaces and knock on effect this will have on nearby residents and cycle stand;
- Object to the loss of public traffic access as all traffic in the area will now have to use Swan Lane or Crescent Road to access Ripon Road, adding to existing congestion and increased risk to pedestrians;
- Crescent Gardens provides a natural relief to traffic and closing the highway would inevitably cause pinch points elsewhere on the road network;
- Proposed planters are not attractive;
- Blocking the road would increase problems of setting up events on Crescent Gardens;
- Harm to the historic significance of the Crescent Gardens Area;
- Gradual demise of the actual Crescent Gardens Area;
- Poor landscaping;

- Loss of cycle stands;
- Loss of revenue to North Yorkshire Council;
- Crescent Gardens provides a safer route for wheelchair users;
- The use of the public conveniences on Crescent Gardens will more difficult due to limited access and no parking;
- No consideration for cyclists;
- Public loss but no public benefits;
- The ex-Council offices are listed as a "Landmark Building of Interest" within the "Harrogate Conservation Area Character Appraisal". As it is a building of such public interest, the public should be free to walk up to the building without bollards and planters discouraging them to do so;
- Approving this application, a dangerous precedent would be set and the wrong message would be given about highways and other assets under public ownership;
- The application has no obvious Design and Access Statement, despite the fact that there is the 'Harrogate Town Centre Strategy and Master Plan' dated 2015;
- The application again has no apparent Heritage Statement despite the fact that the Street is in the setting of the Royal Hall, Royal Baths and numerous other listed buildings.

8.0 Environment Impact Assessment (EIA)

- 8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

- 9.1. The key considerations in the assessment of this application are:
- Principle.
 - Impact on the Highway Network and Highway Safety.
 - Heritage Considerations.
 - Other Matters.

10.0 ASSESSMENT

Principle:

- 10.1. The proposed development is linked to delivery of the approved conversion and extension of the Crescent Gardens building to form a mixed-use office and restaurant/bar development. It will reduce vehicular traffic through the site and create a more pedestrian friendly environment. This, along with the proposed planters and new paving will improve the setting of approved development. This is in line with local plan policy GS5 which aims to provide a range of quality business sites and premises, in order to support the districts economy. The principle of the development is therefore acceptable. The impacts of the proposal on the highway network and on heritage assets are discussed below.

Impact on the Highway Network and Highway Safety:

- 10.2. Paragraph 115 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.3. NYC Highways has no objection to the proposed development subject to conditions requiring the submission of a Bollard and Access Management Plan, a Construction Phase Management Plan, and provision of a tactile pedestrian crossing at the junction of Crescent Gardens / Swan Road to improve the pedestrian facilities on the remaining highway.
- 10.4. Crescent Gardens currently forms part of the highway, maintained at public expense and is open to public use for all modes of travel. Whilst the Crescent Gardens roadway allows two-way vehicular passage, this is not depended upon for access to any location other than the Crescent Gardens building. The applicant as part of this development proposes to install a set of bollards and planters to prohibit through traffic to vehicles. Approval of this proposal would then allow the applicant to apply for stopping up order for the area highlighted in their location plan. Should this planning application be successful, the applicant cannot implement the scheme until a Stopping Up Order has been approved by the Secretary of State via Section 247 of the Town and Country Planning Act. This would remove all highway rights.
- 10.5. The proposed use of Crescent Gardens building includes uses that will require entrance/egress by the general public, including restaurant and bar uses. The proposed development does not install any physical restriction to access on foot or by cycle and, as such, pedestrian/cycle access will continue over this area.
- 10.6. Increased traffic on surrounding roads:
The alternative routes for vehicles no longer able to use Crescent Gardens would be via Swan Road and onto Crescent Road. NYC Highways has advised that the traffic generation as a result of this proposal will not have a material impact on the junctions and highway network within the vicinity.

10.7. Loss of Parking:

The proposal will see the removal of approximately 35 public parking spaces on Crescent Gardens. NYC Highways has advised that the removal of this parking is not a significant concern and would not warrant refusal, as there are sufficient alternative on-street parking facilities nearby, in addition to an abundance of available off-street parking options in the Town Centre. The existing bays will be retained for the use of the businesses in the Crescent Gardens building.

10.8. Pedestrian Route:

It is currently proposed that the pedestrian footpath across Crescent Gardens will remain available for public use upon completion of the works. However, if a 'stopping up order' is approved, the landowner could prevent pedestrian access. Should this occur, the alternative route for pedestrians would be either through the garden area at Crescent Gardens, or via Swan Road and onto Crescent Road.

10.9. New tactile paving with dropped curb, in accordance with the specification of the Highway Authority, will be provided as part of this application at the junction of Crescent Gardens / Swan Road, to improve the pedestrian facilities on the remaining highway.

10.10. Council Assets within the Stopping Up Area:

- Street Lighting columns (these can be transferred in their entirety when the road is stopped up and the landowner would be responsible for maintenance, energy supply and any repair/replacement as necessary)
- Parking sensors in the on-street parking bays (these will be removed by NYC prior to the stopping up order coming into effect)
- Parking machines (will be removed by NYC prior to the stopping up order coming into effect)
- The applicant has agreed to pay a sum of £5000 to meet the costs of preparing and making a Traffic Regulation Order (which will be subject to the statutory processes for TROs) to amend parking and waiting restrictions on Crescent Gardens. This sum will be secured through the requirements of condition 3.

10.11. In the submitted representations, objections have been raised in relation to the loss of parking spaces, the impact of the road closure on the surrounding road network, loss of cycle stands, loss of revenue to NYC resulting from the loss of the parking spaces and other matters related to the stopping up of the highway.

10.12. Highway Officers have considered the implications of the proposed development on the highway network, including the impacts of the loss of parking spaces. They have concluded that the implications would be acceptable and do not therefore object to the works proposed under this application.

10.13. Any loss of revenue to NYC resulting from the loss of the parking spaces is a matter for the landowner (NYC) to consider not a matter for the planning authority to consider under this planning application.

Heritage Considerations:

- 10.14. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires a Local Planning Authority, when considering a planning application which affects a listed building, to have special regard to the desirability of preserving the building or its setting. In addition, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires a Local Planning Authority when considering a planning application which affects a conservation area to have special regard to the desirability of preserving or enhancing the character or appearance of that area.
- 10.15. Local Plan policy HP2 seeks to seeks to protect heritage assets and their setting. Local Plan policy HP3 seeks to protect local distinctiveness and the spatial qualities of the area.
- 10.16. The site is within Harrogate Conservation Area and there are a number of listed buildings within the vicinity of the site, including: The Royal Hall (grade II*), 27 - 29 Swan Road (grade II), The Old Town Hall (grade II), The Pavilion (grade II); Royal Baths (grade II), 2 - 24 Crescent Road (grade II). Crescent Gardens building is listed as a 'landmark building' (buildings occupying an important and prominent position in the character area) within the Harrogate Conservation Area Character Appraisal (HCACA) and is considered to be a non-designated heritage asset. The HCACA also notes that Queen Elizabeth Memorial Gardens contributes to the setting of the building.
- 10.17. Harrogate Town Centre Strategy and Masterplan 2016 sets out a vision to create an exceptional town centre environment, including public realm of outstanding quality.
- 10.18. The proposed planting areas at either end of the site will be a continuation of the existing kerbing material and so will only project a small amount above the existing road level. The planting within, and its future maintenance can be controlled by condition. The finished material of the bollards and paving can also be adequately controlled by condition.
- 10.19. Implementation of the proposed development would prevent vehicular movement across the site, apart from that associated with the Crescent Garden building. This, along with the proposed landscaping and paving works would enhance the setting of the building and of Crescent Gardens Park.
- 10.20. Subject to conditions to control the detail of materials and landscaping. officers consider that the proposed development will have a minor positive impact on the character or appearance of the conservation area and the setting of the Crescent Garden building. The proposal will have no significant impact on the setting of surrounding listed buildings. The proposed works would make a small contribution towards achieving the aims of the Harrogate Town Centre Strategy and Masterplan 2016.
- 10.21. The proposal therefore complies with the relevant requirements of local plan policies HP2 and HP3.

Other Matters:Disposal of Crescent Gardens Road:

- 10.22. For background, and in the interests of transparency, a report was taken to the former Cabinet (Place Shaping and Economic Growth) of Harrogate Borough Council on 20 July 2022 which set out the background and reasons relating to Harrogate Borough Council's (Now NYC) proposed disposal of Crescent Gardens Road fronting the former HBC office building at Crescent Gardens.

The recommendation was as follows:

1. *Cabinet approves the freehold disposal of the land to Impala Estates, owners of the office building at Crescent Gardens*
2. *The disposal price and terms are agreed in accordance with independent expert advice.*
3. *The Head of Legal and Governance is given authority to enter into and complete all necessary documentation required to finalise the disposal of this property and all matters related thereto.*

The disposal was conditional upon the proposed purchaser obtaining a stopping up order on the highway.

Members resolved (unanimously) to approve the recommendation.

Reasons for decision:

The proposed purchaser wished to improve the landscaping and alter the existing layout of the parking and landscaped areas to the front of the building. Impala Estates were progressing with the refurbishment of the former council offices at Crescent Gardens, this was an important project for the town centre creating much needed good quality office space. If the current public realm in front of this building could be improved, this benefited the building itself and the town in a wider context as well as surrounding properties many of which remained in the ownership of HBC.

10.23. Equality Act 2010

- 10.24. Under the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

- 10.25. The proposed development would reduce the area of public highway and the availability of public parking in the area. However, as set out above, there are alternative pedestrian and vehicular routes available and sufficient alternative public parking available in the town centre. In these circumstances, it is considered the proposal would not discriminate against those with disabilities or any other protected characteristic.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The principle of the proposed development is acceptable. It would have a minor positive impact on the character and appearance of the conservation and the setting of the former council office building. The proposal would have no significant impact on the setting of listed buildings. The development would not have an unacceptable impact on the interests of highway and pedestrian safety or the operation of the highway network. It therefore complies with the requirements of the local plan. There are no other material planning considerations that warrant consideration in this case and the proposal should therefore be approved.

12.0 RECOMMENDATION

- 12.1 That planning permission be GRANTED subject to conditions listed below:

Recommended conditions:

Condition 1 – Time Limit

The development hereby permitted shall be begun on or before three years from the date of this permission.

Reason: To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.

Condition 2 – Approved Plans

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

Site Location Plan - 6404-SSA-XX-XX-DR-A-013 Revision P10
Proposed Site Plan - 6404-SSA-XX-XX-DR-A-015 Revision P13

Reason: To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.

Condition 3 – s106 Legal Agreement

The development hereby approved shall not be commenced unless and until an agreement or undertaking made under section 106 of the Town and County Planning Act 1990 has been entered into to secure the planning obligations specified in the Section 106 Heads of Terms document dated 10 April 2024 (to meet the costs of preparing and making a Traffic Regulation Order to secure parking and waiting restrictions on Crescent Gardens)

Reason: To secure the measures necessary to mitigate the impact of the development on the highway network.

Condition 4 – Bollard and Access Management Plan

No development must commence until a Bollard and Access Management Plan has been submitted to and approved in writing by the Local Planning Authority.

Construction and operation of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following:

1. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue in any 24hour period
2. details of what actions will be taken in the event of any breakdown or malfunction of the bollards
3. details of how the bollards will be operated and maintained
4. Signage details on and around the bollards

Reason: In the interest of public safety and amenity.

Condition 5 – Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. the parking of contractors' site operatives and visitor's vehicles;
2. areas for storage of plant and materials used in constructing the development clear of the highway;
3. details of site working hours;
4. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity

Condition 6 – Dropped Curb and Tactile Paving

The development must not be brought into use until the pedestrian crossing at the junction of Crescent Gardens and Swan Road (shown on drawing ref. AMA/20763/SK004 - Proposed Pedestrian Crossing Point) has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The pedestrian crossing of the highway footway must be constructed in agreement with the Local Highway Authority and to their satisfaction.

All works must accord with the approved details.

Reason: To ensure a satisfactory means of access on the public highway in the interests of highway safety and the convenience of all highway users.

Condition 7 - Materials

Prior to the installation of the bollards and the use of the materials for the proposed planters and paving, detailed specifications for the proposed bollards and materials to be used in the construction of the planters and new paving shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and the general character of the conservation area.

Condition 8 – Landscaping

Prior to the commencement of the construction of the planters hereby approved, full details of the proposed landscaping within, and the arrangements for future maintenance, shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and the general character of the conservation area.

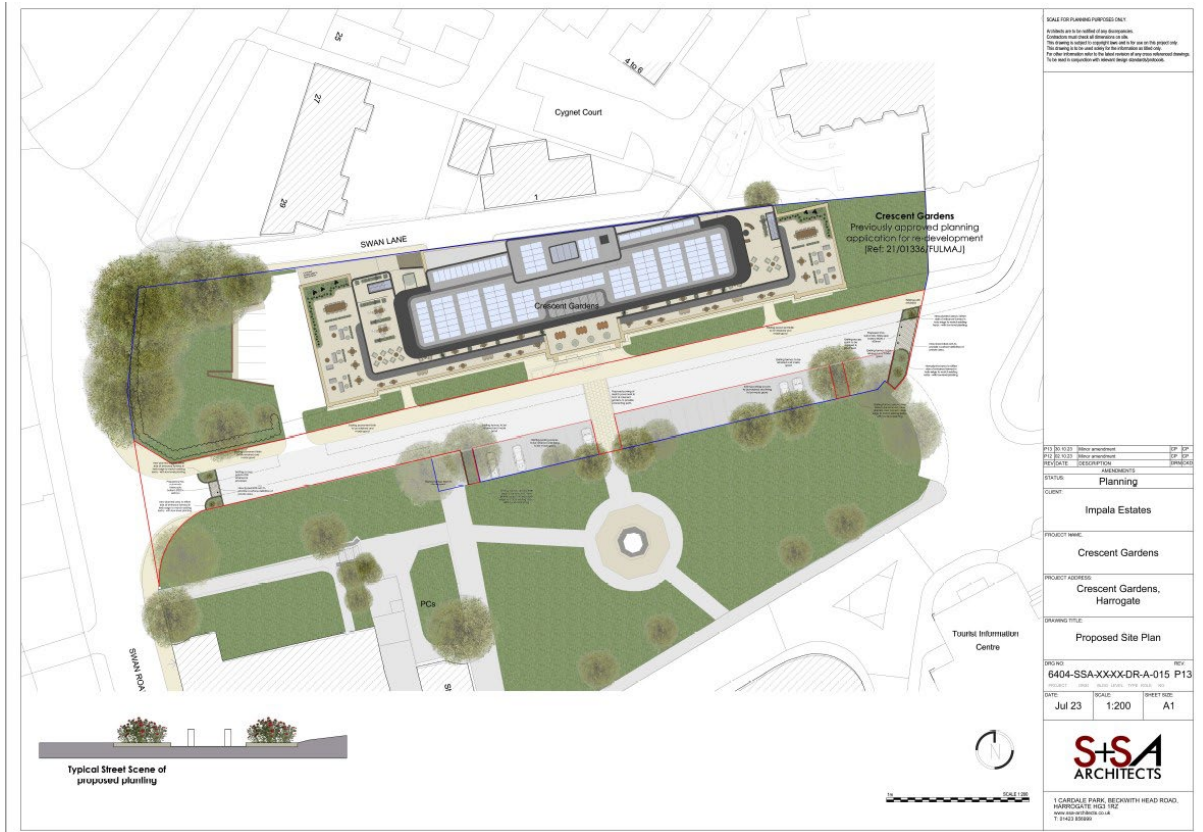
Condition 9 – Relocation of Cycle Stands

Prior to the implementation of the development hereby approved, the existing cycle stands at the eastern end of the site shall be removed and relocated to a position outside the redline site boundary in accordance with details that shall have been submitted to and approved in writing by the local planning authority.

Reason: To retain the existing level of public cycle parking in the area.

Case Officer: Gerard Walsh, Gerard.walsh@northyorks.gov.uk

Appendix A – Proposed Layout Plan



Appendix B - Report to Cabinet

DISPOSAL OF CRESCENT GARDENS HIGHWAY REPORT TO CABINET – PLACE SHAPING AND ECONOMIC GROWTH.

REPORT TO: Cabinet

DATE: 20th July 2022

SERVICE AREA: Place Shaping and Economic Growth

REPORTING OFFICER: Strategic Estates Surveyor (Glenn Levison)

SUBJECT: **DISPOSAL OF CRESCENT GARDENS HIGHWAY FRONTING FORMER HBC OFFICES**

WARD/S AFFECTED: Harrogate Central Ward

FORWARD PLAN REF: 43ED21

1.0 PURPOSE OF REPORT

To set out the background and reasons relating to Harrogate Borough Council's (HBC) proposed disposal of Crescent Gardens Road fronting the former HBC office building at Crescent Gardens (shown edged red on the attached plan – Appendix 1).

2.0 RECOMMENDATION/S

That:

1. Cabinet approves the freehold disposal of the land shown in Appendix 1, to Impala Estates, owners of the office building at Crescent Gardens
2. The disposal price and terms are agreed in accordance with independent expert advice, as set out in exempt Appendix 2.
3. The Head of Legal and Governance is given authority to enter into and complete all necessary documentation required to finalise the disposal of this property and all matters related thereto.

3.0 RECOMMENDED REASON/S FOR DECISION/S

- 3.1 The proposed purchaser wishes to improve the landscaping and alter the existing layout of the parking and landscaped areas to the front of the building.
- 3.2 Impala Estates are progressing with the refurbishment of the former council offices at Crescent Gardens, this is an important project for the town centre creating much needed good quality office space. If the current public realm in front of this building can be

improved, this benefits the building itself and the town in a wider context as well as surrounding properties many of which remain in the ownership of HBC.

- 3.3 It is not recommended to place the site on the open market; the appropriate independent advice has been obtained to ensure HBC receive best consideration and the proposed disposal as outlined within this report is in accordance with this.
- 3.4 The disposal is conditional upon the proposed purchaser obtaining a stopping up order on the highway. As part of this process NYCC will consider all necessary transport planning issues.

4.0 **ALTERNATIVE OPTION/S CONSIDERED AND RECOMMENDED FOR REJECTION**

- 4.1 Not to progress a sale would result in the loss of a capital receipt for HBC.
- 4.2 A sale to the 3rd party is not considered appropriate. A 3rd party would be unable to close the road as access to the building and the shelf car park would still be required. As such whilst a 3rd party might seek to acquire simply to benefit from the use of the current on-street car parking spaces it is more likely a 3rd party would seek to purchase simply to subsequently sell on to the owners of Crescent Gardens at an inflated price or to somehow frustrate their development plans.
- 4.3 Not to progress would result in lost opportunity to potentially enhance this area physically and also support a local developer bringing an important town centre building back into commercial use creating much needed good quality town centre office space.

5.0 **THE REPORT**

Current Position

- 5.1 The land is held freehold by HBC and presently used as public highway connecting Swan Road with Montpellier Road.
- 5.2 Whilst the land is held freehold by HBC, the highway and public on street pay and display parking is North Yorkshire County Council's (NYCC). The disposal of the land is conditional upon the proposed purchaser also obtaining a stopping up order from NYCC on the highway. As part of this process NYCC will consider all necessary transport planning issues. The on-street parking which would be lost should the sale proceed is under-utilised and adequate alternative on street parking exists in the immediate vicinity.
- 5.3 The purchase of Crescent Gardens included the 'Shelf' car park and as such whilst this proposed sale is not essential for the refurbishment and letting of the offices once complete it would add to the offer and image of the building.
- 5.4 The capital receipt generated matches the amount currently assumed as part of the funding for the latest Capital and Investment Programme.

6.0 REQUIRED ASSESSMENTS AND IMPLICATIONS

- 6.1 The following were considered: Financial Implications; Legal Implications; Strategic Property/Asset Management Considerations; Parking Services; If applicable, the outcomes of any consultations, assessments, considerations and implications considered necessary during preparation of this report are detailed below.
- 6.2 Legal Services have been consulted during the preparation of this report and support the recommendations at paragraph 2 subject to satisfactory valuation advice being obtained to ensure best value as well as compliance with the necessary procedural requirements and approval of the appropriate legal documentation.
- 6.3 The disposal was included in the general Consent from North Yorkshire County Council and as such no additional specific consent is required in respect of this proposed disposal.

7.0 CONCLUSIONS

- 7.1 To proceed with a sale represents an opportunity to generate a capital receipt, support a key town centre development and improve the visual amenity of the area adjacent to the Crescent Gardens Park. The disposal is conditional upon the proposed purchaser obtaining a stopping up order on the highway, as part of this process NYCC will consider all necessary transport planning issues.

Background Papers – None

Appendix C – Minutes of Cabinet Meeting

PERMISSION TO DISPOSE OF HIGHWAY LAND ADJACENT TO

CRESCENT GARDENS – FORWARD PLAN REF: 43ED21: The Strategic Estates Surveyor submitted a written report which set out the background and reasons relating to the proposed disposal of Crescent Gardens Road fronting the former council offices at Crescent Gardens, shown edged in red on the plan attached at Appendix A. The proposed purchaser wished to improve the landscaping and alter the existing parking layout at the front of the building in connection with works to refurbish the former council offices. External consultants had been engaged to obtain best value for the Council and exempt Appendix 2 set out the proposed disposal price and terms.

RESOLVED (UNANIMOUSLY):

That (1) the freehold disposal of the land shown in Appendix 1, to Impala Estates, owners of the office building at Crescent Gardens be approved;

(2) the disposal price and terms are agreed in accordance with independent expert advice, as set out in exempt Appendix 2; and

(3) the Head of Legal and Governance is given authority to enter into and complete all necessary documentation required to finalise the disposal of this property and all matters related thereto.

Reasons for decision:

The proposed purchaser wished to improve the landscaping and alter the existing layout of the parking and landscaped areas to the front of the building.

Impala Estates were progressing with the refurbishment of the former council offices at Crescent Gardens, this was an important project for the town centre creating much needed good quality office space. If the current public realm in front of this building could be improved, this benefited the building itself and the town in a wider context as well as surrounding properties many of which remained in the ownership of HBC.

It was not recommended to place the site on the open market; the appropriate independent advice had been obtained to ensure HBC received best consideration and the proposed disposal as outlined within this report was in accordance with this.

The disposal was conditional upon the proposed purchaser obtaining a stopping up order on the highway. As part of this process NYCC would consider all necessary transport planning issues.

Alternative options considered and recommended for rejection:

Not to progress a sale would result in the loss of a capital receipt for HBC. A sale to the 3rd party was not considered appropriate. A 3rd party would be unable to close the road as access to the building and the shelf car park would still be required. As such whilst a 3rd party might seek to acquire simply to benefit from the use of the current on-street car parking spaces it is more likely a 3rd party would seek to purchase simply to subsequently sell on to the owners of Crescent Gardens at an inflated price or to somehow frustrate their development plans.

Not to progress would result in lost opportunity to potentially enhance this area physically and also support a local developer bringing an important town centre building back into commercial use creating much needed good quality town centre office space.

Appendix D – Summary of Supplementary Information provided by the applicant on 28.5.24.

- Should planning permission be granted, the applicant intends to apply for a stopping up order under s247 of the Town and Country Planning Act 1990 (as amended) (TCPA s247). The stopping up process is separate to the planning application process. However, a stopping up order under TCPA s247 cannot be made until planning permission for the proposed development has been granted. The grant of planning permission is therefore instrumental to the progression of a stopping up application.
- Should a stopping up order be made, all public access rights over the existing highway would be extinguished. However, the Crescent Gardens building is expected to accommodate various uses that will require entrance/egress by the general public, including restaurant and bar uses. The proposed development does not install any physical restriction to access on foot or by cycle and the site will operate as a private landscaped/parking area through which visitors to the Crescent Gardens building can pass.
- The applicant's agreement with the Council to purchase the land is conditional upon obtaining a stopping up order. The applicant requires any stopping up order to be outright and not fettered by condition or other obligation to provide public access. Such ownership and control is necessary for the land to form an integral part of the Crescent Gardens development and to make a significant contribution to realising the benefits of this development for Harrogate town centre.
- Stopping up under TCPA s247 depends upon planning permission being in place and recognition that it is necessary to stop up the highway to carry out the development. Whilst the stopping up application process to follow is separate to the preceding planning process (i.e. separate decision maker and not pre-determined by the planning decision), it is nevertheless dependent upon the planning decision and considerations which informed it.

North Yorkshire Council

Community Development Services

HARROGATE AND KNARESBOROUGH AREA CONSTITUENCY PLANNING COMMITTEE

25 JUNE 2024

ZC24/00887/FUL - FULL PLANNING APPLICATION FOR THE CHANGE OF USE OF DWELLING HOUSE (USE CLASS C3) TO CHILD RESIDENTIAL PLACEMENT HOME (USE CLASS C2).

Report of the Assistant Director, Planning

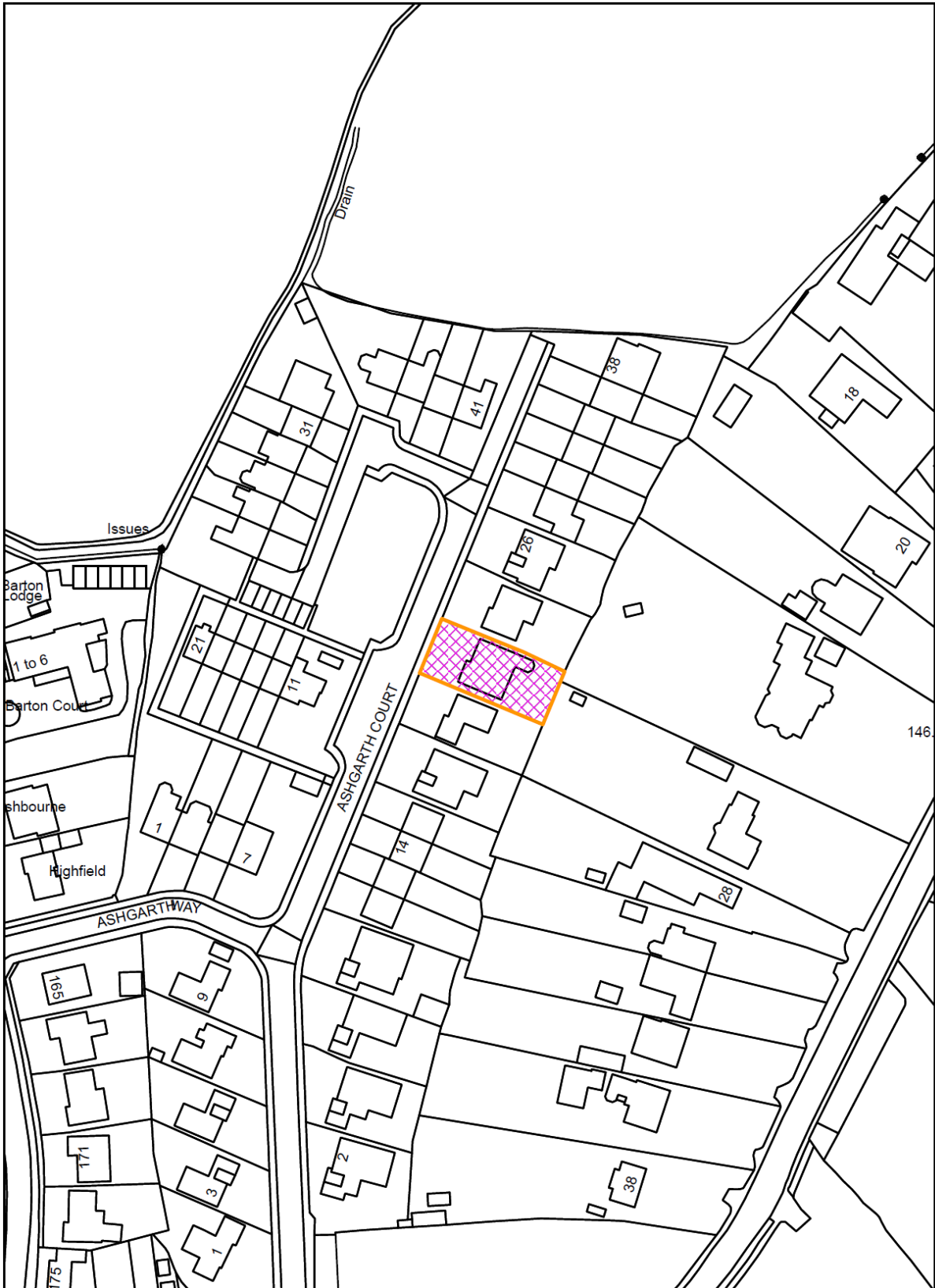
1.0 Purpose of the Report

- 1.1 To determine a planning application for Full Planning Application for the Change of use of dwelling house (Use Class C3) to child residential placement home (Use Class C2).
- 1.2 This application is brought to the Planning Committee as it has generated considerable local interest.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION:

- 2.1 This application seeks full planning permission for the change of use of a two storey detached dwelling house (Use Class C3) to child residential placement home (Use Class C2). The site is set in a mixed tenure residential cul-de-sac in a housing estate within the development limits of Harrogate. No external alterations are proposed to the building. However, changes are proposed to the front and side of the property, which will allow for greater accommodation of off road cycle and car parking.
- 2.3. It is considered the proposal would not have a detrimental impact on the landscape character of the area, neighbour's residential amenity or highway safety. The development is within a sustainable area where development is encouraged within Harrogate's development limits. It is recommended planning permission be granted subject to conditions listed at the end of this report.



Location Plan

Scale 1:1,250



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13/06/2024

3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found [here](#).

3.2. Planning history associated with the property includes:

80/11928/FUL - Extending and altering ground floor to form accommodation for aged relative. – Permitted - 07.07.1980

4.0 Site and Surroundings

4.1. The site is currently a residential two storey detached dwelling (use class C3) with a driveway to the front and rear residential garden. The site is set in a mixed tenure residential cul-de-sac in a housing estate within the development limits of Harrogate. The application site has an open driveway and garage that currently provides offroad parking for the property. There is no parking restriction within the cul-de-sac, which allows for on road parking for all residents and their visits should it be necessary. There is a reasonably sized garden to the rear of the property, which its boundary consists of mature hedging and trees with wooden fencing (approximate height mixture between 1.2 to 1.8m).

4.2. The site is approximately 2 miles from the centre of Harrogate (approximately 50 minute walk or 20 minute cycle ride). The nearest bus stop to the application site is off Beckwith Road is approximately 20 minute walk and has the nearest bus stop providing a service into Harrogate centre. Alternatively, there are bus stops off Leeds Road (approximately 20 minute walk) that has buses to Harrogate or into Leeds centre approximately every 15 minutes. The site is within walking or cycle distance of primary (e.g. Pannal Primary School) and secondary (e.g. Rossett School) schools. The nearest convenience supermarkets for the site are located on either Leeds Road or Otley Road. The nearest doctors surgery (taking new patients according to the NHS website – search done 06/06/2024) is approximately 0.9miles from the site called Leeds Road Practice. The nearest dentist taking on children under 17 years of age only (so acceptable given the age of the residents of the proposal; according to the NHS website – search done 06/06/2024) that is North Park Dental Practice approximately 1.7 miles from the site.

5.0 Description of Proposal

5.1. This application seeks Full Planning Permission for the change of use of dwelling house (use class C3) to child residential placement home (use class C2).

- 5.2. No external alterations are proposed to the building. However, changes are proposed to the front and side of the property, which will allow for greater accommodation of off road parking of vehicles and bicycles. Following the submission of additional information from the applicant in May 2024; they now propose 1no. EV charging point to be located within the garage to serve 1 of the proposed parking spaces.
- 5.3. The scheme proposes to accommodate a maximum of 3no. children aged between 11-18 at any one time. The applicant has said the development would be registered with Ofsted and with North Yorkshire Council's care services.
- 5.4. Follow the submission of additional information in May 2024; the applicant has confirmed that a maximum of 3 x staff members would be present on-site at any given time (including during staff changeovers). Although this would be limited to 2 x staff members during the hours of 7.30am-9am, 5:30pm-8.45pm, 9pm-7am. The applicant has confirmed, there is no intention to implement shift changeovers overnight. It is presented that the shift patterns at full capacity would operate over a 24 hours a day shift pattern:
- 2 x residential support staff plus care manager on duty during the day
 - 2 x residential support staff at the property overnight
 - 2 x night-staff, (one would be sleep-in and the other would be awake on the ground floor living areas. Thus, one of the 4 bedrooms in the property would be designated for the overnight sleep-in)
- The application form sets out that the development will employ 9 people in total.
- 5.5 It is presented by the applicant the typically car trips would equate to 6x trips per day, as detailed below:
- 1 x day shift staff member arrives at 7am
 - 1 x night shift member leaves at 7:30am
 - The care manager arrives at 9am
 - The care manager leaves at 5:30pm
 - 1 x night shift staff member arrives at 8.45pm
 - 1 x day shift staff member leaves at 9pm
- Visits to residents are uncommon but must be strictly agreed with the applicant prior to arrival. The education arrangements for children would depend heavily on their need, therefore, some may go to school while others would be taught at the property.
- 5.5. The application is supported by an amended site parking plan, planning statement by SM Planning and a personal statement from the applicant.

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- Harrogate Local Plan 2014-2035, adopted 2020
 - Minerals and Waste Joint Plan, adopted 2022

Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2023
 - National Planning Practice Guidance

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Environmental Health:** Raised no objection to the application, subject to the consideration of adding a condition regarding protection from stray artificial lighting from the site.

Highways: Raised no objection to the application as outlined within their formal consultee comments released on 9 April 2024. However, following the initial comments the Highways Officer did request further clarification from the applicant regarding the proposed off road parking proposed for the development. The applicant provided an amended site plan and planning statement setting out a basic travel plan and parking arrangement for staff and visitors. No highways objection was raised to the additional information, subject to the conditioning of the implementation plan.

Police Architectural Liaison Officer: Raised no objection to the application, subject to the consideration of adding a condition requiring that before the development is open to the public the applicant submits to the LPA a comprehensive management plan be provided.

Also recommending that the Authority may also wish to include an Informative advising the applicant of the need to ensure that they obtain Ofsted registration prior to it coming into operation.

North Yorkshire Council Health and Adult Services: was consulted on this planning application, but no written comments were received at the time of writing this report.

Local Representations

- 7.3. The scheme has attracted local interest from the community. In total 31 representation have been received. Full details of the comments are available on public access, however the main areas the comments raised relate to the following:

Support:

- Modern residential placement homes operate under stringent regulations and foster positive engagement with the community.
- Multiple off road parking spaces at the application site.
- Maximum of 3 staff on site at any one time.
- No intention to change the floor plan of the property.
- Plans will be put in place to limit increase noise, disturbance and traffic from the scheme on the community.
- The proposal will be akin to a residential home set up with children and adults looking after them, but on a shift pattern requiring the change of use.
- The application site is within a sustainable location in walking distance to services.

Objections:

- If a C2 residential children home is required in Harrogate there are better places than a quiet residential estate away from public transport, shops and services.
- The correct ownership notices have not been completed in connection to this proposal.
- The green open space to the front of the application site is used by local children to play upon, but it is private land owned by a group of houses off Ashgarth Court.
- No schools or health services to take the future residential children, as all of these services are at capacity in this area.
- There is a need to retain market housing and no local need for a children residential home in the Harrogate Local Plan.
- Conservatory to the rear of the application building does not meet planning regulations.
- The application is not correct no floor plan has been provided to show the level of accommodation.

- The development if approved under C2 could be used for other uses within this use class category without the control of the Council.
- The property is too small to accommodate 3 teenagers. The property would need extending.
- There will be noise, light and traffic disturbance from having a 24/7 business in a residential cul-de-sac.
- Unstable location – no easy access to public transport or shops and services without a car.
- The proposed activity of independent children could fall under C3, its existing use.
- The NPPF requires the Council to create safe communities without the fear of crime and disorder or anti-social behaviour.
- The bedroom would not meet the national described space standards or legislation set out for residential children homes by Ofsted.
- The highway impact has not been assessed correctly and will put pressure on road parking on the cul-de-sac.
- The application form has been filled in correctly as there are trees and hedging within the site boundary.

8.0 Environment Impact Assessment (EIA)

- 8.1. The development proposed does not fall within the thresholds of Schedule 1 or 2 of the Environmental Impact Regulations 2017 (as amended). No environmental Statement is therefore required.

9.0 Main Issues

- 9.1. The key considerations in the assessment of this application are:

- Principle of development
- Impact on Amenity
- Highway Safety
- Impact on the Character of the Area
- Other Matters

10.0 ASSESSMENT

Principle of Development

- 10.1. Harrogate District Local Plan Policy GS2 identifies how the focus of housing and jobs over the plan period will be met with a focus on growth in the districts main settlements and key transport routes. The scale of development will reflect the settlements role as defined within the settlement hierarchy, character and setting. Relationship with key public transport, the need to

deliver new homes and jobs, the need to maintain or enhance services and facilities in the settlements.

- 10.2. The application site is located within a residential estate within the development limits of Harrogate. Policies GS2 and GS3 of the Harrogate Local Plan identifies Harrogate as a main settlement and land within its development limits as able over the plan period be able to accommodate the delivery of new homes, employment land and other uses.
- 10.3. Development limits for villages in the settlement hierarchy are identified under the provisions of policy GS3. Places not identified in the settlement hierarchy are part of the wider countryside where development will only be appropriate if permitted by other policies of this plan, a neighbourhood plan or national policy. Within development limits, proposals for new development will be supported provided they are in accordance with other relevant policies of the Local Plan.
- 10.4. Concerns have been raised that this residential use would not fit into this housing estate and that it is an unsustainable location. The Harrogate Local Plan has allocated development in this part of Harrogate. The Harrogate Local Plan has identified land within the Harrogate's development limits are in sustainable location capable of accommodating development growth over the plan period.
- 10.5. It has also been raised the use proposal of a home to look after children would fall under use class C3 (dwelling house). Therefore, a change of use to C2 is not required. Where activity results in a material change of use of a building to a use falling within a different use class (within the Town and Country Planning (Use Classes) Order 2020) then planning permission will be required to authorise that change of use. The key issues are the numbers of residents involved, whether or not staff work shift patterns or have a permanent residence at the site and the materiality in planning terms of any change of use.
- 10.6. In this instance the application proposes residential accommodation for 3x children (aged 11 to 18 years old) and a shift pattern of between two to three members of staff on site at any one time.
- 10.7. Class C3 of the Town and Country Planning (Use Classes) Order as amended refers to "use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents)." If a children's residential home were being run on this basis, with children being looked after by a permanent occupant of the dwelling, there would be no requirement for planning permission in Officer's view.

- 10.8. However, it is understood it is less clear when the care is based on employee shift patterns. A children residential home run on shift patterns could not be considered to fall within Use Class C3 (a), because clearly, this is not occupation of a dwelling house by a single person or people living together as a family. Use Class C3 (b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems. Equally, Use Class C3(c) distinguishes groups of people living together as a single household, which could for example include people with lodgers, or student accommodation for up to six individuals. Children's homes based on shift patterns would not be considered to fall into the above criteria. It is understood from case law use of premises as a children's residential home will generally be held to fall within Class C2 of the Order (residential institutions).
- 10.9. Based on what is proposed as part of this development; it is therefore considered based on the proposal there is a material change from C3 (dwelling house) to C2 (residential institutions) and planning permission is required.
- 10.10. Concerns have been raised by what is allowed under C2 (residential institutions) and the use that can be allowed without formal consent from the Local Planning Authority. Use Class C2 (residential institutions) relates to residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. This use class also has a sub category C2A for 'secure residential institutions' including prisons, detention centres, custody centre, secure hospital, or secure local authority accommodation.
- 10.11. The applicant has suggested a condition be added limiting the use of the application site to C2 – children residential home. Given that is what is proposed and the setting of the application site; it is considered reasonable and necessary to limit the use of the site to C2 – children residential home only.
- 10.12. Guidance within the NPPF of creating safe communities and removing the fear of crime has been brought to the attention of the Case Officer through public consultation. Paragraph 96 of the NPPF outlines:
- “...decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:*
- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;*

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.”

In regard to paragraph 96 of the NPPF, the proposal is for a residential institution that is seen as complimentary and supportable within residual areas. The following sections of this report will look closer into concerns of safety and accessibility.

- 10.13. There are no policies within the Development Plan or NPPF to identify the principle of this form of development is unacceptable in this location subject to no other material planning consideration outweighing the benefits of the proposal.

Impact on Amenity

- 10.14. Local Plan Policy HP4 seeks to protect amenity, requiring development proposals to be designed so that they will not result in significant adverse impacts on the amenity of occupiers and neighbours.
- 10.15. The public representations have raised concerns in relation to noise, disturbance and antisocial behaviour arising from the proposed use.
- 10.16. The proposal is for the property to operate as a children’s residential home for no more than 3 children between the ages of 11 and 18 and the necessary carers to ensure that these children are supported and cared for. The proposal is to operate in a manner similar to a C3 dwelling, except that the residents do not live as a ‘single household’ and will be a 24/7 shift pattern the carers will work. The applicant’s additional Planning Statement set out the staff rota of the proposed 9 staff for the proposed use based on full capacity:
- 2 x residential support staff plus care manager on duty during the day
 - 2 x residential support staff at the property overnight
 - The home will be staffed 24 hours a day
- For the avoidance of doubt, of the 2 x night-staff, one would be sleep-in and the other would be awake in the ground floor living areas. Thus, one bedroom

would be designated for the overnight sleep-in staff member and the other three bedrooms would be designated for the looked after children.

The typically car trips when the application site is at full capacity would equate to 6 x trips per day, as detailed below:

- 1 x day shift staff member arrives at 7am
- 1 x night shift member leaves at 7:30am
- The care manager arrives at 9am
- The care manager leaves at 5:30pm
- 1 x night shift staff member arrives at 8.45pm
- 1 x day shift staff member leaves at 9pm

The Planning Statement outlines visits to residents are uncommon but must be strictly agreed with the applicant. The education arrangements for the looked after children would depend heavily on their need; some may go to school while others would be taught at the home.

10.17. The size of the proposed development is small and residential in nature. The times in the shift schedule are within the daytime period considered to be 7am until 23:00 (the remainder is considered night and therefore more sensitive) and the number of movements are not excessive.

10.18. Based on what has been presented the residential occupancy level of a mixture of adults to children within the property and the comings and goes to the site generated from this scheme would not generate a material detrimental increase in disturbance or amenity impacts that could be expected from a 'family home'. To ensure this is the case through the lifetime of the development it is recommended conditions be added:

- Limiting the quantity and age of the children (up to 18 years old).
- Limiting the level of staff on site up to three.
- Limiting the staff change over to be within the times of 07:00 to 21:00, as specified in the Planning Statement.

It is considered the above proposed conditions meet the conditions tests, as they are reasonable, necessary, and enforceable (para. 56 of the NPPF). This will aid the scheme has a minimal impact and protection of the neighbour's residential amenity. Whilst allowing the proposal the ability to operate safely.

10.19. Concerns have been raised that it is not clear what level of care or if the residents' would have substance issues, which would have an impact on the neighbour's residential amenity. potential additional care needs the individual children may require would not be known until they are potential assigned to go to the application site. The applicant as part of the Planning Statement has set out the scale and age range of the potential residents and how they envisage the day-to-day running of the development. The applicant has said

the site would be registered with Ofsted and it would be a recommended informative to the planning decision notice that this is done. Ofsted will require the operators of the residential home to comply and enforce strict policies to protect their residents and members of the public from anti-social behaviour. Furthermore, issues of antisocial behaviour, should this happen, can be dealt with through statutory nuisance legislations, which is separate from planning controls.

- 10.20. The Council's Environmental Health section has been consulted on this planning application and raised no objection to the application, subject to a condition on external lighting being added. As it is not known at this stage if any external lighting is necessary, it is considered reasonable to add the recommended lighting condition to ensure no stray lighting impact on the neighbouring properties in this instance.
- 10.21. No external alterations are proposed to the building. The scheme presents no detrimental impact to neighbouring properties in terms of overlooking, overshadowing or it being overbearing.
- 10.22. Concerns have also been raised that the bedroom sizes do not meet the government's housing space standards. Bedroom sizes is not a consideration for this planning application. However, bedroom sizes may be considered by other legislation, i.e. Ofsted.
- 10.23. The applicant has proposed the cycle storage area be next to the shared boundary with no.24 Ashgarth Court. There is fencing along this boundary, which is approximately 1.8m in height. No. 24 Ashgarth Court has its rear access and a window and side door believed to serve its garage facing this shared boundary with the application site. Garages are seen a tertiary uses. It is recommended that the cycle storage area have an all-weather shelter that will provide some protection from noise generation onto the neighbouring property. The cycle storage area is to provide a minimum of 3 cycle bays, which is not considered excessive. It is not seen the presence of the cycle storage bay next to this shared boundary would cause unacceptable impact on the neighbour's residential amenity.
- 10.24. To conclude, the level of activity proposed as part of this C2 planning application is similar to a residential 'family home'. Subject the recommended conditions being added, which can meet planning legislation, to limit the activity at the site to a reasonable number and hours of day no residential amenity objections are raised and it meets local and national planning policies.

Highway Safety

- 10.25. Paragraph 115 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable

impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 10.26. Policies TI1 and TI3 of the Local Plan – in a summary they require that the travel impact of any scheme should not add significantly to any pre-existing problems of access, road safety or traffic flow. In addition, there should be sufficient parking, cycle and E/V charging spots.
- 10.27. The proposal utilises an existing vehicular access. The applicant has confirmed the proposal would have 3 off road car parking spaces and not 4 parking spaces. The submitted amended site plan shows that at least three vehicles and cycle storage area to be used by staff and visitors can be accommodated within the existing parking area to the front of the building and hardstanding next to its northern boundary.
- 10.28. Concerns have been raised by residents that there would be insufficient parking arrangements within the site leading to on street parking on the cul-de-sac, which would be dangerous to pedestrians and children playing on the central green.
- 10.29. NYC Highways Authority have been consulted on the proposal and have considered the amended site layout plan. The Highways Officer raised no objection to the scheme from a highways safety prospective, subject to a condition requiring the parking provision to be provided prior to the first use of the property.
- 10.30. In order to ensure the cycle storage area is designed securely and provides acceptable all-weather shelter for the bicycles; a condition requiring the details of the cycle storage area be approved in writing by the Local Planning Authority is recommended.
- 10.31. To conclude, it is considered the proposal would not have unacceptable impacts on highway safety, subject to the addition of the recommended conditions and complies with national and local planning policies.

Impact on the Character of the Area

- 10.32. Harrogate Local plan policy HP3 requires development to incorporate high quality building, urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments.
- 10.33. The application site is a two storey detached property located within a residential cul-de-sac within the development limits of Harrogate. There are a range of design of properties within the street scene.

- 10.34. No external alterations are proposed to the building as part of this planning application.
- 10.35. The scheme includes the creation of a cycle storage area between the host building and the shared wooden fence next to no. 24 Ashgarth Court. A condition is recommended to understand the design of this part of the proposal. That said it is considered the presence of a cycle storage area to the side of the host building and set back from the road frontage would not have a detrimental impact on the street scene.
- 10.36. To conclude, no design objections are raised to this proposal.

Other Matters

- 10.37. **Trees:** Concerns have been raised regarding the applicant not filling in the application form correctly, as there are trees within the front garden of the site. Also, the impact the scheme would have on a mature tree within the neighbouring garden that over hangs into the applicant's rear garden. The Case Officer visited the site on 25 April 2024 and noted the small ornamental planting within the front garden and the mature trees along the rear boundary of the application site. The site is not located within a conservation area and the applicant is not proposing any landscaping works as part of this application. It is Officer view that the ornamental tree and planting to the front of the application site is not large and should the planting need to be removed it would not have a detrimental impact on the area. Furthermore, should the applicant wish other replanting could be done within the site boundaries to the rear of the site. The tree in the rear garden to the application site is outside the control of the applicant and no detrimental harm would be caused to this tree through this development. No further comments or actions to this matter is recommended.
- 10.38. **Application type:** This planning application is for the change of use of the building. The applicant has said they would require no alterations to the building to accommodate this change of use. Therefore, no internal floor plans are required as part of this application.
- Other concerns have been raised about the application not being submitted by a register children's home provider. It is noted that planning permission goes with the land and not the applicant.
- Other comments have been raised that should this application be approved; the applicants will apply for a larger children's residential home on the site. It is only possible to consider and recommend a decision on the planning application in front of the Council. Should the applicant wish to provide accommodation for a larger children's residential home on the site in the future; then this would need to be assessed separately by the LPA.

Concerns have been raised the application has signed the wrong ownership notice. The applicant has signed certificate B and notified the relevant people with interest of the land prior to the submission of this planning application. No further comments or actions to these matters is recommended.

- 10.39. **Ofsted children's residential home criteria:** Comments have been received that the proposed scheme would not comply with Ofsted's children residential home criteria, due to the location of the property away from services and its bedroom sizes. It is recommended that an informative be added requiring the scheme be registered with Ofsted before it comes into use. However, the requirement of Ofsted is outside the jurisdiction of planning control. No further comments or actions to this matter is recommended.
- 10.40. **Sustainability:** Policy CC4 of the Local Plan requires development to put sustainable design into the heart of all schemes. It has been established earlier in the report the application site is located in a sustainable location as is set out within the Harrogate Local Plan. The scheme is for the reuse of an existing building. The applicant is proposing there will be a cycle storage area and a E/V charging point within the garage for staff, residents and visitors to use. It is recommended that conditions be added requiring full details of the cycle storage area and E/V charging facilities be submitted for LPA approval prior to the first residents moving into the application site.
- 10.41. **Ecology:** The NPPF required a recognition that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Policy NE3 of the Harrogate Local Plan looks for proposals to protect and enhance features of ecological and geological interest and provide net gains in biodiversity will be supported. The application was submitted before the requirement for small sites to demonstrate biodiversity net gain. The application form outlines there are no protected species on the site. From the Case Officer's site visit, no obvious evidence of a bat roost or other protected habitats were noted. No further comments or actions to this matter is recommended.
- 10.42. **Police Architectural Liaison Officer –** The Police Architectural Liaison Officer recommended that it be condition a comprehensive management plan be provided, which should include details covering the following topics.
- Age, gender mix of the home
 - Safeguarding
 - Managing risk
 - Exploitation
 - Missing from home
 - Location assessment

- Procedures for resolving issues that may affect the neighbourhood.

The Case Officer has considered this requested condition against paragraphs 55 and 56 of the NPPF which require:

“(para. 55) Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions ...

(Para 56) Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”

Having consider the above planning conditions test within the NPPF; it is consider conditioning a comprehensive management plan would not be ‘relevant to planning or reasonable in all other respects’. This is because the brief for the comprehensive management plan covers areas better suited covered by other legislation and governed by the police, social services and Ofsted. It is therefore recommended that this condition not be added to the decision notice.

The above said, the Case Officer understands the concerns from the Police Architectural Liaison Officer and the community regarding the possibility of anti-social behaviour from the scheme. Also, the needs of paragraph 96 of the NPPF for planning decisions to aim to achieve healthy, inclusive and safe places (as discussed earlier in the report). It is considered the conditions recommended:

- Restricting the use of the building to only C2 – children’s residential home.
- Accommodation for 3 x children (aged up to 18 only).
- Maximum number of staff and restricting the staff change over to daytime periods.
- Confirmation of off site parking and cycle storage for residents, staff and visitors.

These are all reasonable and necessary conditions to assist under planning controls to create a cohesive community and limit the fear from having this alternative residential use within this housing estate (Use Class) setting.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise. The scheme has attracted considerable local interest and opposition as reflected within the representations section.

- 11.2. The site is located within a sustainable location, as identified under Policies GS2 and GS3.
- 11.3. The application site would operate within a use that would attract occupation and levels of noise and disturbance from comings and goings, akin to those that could reasonably and likely to occur if a family resided at this address. Conditions can be added to the decision notice to ensure impact on residential amenity is mitigated and remains so for the lifetime of the development.
- 11.4. The size of the building and its grounds provides suitable accommodation for three residents and the on-site staff. There is sufficient on-site vehicle and cycle parking for the development and the site is located within a sustainable location.
- 11.5. The proposal is considered to comply with both national and adopted local planning policy in terms of establishing sustainable development. It is therefore recommended that this application is approved, subject to the suggested conditions.

12.0 RECOMMENDATION

- 12.1 That the application be **APPROVED** subject to conditions.

Recommended conditions:

- 1 The development hereby permitted shall be begun on or before three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in strict accordance with the following information:

Dated received 29 May 2024
 Planning Statement (SMPlanning, May 2024)
 Appendix 1: Staff Rota
 Drawing reference: 18031/01: Site Plan
 Dated received 13 March 2024
 Drawing titled: 'Location Plan'
- 3 An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority (LPA) prior to the first use of the premises for a C2 use. The plan shall contain details of the number and location of all electric vehicle charging points which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current

rating of 16 Amp). Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point once approved in writing by the LPA shall be installed prior to first use of the premises for a C2 use and shall be retained and maintained to the standards of that day thereafter.

- 4 Prior to the first use of the premises for a C2 use as hereby permitted, details of the cycle storage area (on a plan scaled 1:100 or 1:200 and accompanying written statement) shall be submitted to and approved in writing by the Local Planning Authority (LPA). The cycle storage area shall show a minimum of 3 x Sheffield cycle stands or similar, details of the all-weather shelter to cover the cycle stands and provide information for the lockable access to the cycle storage area and for the safe storage of cycle helmets, lights and other relevant cycling equipment. The cycle storage area once approved in writing by the LPA shall be installed prior to first use of the premises for a C2 use and shall be retained and maintained to the standards of that day thereafter
- 5 Prior to the first use of the premises for a C2 use as hereby permitted, the access, manoeuvring, turning areas and the vehicle parking and cycle storage areas shall be laid out in accordance with drawing reference: 18031/01 and made available for all users at no. 22 Ashgarth Court. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 6 No more than three children (aged up to 18 years of age) are allowed to be residents at the property at any one time.
- 7 Between the hours of 9pm to 7am there shall be no more than two members of staff at the property, and there shall be no staff changeovers within these hours.
- 8 Between the hours of 7am to 9pm there shall be no more than three members of staff at the property.
- 9 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2020 (or any order revoking and re-enacting that Order with or without modification) the use of the application site shall be restricted to C2 - children residential home unless otherwise granted further specific planning permission from the Local Planning Authority.
- 10 Prior to the installation of artificial lighting works at no. 22 Ashgarth Court, a scheme which indicates the measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the artificial lighting scheme shall be operated and maintained in accordance with the

approved scheme.

Reasons for Conditions:

- 1 To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.
- 2 In order to ensure compliance with the approved information.
- 3 In the interests of providing sustainable transport and improving air quality across the area in accordance with policy CC4 of the Local Plan and the NPPF.
- 4 In the interests of local residential amenity and highway safety, in line with guidance within the NPPF and the Harrogate area Local Plan.
- 5 To provide for appropriate on-site vehicle and cycle storage facilities in the interests of highway safety and the general amenity of the development on the surrounding area.
- 6 In the interests of local residential amenity and highways safety, in line with guidance within the NPPF and the Harrogate area Local Plan.
- 7 In the interests of local residential amenity and highway safety, in line with guidance within the NPPF and the Harrogate area Local Plan.
- 8 In the interests of local residential amenity and highway safety, in line with guidance within the NPPF and the Harrogate area Local Plan.
- 9 In the interests of local residential amenity and highways safety, in line with guidance within the NPPF and the Harrogate area Local Plan.
- 10 In the interests of local residential amenity, in line with guidance within the NPPF and the Harrogate area Local Plan.

INFORMATIVES

- 1 Prior to the use by the first resident of the C2 use hereby approved the application should speak with Ofsted regarding any registration requirements.

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