

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.

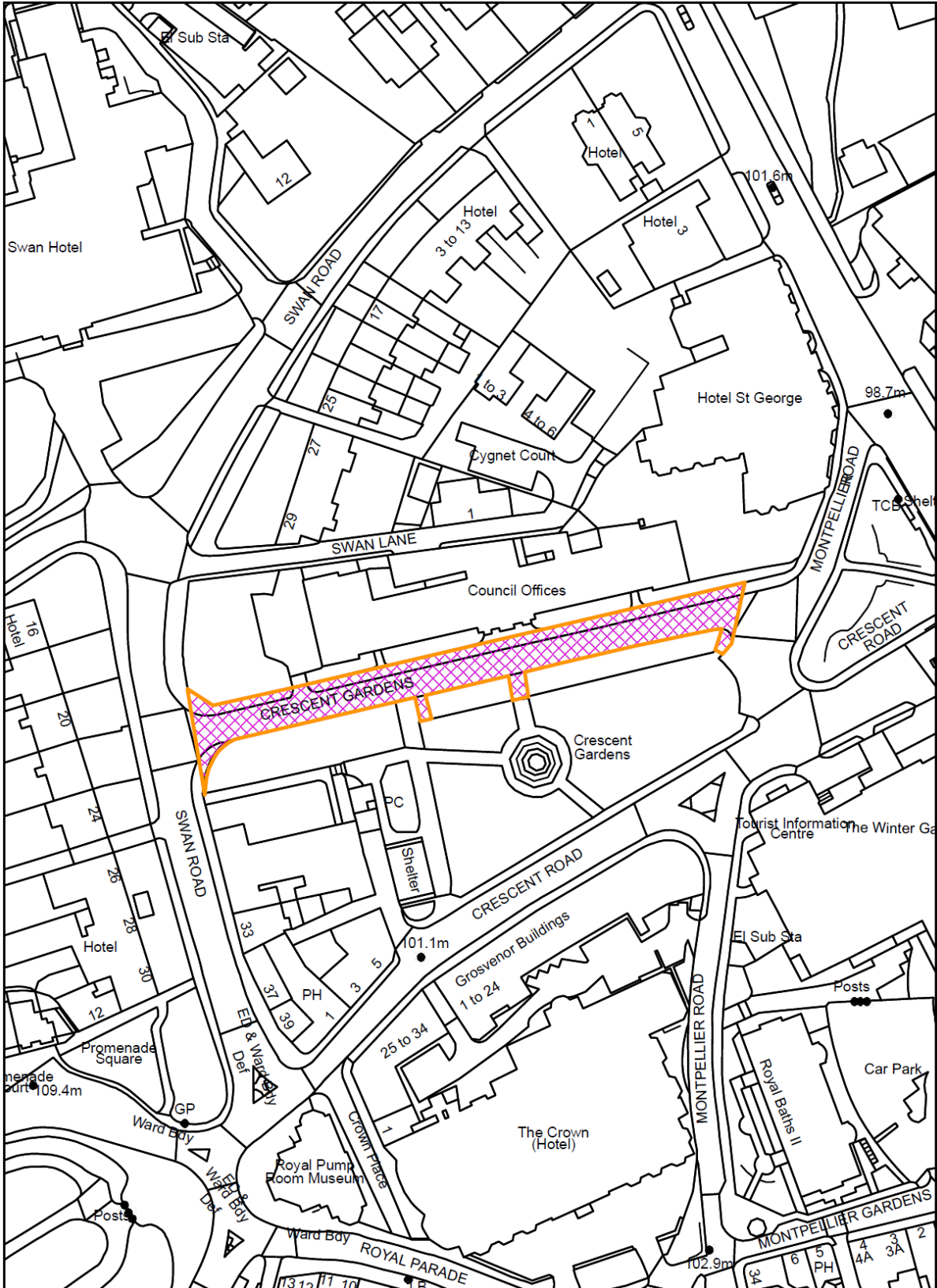
2.0 EXECUTIVE SUMMARY

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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13/06/2024

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 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.

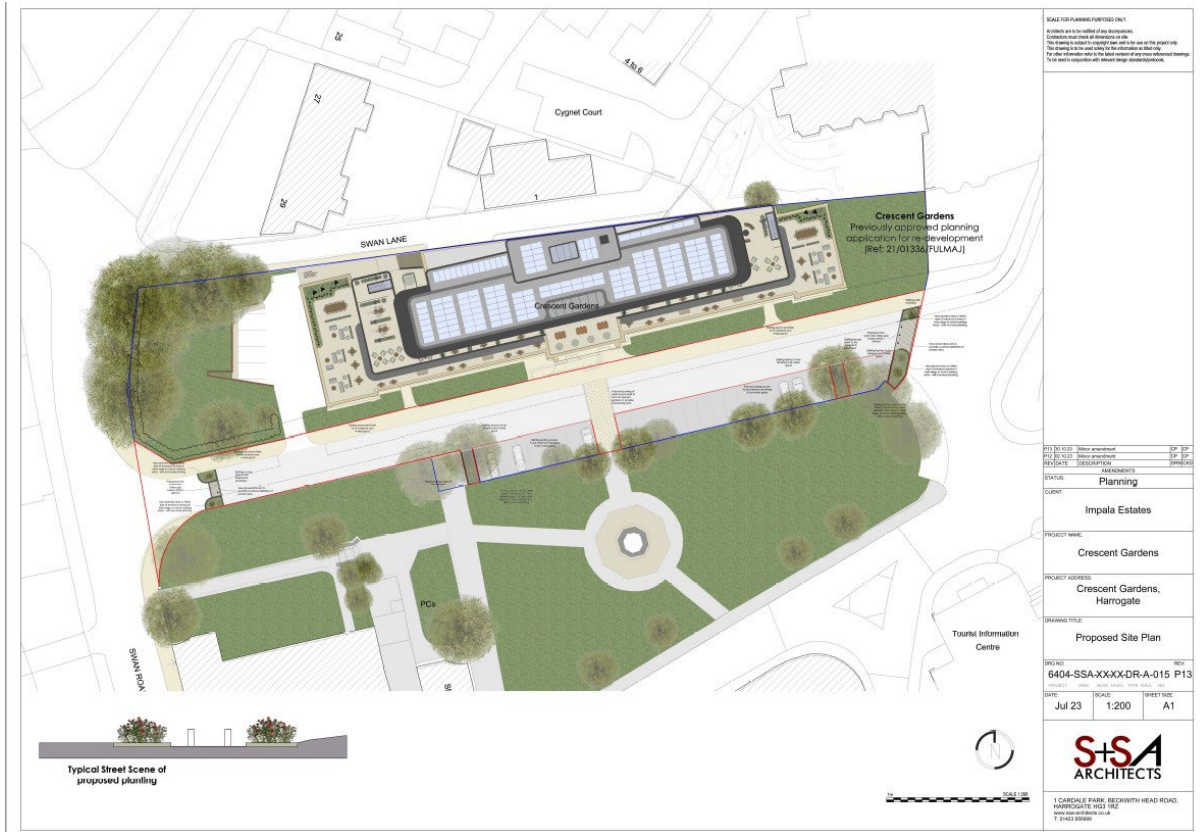
Condition 9 – Relocation of Cycle Stands

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.