



Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 9th January, 2014

Subject: APPEAL DECISION: APPLICATION 13/01062/FU– Demolition of vacant school building, newsagents, and cafe and redevelopment for part 2, part 3 and part 4 storey residential accommodation with care, comprising 48 apartments at land at Former Otley School site, Bridge Street, Otley.

APPLICANT	DATE VALID	TARGET DATE
Gladman Care Homes Ltd.	11.03.2013	03.06.2013

Electoral Wards Affected:

Otley and Yeadon

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to note the contents of this report.

1.0 Introduction

1.1 This planning application was for the demolition of the Former Otley School building, Wharfedale Café (known locally as 'Dunnies') and Newsagents and the erection of a part 2, part 3, part 4 storey building consisting of a 48 apartment residential care home providing 'extra care' for persons aged over 65. The care home building included associated communal areas and a restaurant with on-site staff facilities also being provided. A new car park proposed to provide spaces for 23 vehicles with further landscaping works to create communal gardens.

1.2 The application was refused by the Council under delegated powers for the following reasons:

1. *The poor form and design of the building which would be inappropriate and excessive in scale and massing in the context of the prominent gateway site and*

as such would fail to preserve or enhance the character and appearance of the Otley Conservation Area.

- 2. The proximity of principal elevations to mature trees leading to pressure to prune or lop to the detriment of the character and appearance of the Otley Conservation Area.*
- 3. The impact on the neighbouring amenity of the Bridge Public House site due to the size, design, massing and close proximity of the proposed building which would also harm the future redevelopment potential of this site.*
- 4. The absence of a legal agreement to restrict the planning use to C2 apartments.*
- 5. The failure to provide off-site highway works required to facilitate the development.*

1.3 The Council was of the view at the time of the decision that Reasons 4 and 5 could be adequately addressed by the imposition of a legal agreement and appropriate planning conditions if planning permission were to be granted. After the decision was issued damage occurred to a Willow Tree at the site - arguably the most significant tree at the site in terms of amenity value – and the Council subsequently came to the view that Reason 2 could be withdrawn by the Council subject to the imposition of a legal agreement and appropriate planning conditions requiring a long term landscape management plan for the site.

1.4 The appeal was heard at Public Inquiry in November 2013. **The appeal was allowed subject to conditions and a signed legal agreement.** The Inspector's decision is attached.

2.0 Site History

2.1 The planning application was accompanied by an application for Conservation Area Consent to demolish the existing Wharfedale Café and Newsagent building (13/01105/CA). This was granted consent in June 2013. A previous application for the demolition of the existing Otley School building (11/04634/CA) was granted consent in January 2012.

2.2 As Plans Panel Members will recall the previous planning application at the site, submitted by Casicare to erect a 60 bedroom care home (11/04635/FU), was refused planning permission by Plans Panel in March 2012. This application was refused on the basis of (1) a loss of residential amenity to existing neighbours on Manor Street, (2) the poor level of amenity provision for future occupants, and (3) the failure to make a contribution to strategic public transport infrastructure.

3.0 Appeal Decision

3.1 The Planning Inspector considered the main issues of the appeal to be:

- 1) Whether the design of the proposed development is appropriate in its context and the effect it would have on the character or appearance of the Otley Conservation Area and on the setting of listed buildings and other heritage assets;
- 2) The effect of the proposed development on the adjacent public house in respect of the living conditions of the residential occupiers of the public house, on users

of the rear amenity space and on the development potential of the site and public house; and

3) The effect of the proposed development on trees.

3.2 In relation to the first main issue (design and character) the Inspector considered the proposal to be a 'mannerly building' representing a sensitive townscape response. The Inspector noted that the views of the building from the north would be softened in winter months due to existing trees both on and adjacent to the site and would be visually broken-up by the separate different sized elements. In conclusion the Inspector considered that the development was an appropriate response in design terms to its context and considered that the development would preserve the character and appearance of the Conservation Area.

3.3 In relation to the second main issue (impact on neighbouring amenity and future development potential) the Inspector considered that the building would not significantly harm the outlook of the occupiers of the first floor residential flat at The Bridge Public House or the outlook of the users of the rear beer garden, noting in relation to the latter that the four storey element would only be partially visible due to the trees at the neighbouring site. Because the Inspector saw there was no harm to neighbouring amenity the Inspector subsequently came to the conclusion that the proposal would not harm the future redevelopment potential of the public house site.

3.4 In relation to the third main issue (impact on trees) the Inspector concluded, in agreement with the Council, that appropriate planning conditions would satisfactorily protect the trees on site and secure their longer term protection and maintenance.

3.5 Further to the above the Inspector noted local representations that Dunnies Café was highly regarded but did not consider this to be sufficient justification to refuse planning permission. The Inspector considered that a planning obligation was necessary to ensure the restriction of the use to the C2 planning use class (residential institutions) as the proposed layout of the building would lend itself to a conversion to C3 residential use which would normally require contributions to be made to mitigate against impacts on local infrastructure (eg. Affordable housing and education).

3.6 There was no application for costs against the Council.

4.0 Conclusion

4.1 This is naturally a disappointing decision and an appeal that Officers did not expect to succeed. Design refusals will however always depend to an extent on the judgment of the particular Inspector. The Otley Conservation Area Appraisal which dates from 2004 was not perhaps as helpful to the Council's case as it might have been and consideration will now be given to updating this appraisal as they are documents which Inspectors will attach significant weight to.

Appeal Decision

Inquiry held on 12 - 14 November 2013

Site visit made on 12 November

by P N Jarratt BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Appeal Ref: APP/N4720/A/13/2200638

Former Otley School, Bridge Lane, Otley, LS21 1BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gladman Care Homes Ltd against the decision of Leeds City Council.
 - The application Ref 13/01062/FU, dated 27 February 2013, was refused by notice dated 3 June 2013.
 - The development proposed is the demolition of vacant school building, newsagents and café and redevelopment for Use Class C2 residential accommodation with care comprising 48 apartments for persons aged 65 and over.
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Preliminary matters

1. Although the application originally referred to the apartments being for persons aged 60 and over, the appellant subsequently amended this to persons aged 65 and over. I have therefore amended the description of the application above.
2. The main parties acknowledge that the agreed Statement of Common Ground (Doc 2) was incorrect at paragraph 5.3 relating to the third reason for refusal. The second sentence of the third refusal reason should accord with the decision notice and read: 'As such the proposal will be significantly harmful to the neighbouring site's amenity and will harm the future redevelopment potential of the neighbouring site, contrary to policies GP5 and BD5 of the adopted Leeds Unitary Development Plan Review (2006) and the guidance within the National Planning Policy Framework.'
3. Subject to the completion of a Unilateral Undertaking (UU) and the imposition of appropriate conditions, the Council indicated it would withdraw the second reason for refusal regarding trees and the fourth reason for refusal regarding occupation of the proposed development. The Council also indicated that the fifth reason for refusal would be withdrawn on agreement of an appropriately worded Grampian condition regarding off-street highway works.
4. At the inquiry a planning obligation in the form of a completed UU was submitted by the appellant dealing with matters relating to trees and occupancy of the development (the second and fourth reasons for refusal).

Decision

5. The appeal is allowed and planning permission is granted for the demolition of vacant school building, newsagents and café and redevelopment for Use Class C2 residential accommodation with care comprising 48 apartments for persons aged 65 and over at the Former Otley School, Bridge Lane, Otley, LS21 1BQ in accordance with the terms of the application, Ref 13/01062/FU, dated 27 February 2013 and the plans submitted with it, subject to the conditions on the attached schedule.

Main Issues

6. The main issues in this appeal are:-
 - i) whether the design of the proposed development is appropriate in its context and the effect it would have on the character or appearance of the Otley Conservation Area and on the setting of listed buildings and other heritage assets;
 - ii) the effect of the proposed development on the adjacent public house in respect of the living conditions of the residential occupiers of the public house, on users of the rear amenity space and on the development potential of the site of the public house; and
 - iii) the effect of the proposed development on protected trees.

Reasons

The Appeal Site

7. The appeal site comprises a two storey derelict former school building (All Saints Middle School) with car parking to the front and a former playground at the rear. The site also includes a single storey building occupied by the Wharfedale Café (known locally as Dummies) and a newsagent. The site is located in Otley Conservation Area on the corner of Bridge Street and Mill Lane. The site includes a number of trees which are protected by a Tree Preservation Order, including a large weeping willow.
8. The 'Bridge' Public House is adjacent to the south of the site; the Tittybottle Park public open space lies between the north of the site and the River Wharfe; and terraced and other residential properties lie to the east. The nearby Otley Bridge is a Scheduled Ancient Monument and the Bridge United Reformed Church is a Grade II listed building. To the west of Bridge Street is the Otley Police Station and further areas of parkland.
9. Conservation Area Consents have been granted for the demolition of the former school building¹ and for the demolition of the café/newsagent building². Planning permission for a 60 bed care home on the former school part of the site was refused in March 2012³ and is known as the 'Casicare' scheme⁴. Although comparisons were made at the inquiry between the Casicare scheme

¹ LPA ref: 11/04634/CA

² LPA ref: 13/01105/CA

³ LPA ref: 11/04635/FUL

⁴ The Casicare scheme for a 60 bedroom care home comprised an 'L' shaped block following the southern and eastern boundaries of the site (which excluded the café/newsagent building) with parking arranged at the front of the building. It was refused due to loss of residential amenity to occupiers of existing properties on Manor Street and to some of the future occupants, and for failing to enhance strategic public transport infrastructure.

and the appeal proposals, I have considered the appeal scheme on its own merits.

10. The appellants have entered into a partnership with (MHA) Methodist Homes to develop 'housing with care' schemes. It is common ground that the principle of redevelopment of the site for the proposed use is acceptable and that there is a considerable unmet requirement for extra care accommodation, although the parties disagree on the quantum of the requirement. However, development of the type proposed here would contribute to meeting some of the identified requirements.

Conservation Area and Listed Buildings

11. The appeal site lies on the cusp of two character areas in the Otley Conservation Area Appraisal, these being Otley Town Centre and Otley Riverside, indicating the site's gateway location in a transition zone between the north bank of the town and the historic core on the south bank⁵. The River Wharfe and the bridge are important to both areas. The appraisal plan identifies the former school as a building that detracts. It also shows significant views, these being north along Bridge Street, up and down the river from the bridge and oblique views down river from Mill Street/Tittybottle Park and Wharfemeadows towards Garnett's Mill. Although views south from Billam's Hill and Bridge Street north of the river or from the bridge towards the appeal site are not identified as significant views in the appraisal plan, I nevertheless regard them as important to the perception and appreciation of the Conservation Area to an observer. These views are also important in the appreciation of the overall setting of the town as distant views of the green slopes of The Chevin are clearly visible.
12. The architectural character of the buildings in the immediate context to the site is varied. To the east is the late Victorian/Edwardian two and a half storey stone terrace of Manor Street and two small stone residential buildings that share a boundary with the appeal site. All Saints Court, to the south east of the appeal site, is a series of former linked stone school buildings varying in height to three stories with distinctive window shapes and turrets/spires adorning the roofs. It has now been converted to residential use. The 1899 United Reformed Church with its spire is in a prominent position in the streetscene and contributes greatly to the character and appearance of the area along with the Church of Our Lady and All Saints on the west side of Bridge Street. The relatively modern two storey flat roof police station is an unassuming building but its appearance is enhanced through its verdant setting adjacent to the stone Lodge House next to the bridge. The Bridge PH is a two storey stone and rendered building. The wider context of the site includes the open spaces on the north side of the river, the playing fields to the east of Manor Street and Garnett's Mill with the related substantial weir across the river; although I acknowledge that the Council does not consider the mill to be contextually relevant.
13. The presence of buildings in the vicinity of the appeal site is softened by the significant areas of green spaces and vegetation provided by the churchyard of the United Reformed Church, the police station and the adjacent riverside open space, Tittybottle Park, and the willow and other trees on the appeal site.

⁵ Core Document CD10: Otley Conservation Appraisal Supplementary Planning Guidance, December 2003.

14. The parties agree that the former school building is a negative element in the Conservation Area and that the café/newsagent building does not have a positive impact.
15. In terms of scale and massing, the proposed care home would be a single building comprising a number of two, three and four storey elements. The building would be of significant size as it would reflect the functional design requirements of the care home. It would occupy about 34% of the site area which is generally comparable to and would reflect the variation in urban grain in the Conservation Area. A two storey element incorporating a ground floor restaurant would front Bridge Street and be modest in scale. The three storey element with twin gables would face Mill Street and set at an angle to it. Further two and three storey elements would be towards the east boundary with the Manor Street housing. Central to these elements would be a four storey 'L' shaped block although on two elevations, the fourth floor would be contained within a sloping roof space, and on the south and east elevations, would be part of a full height façade albeit with a different external treatment to the lower floors.
16. The heights of the various elements of the proposed building would be within the range of the heights of other existing buildings in the area as demonstrated in Documents 7, 9 and 20.
17. The layout has been designed to minimise intervention with significant trees on the site and the overall design has been carefully thought through in order to reduce the impact of its scale and massing. In this respect, the breaking down of a large institutional building into separate different sized elements with a variety of roof shapes, both hipped and gabled, generally reduces the visual impact although the roof pitches are shallower than the rather steeper pitches of some of the other buildings. The design treatment of the fourth floor habitable element is the least successful due to the variation between the eaves heights at the front and rear of the building, necessary to reduce the impact of massing, and the necessity for valley roofs with intervening flat sections to span the width of the building. However, I do not consider the roof form to be unacceptable for the reasons set out in paragraph 25.
18. The stepping down of eaves and roof heights on the east elevation overcomes any concern over possible effects of the proposals on the living conditions of the occupants of dwellings on Manor Street. The proposed materials of mainly stone and slate are entirely appropriate, as are the proportions of the windows and the relationship of solid to void. The proposed balconies would reflect the function of the building and not be harmful to the overall design. It is not a 'recessive' building on the site as the Casicare scheme has been described and regarded by the Council as not being harmful to the character and appearance of the Conservation Area, but a building that would occupy the site more centrally. It would not have the 'wow factor' in design terms that Councillor Campbell suggested should be the case or a landmark building favoured by Mr Varley. Nor would it be a monumental building but, as described by Mr Beardmore in evidence, it would be a 'mannerly' building on a prominent and important site in the Conservation Area. In this sense I consider that it would represent a relatively orthodox and sensitive townscape response.
19. I have considered the impact of the building in its immediate and wider context within the Conservation Area and I viewed the site from a considerable number

- of locations at the site inspection. In considering the impact, I have had regard to the various photomontages illustrating the site with and without the proposed development and with the trees in leaf and without foliage.
20. The proposed building would become increasingly visible when travelling down Billam's Hill and Bridge Street north of the river. The roof of the four storey element would be in view but it would not obliterate views of The Chevin or of the large roof of the United Reformed Church or its spire, which remain as the prominent elements in the roofscape although become less so in moving across the bridge and getting relatively close to the appeal site. The Council has expressed concern that the building would be visible in views from north of the river but I do not accept that a mannerly building in appropriate materials should be lost to public views. There are other buildings visible along the riverside, such as those of Manor Street and Garnett's Mill further downstream which contribute to the appearance of the Conservation Area. In any event, existing trees on the site or in Tittybottle Park would soften views of the proposed building although the extent of this would be reduced in the winter months.
 21. The Council also considers that when approaching the building from the north, the viewer would see the full three dimensional mass of the building with the implication that this would be harmful and intrusive but I disagree as there would be sufficient break-up of the mass of the building to avoid this from happening.
 22. I have also considered the impact of the south elevation when viewed across the churchyard from the corner of Cattle Market Street and Bridge Street and its effect on the setting of the listed United Reformed Church. Whilst I accept that the scale of the building would appear significant from this viewpoint, it would not be harmful to the Conservation Area because of the intervening Bridge PH site and its existing conifer trees, the scale of the church and the difference in levels between the appeal site and that of the church. For the same reasons it would not harm the setting of the listed church. However I note that the parties agree that the proposals would not give rise to any unacceptable impacts on the setting of any listed building or the Scheduled Ancient Monument and I share this assessment.
 23. The Council has carried out a very detailed assessment of the proposals in terms of its design and impact on in the Conservation Area and has attached considerable weight to the domestic scale of dwellings on Manor Street, to the current general openness of much of the appeal site and to the verdant character of the riverside. However, whilst these are all important considerations, the fact that the proposals would introduce a substantial building on the site does not mean that it would lead to a building not being at a human scale, or being inappropriate in its setting, or that it would be harmful in views from the north of the river just because it would be visible in parts, as the Council contends.⁶
 24. Although the Council has published a Draft Core Strategy which includes policies on design and conservation, it is still in the process of being examined and I agree with the parties that only minimal weight should be attached to it.

⁶ Reference was made at the inquiry by the appellants to the emerging local plan options for the site possibly including residential, business or retail proposals, the last of which could produce particularly challenging design issues for the site. However that is not relevant to the matter before me.

25. I consider that the proposed development is an appropriate response in design terms to its context and I see no harm arising from it taking certain design cues from both the town centre and riverside character areas. Although I have commented about the design of the roof over the four storey element, I do not consider that this would cause any material harm as the form of the valley roofs would only be apparent from above and there is variety in the roofscape in the area. Additionally, the variation in eaves heights of the four storey elements would not be observable from significant viewpoints or appear intrusive. I therefore conclude that the design of the proposed development would be appropriate to its context. It would accord with the Leeds Unitary Development Plan Review (2006) (UDP) saved Policies N12 and N13 relating to urban design priorities and the quality of design. It would also satisfy the relevant paragraphs of the National Planning Policy Framework (the Framework), particularly paragraphs 58 on the aims of good design and paragraph 61 which advises that good design goes beyond aesthetic considerations.
26. I also conclude that the proposed development would preserve the character and appearance of the Conservation Area and would not be harmful to the setting of any listed buildings or heritage assets. As I do not find any harm to the heritage assets, the question of harm being substantial or less than substantial in the context of paragraphs 133 or 134 does not arise. It would therefore accord with UDP saved Policy BC7 regarding the use of traditional materials, UDP saved Policy N19 regarding development in Conservation Areas and the relevant paragraphs of the Framework including paragraph 131 regarding new development contributing to local character and distinctiveness.
27. Submissions were made by the parties in respect to Mr Still's view, on behalf of the appellant, that the 'enhanced' presumption in favour of sustainable development at paragraph 14 of the Framework should apply. The Council considered that this would be incorrect for reasons including footnote 9 to that paragraph which indicates that the enhanced presumption does not apply where policies suggest development should be restricted, such as within a Conservation Area. The appellant however referred to a case currently before the Court of Appeal⁷ which, although paragraph 14 is not covered by that appeal, the appellant contends would assist on how to approach that paragraph and in particular the last two bullet points relating to decision taking. However, it is not necessary for me to take a view on this as I have concluded that the proposed development would not harm the Conservation Area.

The Adjacent Public House

28. The PH has a first floor flat with a kitchen, landing and a living room window on the north elevation facing the side of the appeal site. The living room window is secondary to the main window facing Bridge Street and I am satisfied that no harm would arise to living conditions as a result of the relationship of the proposed development with this secondary window.
29. The separation distance from the kitchen and landing windows to the side elevation of the two storey element of the development would be about 7.8m compared to about 4.7m from the former school building, the former figure being wrongly stated as 4.7m by the Council's witness. It would also have a

⁷ Hunston Properties Ltd v SoSCLG and St Albans City and District Council, [2013] EWHC 2678 (Admin)

greater separation distance than that in the Casicare proposals. The more substantial elevation of the rising four storey element would be obliquely visible from these windows but at an angle of view and at a greater distance. This elevation would be largely brickwork albeit punctuated with corridor and staircase windows.

30. The parties disagree on the relevance of the traditional minimum guide distances to the proposed development referred to in the Council's guide 'Neighbourhoods for Living'⁸. Mr Still considers that these figures are relevant to the consideration of whether a building could appear as overbearing or relate to outlook, in which case the development satisfies these guideline distances. However Mr Platten, for the Council, considers that they relate to privacy and overlooking, which are not an issue for the Council in respect of the relationship of the proposed development and the PH. In my view the guidance is not ambiguous and I interpret it in the same manner as the Council. Nevertheless, although the proposed building would be more substantial in size than both the existing former school building and the refused Casicare scheme, I do not consider that the proposal would lead to any significant harm to the occupiers of the flat through either appearing unduly overbearing in scale or adversely affecting outlook.
31. The four storey element of the proposals would extend along the length of the rear 'beer garden' but would be screened to a large extent by a line of existing conifers along the boundary of the appeal site and the public house. Whilst the outlook would change for users of the garden, the four storey element would be only partially visible due to the trees and it would not have any significant impact on the outlook of users. There would be no overlooking of the beer garden from the proposed apartments and the shading diagrams contained within the Design and Access Statement indicate that there would be no shading of the area from the proposed development. I note that there is an outside seating area in front of the PH on Bridge Street and customers are able to make a choice where they may wish to sit.
32. The PH is trading but the premises are currently being marketed. The Council considers that the site has development potential but as I have concluded above that there would not be any significant harm to neighbouring amenity arising from the appeal proposals, I see no justification why this would prejudice any redevelopment proposals for the site of the PH, should any come forward. Furthermore the appellant has shown in the development constraints for the PH site (Document 11) that redevelopment of the site would not be unduly constrained as a result of the appeal proposals. I also note that the owner and occupier of the PH raise no objection to the proposals.
33. I conclude therefore in respect of the living conditions of the residential occupiers of the public house, on users of the rear amenity space and on the development potential of the site of the public house that there would be no conflict with the aims of Leeds UDP Policies GP5 and BD5 and the Framework.

Protected Trees

34. The Tree Preservation Order identifies some 46 individual trees and a group of trees comprising 17 thorn, 4 holly and 10 maple trees on the appeal site.

⁸ Core Document 4: Neighbourhoods for Living – a guide for residential design in Leeds, December 2003, P 57.

35. The proposed development would not result in the loss of any significant tree. However, the Council in the second reason for refusal originally considered that the proximity of principal elevations to mature trees would result in pressure to prune or fell some of those trees. In response to this, the appellant has incorporated in the UU a requirement for the submission and implementation of a long term landscape management plan. The parties agree that this could also be the subject of a condition together with the imposition of other conditions requiring the re-survey of trees for the purposes of producing a programme of tree felling and pruning work, for the protection of trees, hedges and bushes during site works and for new planting.
36. Unfortunately damage has recently been sustained to the large weeping willow (identified as T46 in the TPO) with the most recent failure on 30 September 2013 where major damage had occurred to the northern sector of the upper and mid crown parts with failure about 6m above ground level at the junction of the two upright stems. The Council's and the appellant's arboricultural specialists agreed that despite there being an option to apply remedial works to retain the tree, due to the nature and extent of the damage, particularly taking into account public safety, this would involve either heavy crown reduction or pollarding. The specialists concluded that such operations would greatly reduce the tree's future aesthetic quality and that the most appropriate course of action would be to remove T46 and plant a replacement, possibly a semi-mature weeping lime, in a similar location as the failed tree in order to retain the focal point within the street scene.
37. It was evident from my site inspection that the extent of the failure of T46 is extensive and that the planting of a replacement tree appears to be an appropriate course of action. In reaching this conclusion, I have had regard to the weeping tree in the churchyard of the parish church which was drawn to my attention by Councillor Campbell and which he indicated had been successfully pollarded after it had been subject to failure. However, that tree is different in shape and species to the willow, situated in a more protected location and did not appear to have had the extent of work carried out to it that would be necessary to T46.
38. Accordingly, I conclude that appropriate conditions could be imposed that would satisfactorily protect works to the trees on the site and secure their longer term protection and maintenance. The proposed development would accord with UDP Policy LD1 in respect of landscaping.

Other Matters

39. It is evident from the representations made (Documents 1 and 17) on this appeal and at the time of the application that the café is highly regarded as something of a local institution by walkers, bikers and cyclists. Notwithstanding this, the owner of the café premises has chosen to make available the site for the proposed redevelopment and the Council has granted Conservation Area Consent for its demolition. The loss of the café/newsagent premises would not be sufficient justification for the scheme to be refused permission.
40. There are no in-principal objections on highway grounds to the proposed development subject to appropriate conditions. A number of off-site highway works are necessary to achieve satisfactory pedestrian conditions on nearby footways and crossing points for users of the proposed development. I am

satisfied that such works are necessary and could be subject to an appropriately worded Grampian condition, in addition to other conditions regarding cycle and car parking facilities, the retention of unobstructed sight lines and the closing-off and making good redundant accesses.

41. The site lies within Flood Zones 1, 2 and 3 with the majority situated in Zone 3a(i). The primary source of flooding is the River Wharfe. The proposals and the Flood Risk Assessment include measures for surface water drainage rates, finished floor levels and flood risk management and mitigation measures. I am satisfied that measures to respond to any flooding risk could be the subject of appropriate conditions.

Planning Obligation

42. Contributions would normally be required for a proposed C3 residential use to mitigate against impacts on local infrastructure and there would be a requirement to provide affordable housing as part of the development. As the proposed layout of the building would lend itself to conversion to C3 residential use with minimal alteration, it would be necessary to ensure that the proposed C2 care home use is retained. The UU ensures that the proposed building would only be occupied and managed in accordance with the submitted information provided with the application. Although planning conditions could deal with some of these matters the UU provides a greater degree of control over the leases to be assigned to occupiers, which would not be appropriate to be the subject of a condition.
43. The UU also deals with the submission and approval of a long term landscape management plan and its subsequent implementation as previously described.
44. I consider that the provisions of the planning obligation are necessary to make the proposal acceptable in planning terms, are directly related to the proposed development and fairly and reasonably related in scale and kind to the development. Consequently they satisfy Regulation 122 of the Community Infrastructure Levy Regulations and paragraph 204 of the Framework.

Conditions

45. I have already made reference in preceding paragraphs to the potential for including a number of conditions. A list of conditions agreed by the main parties was provided at the inquiry (Document 26) and I have assessed these in the light of the tests in Circular 11/95 and the discussion that took place at the inquiry. As there was considerable duplication or overlap of conditions, I have combined them where appropriate and amended some to improve their enforceability.
46. Condition 2 lists the approved drawings for the avoidance of doubt and in the interests of proper planning. Wall and roofing materials are specified in Condition 3 and further details and samples are required of external materials in the interests of ensuring that the completed development respects its siting within the Conservation Area and harmonises with it (Conditions 4 and 5).
47. Further details of sight lines, closing off redundant accesses, surfacing of parking areas and the provision of improved pedestrian facilities are needed in the interests of highway safety. (Conditions 6, 7, 8 and 9). Condition 10 requires further archaeological investigation to ensure appropriate

archaeological recording as the site lies within an area of archaeological significance.

48. Details of any work to existing trees, including the weeping willow (T46), tree protection measures and hard and soft landscaping proposals are necessary to ensure the continued contribution that existing trees have to the appearance of the area and the additional contribution that additional landscaping can make. (Conditions 11, 12, 13 and 14). Condition 15 requires the submission and approval of a long term landscape management plan which is necessary to minimise the potential for residents of the care home seeking to have trees lopped should they otherwise grow to a size that could affect their living conditions. Conditions are necessary in order to maintain and enhance biodiversity and to ensure the protection of bats (Conditions 16 and 17)
49. Further details of foul and surface water drainage measures are necessary to ensure that the site is adequately drained and that the measures proposed in the Flood Risk Assessment are implemented in the interests of sustainable development and flood prevention (Conditions, 18, 19, 20 and 21). In view of potential contamination of the site, Condition 22 is necessary to ensure that any such contamination is identified, the risks assessed and any necessary remediation works carried out.
50. Condition 23 requires a scheme for the provision of public transport information to residents and employees of the care home in the interests of promoting sustainable transport.
51. Condition 24 is needed to restrict the occupancy of the premises as permission allowing unrestricted occupancy would not normally be granted without a contribution to affordable housing or other infrastructure being made. Condition 25 is necessary to limit the use of the restaurant to residents, their guests and employees of the care home as it would not necessarily be appropriate for more general public use in view of the potential impact that such a use could have on the living conditions of residents of the care home.
52. Condition 26 is necessary to ensure that the construction method minimises the impact of the building and other work on the amenity of the area and on the living conditions of local residents during construction of the care home.

Conclusions

53. For the reasons given above and having had regard to all relevant matters, including the representations received from the local residents, the Town Council and the MP for Leeds North West, I conclude that the appeal should be allowed.

P N Jarratt

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton of Counsel	Instructed by Legal Services
He called	
P Ward BA(Hons) MA MRTPI IHBC	Conservation Team Leader
S Varley BA(Hons) DipArch, MA	Design Officer
R Platten BA(Hons) MPLAN MRTPI	Senior Planning Officer

FOR THE APPELLANT:

Paul G Tucker of Queen's Counsel	Instructed by C Still of Gladman Care Homes Ltd
He called	
D Beardmore MSc MA DipLD	Principal, David Beardmore Associates
DipLA DipUrb FRTPI CMLI MIHBC	
R J Morrissey RIBA	Independent Practice
B Jones RIBA	Gladman Care Homes Ltd
C Still BSc(Hons) MRICS	Planning & Development Manager Gladman Care Homes Ltd

INTERESTED PERSONS:

Cllr C Campbell	Ward Member
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DOCUMENTS

- 1 Letter from G Mulholland MP (Council)
- 2 Statement of Common Ground (Appellant)
- 3 Completed Unilateral Undertaking (Appellant)
- 4 Draft Conditions (Council)
- 5 Visualisation of Garnett's Mill (Appellant)
- 6 Photomontage Figs LA16 - LA21 (winter views) (Appellant)
- 7 Site coverage and building height comparison (Appellant)
- 8 Photomontage locations showing existing buildings (a) and showing appeal proposals (b) (Appellant)
- 9 Building height comparison to ground levels (Appellant)
- 10 Site context (Appellant)
- 11 Bridge PH redevelopment constraints (Appellant)
- 12 Ground diagram (Appellant)
- 13 Opening (Appellant)
- 14 Opening (Council)
- 15 Non grained version of Mr Varley's appendices (Appellant)
- 16 Agreed site visit note relating to the weeping willow tree (Appellant)
- 17 Letter and enclosures from Mr I Adamson (Council)
- 18 Mr Beardmore's speaking note (Appellant)
- 19 Mr Morrissey's speaking note (Appellant)
- 20 Building height comparisons against absolute (OS) levels
- 21 Mr Still's speaking note (Appellant)
- 22 Note of telephone conversation with Barratt Land Manager (Appellant)
- 23 SHLAA conclusions for former All Saints Middle School (Appellant)
- 24 Court of Appeal – notice of permission to appeal (Appellant)
- 25 Hunston Properties v SoSCLG and St Albans City and District Council [2013] EWHC 2678 (Admin) (Appellant)
- 26 Revised draft conditions (Appellant)
- 27 Closing (Council)
- 28 Closing (Appellant)

Schedule of Conditions

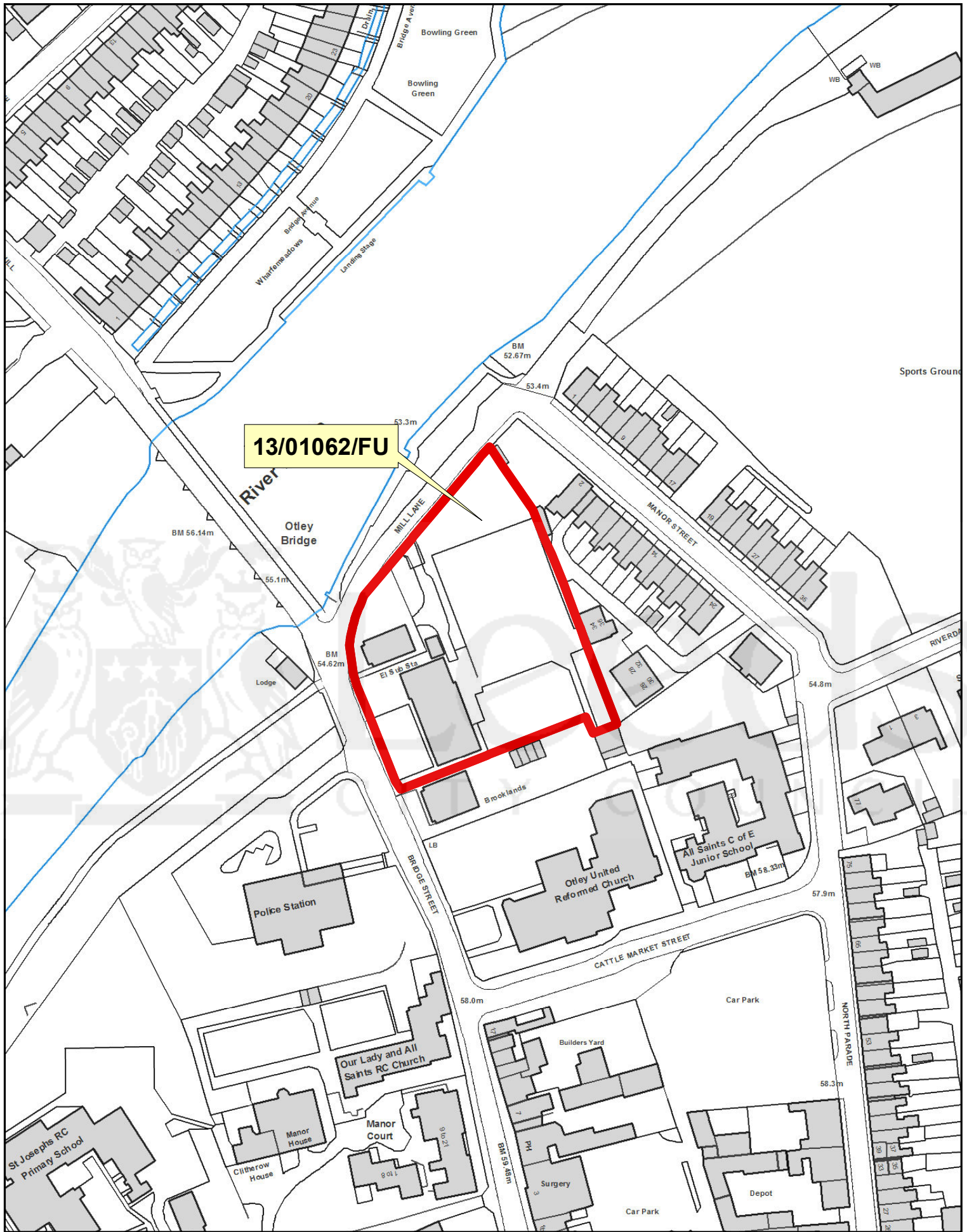
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 05260-P1-001; 002; 003; 004; 005; 006; 007; 008; 009; 011; 012 and 021.
- 3) The external stonework of the building shall be constructed of natural stone with the external roofing materials to be natural slate. Door and window heads and cills shall be constructed of Artstone.
- 4) No development shall take place until details and samples of the facing materials; external door and window frames; heads and cills; roofing materials; ridge details and roof lights; external cladding and balcony materials; gutters, downpipes and other external extrusions, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Construction of stonework shall not take place until a sample panel of stonework has been erected on site and has been approved in writing by the local planning authority. The panel shall establish the details of the type, bonding and coursing of stone and colour and type of jointing materials. The stonework shall be constructed in strict accordance with the sample panel.
- 6) No development shall take place until a plan showing sight lines of 2.4m x 25m to the north and 2.4m x 23m to the south of the access shown on the approved plan has been submitted to and approved in writing by the local planning authority. These sight lines shall be kept clear of all obstructions to visibility greater than 1m in height above the adjacent carriageway at all times.
- 7) No development shall take place until details of the proposed method of closing off and making good all existing redundant accesses to the development site have been submitted to and approved in writing by the local planning authority. The approved works shall be completed before the development is occupied.
- 8) The development shall not be occupied until all areas to be used by vehicles have been fully laid out, surfaced and drained such that surface water does not discharge onto the highway.
- 9) No development shall take place until drawings showing details of: (i) the proposed drop kerbs, pedestrian crossing points and tactile paving on the adjacent highway network; (ii) disability access kerbing with crossing point to the Bridge Street bus stop; (iii) the reinstatement of the public footway at the existing vehicular crossing on Bridge Street; and, (iv) the reinstatement of a vehicular crossing on Mill Lane, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and completed before the development is occupied.
- 10) No development shall take place within the appeal site until a programme of archaeological work has been implemented in accordance with a

written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

- 11) No development shall take place until a re-survey of trees on site and a programme for any tree felling/pruning work have been submitted to and approved in writing by the local planning authority prior to any tree works being carried out. Any tree works shall be carried out in accordance with the approved details.
- 12) No works shall commence until all existing trees, hedges and bushes shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with British Standard 5837 (2012) Trees in relation to design, demolition and construction and such measures shall be retained for the duration of demolition and approved works. No equipment, machinery or materials shall be used, stored or burnt in these areas, and ground levels shall not be altered, nor excavations carried out, including the provision of underground services, without the prior written approval of the local planning authority. Seven days written notice shall be given to the local planning authority that the protection measures are in place prior to any works on the site to allow inspection and approval of the measures.
- 13) For a period of five years from the date that the development is occupied:
 - i) no retained tree, hedge or bush shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any pruning, topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii) if any retained tree, hedge or bush is removed, uprooted or destroyed or dies, another tree, hedge or bush shall be planted at the same place and that tree, hedge or bush shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- 14) No development shall take place until full details of both hard and soft landscape works, including an implementation programme, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include existing and proposed finished levels or contours; boundary details and means of enclosure; car/motor cycle/cycle parking layouts and facilities; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc., indicating lines, manholes, supports etc.); and, planting plans for soft landscaping works including species, sizes and numbers. All hard and soft landscaping works shall be carried out in accordance with the approved details and implementation programme and retained thereafter.
- 15) A long term maintenance, management and implementation plan which covers landscape works for the lifetime of the proposed development shall be submitted to and approved in writing by the local planning

- authority prior to the occupation of the development. The plan shall be carried out as approved.
- 16) No demolition shall take place until a scheme to minimise any potential disturbance to bats has been submitted to and approved in writing by the local planning authority. The demolition of buildings shall be carried out in accordance with the approved scheme.
 - 17) No development shall take place until full details of bat roosting and bird-nesting opportunities to be provided on site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.
 - 18) The site shall be developed with separate foul and surface water drainage systems on and off-site.
 - 19) No development shall take place until a scheme for surface water drainage and flood risk mitigation has been submitted to and approved in writing by the local planning authority. Drainage works and flood risk mitigation measures shall be carried out in accordance with the approved scheme before occupation of the development.
 - 20) There shall be no piped discharge of surface water from the site until works to provide a surface water outfall have been completed in accordance with details to be submitted to and approved by the local planning authority.
 - 21) No development shall take place until details of the proposed means of disposal of foul drainage, including details of any off-site works, have been submitted to and approved in writing by the local planning authority. Drainage works shall be carried out in accordance with the approved scheme before occupation of the development.
 - 22) No development shall take place until a Phase II Site Investigation Report been submitted to and approved in writing by the local planning authority. Where remediation measures are necessary, development shall not commence until a Remediation Statement, which shall include a programme of works and for the provision of Verification Reports, has been submitted to and approved in writing by the local planning authority. Remediation works shall be carried out in accordance with the approved Remediation Statement and the site shall not be brought into use until all verification information has been approved in writing by the local planning authority. If remediation is unable to proceed in accordance with the Remediation Statement, or where significant unexpected contamination is encountered, the local planning authority shall be notified in writing immediately and operations on the affected part of the site shall cease. A revised Remediation Statement shall be submitted to and approved in writing by the local planning authority and any further remediation works shall be carried out in accordance with the revised Statement.
 - 23) A scheme shall be submitted to and approved in writing by the local planning authority for the provision of public transport information to residents and employees of the care home. The scheme shall be implemented prior to the occupation of the development and retained thereafter.

- 24) The apartments within the care home shall at all times be used for and limited to the designed purpose of providing self contained independent living units of accommodation for a person or persons who, for the purpose of acquiring, purchase or lease of any of the apartments, are contracted into a care package and who have a minimum age of 65 years and any resident dependents, and the apartments shall be occupied as such.
- 25) The restaurant shall be for the use of residents of the care home and their guests, and employees, and shall not be open to the general public.
- 26) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii) hours of working.



SOUTH AND WEST PLANS PANEL

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SCALE : 1/1500

