



Notice of a public meeting of

Planning Committee B

- To:** Councillors B Burton (Chair), Hollyer (Vice-Chair), Baxter, Clarke, Fenton, Melly, Orrell, Vassie and Warters
- Date:** Tuesday, 12 December 2023
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

- 1. Declarations of Interest** (Pages 1 - 2)
At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see the attached sheet for further guidance for Members.]

2. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is 5:00pm on Friday, 8 December 2023.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at www.york.gov.uk/webcasts.

During coronavirus, we made some changes to how we ran council meetings, including facilitating remote participation by public speakers. See our updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

3. **Plans List**

This item invites Members to determine the following planning applications:

- a) **Fulford Flood Alleviation Scheme, Pt Fulford (Pages 3 - 66)
Ings And Pt Playing Fields, Selby Road, York
[23/00283/FUL]**

Flood alleviation scheme comprising a pumping station and associated inlet structure, control kiosk, access track and parking area; culvert under Selby Road; outfall structure and floodwall alignment and penstock across Germany Beck; two earth flood embankments, and a temporary construction compound and tree works within the Fulford Conservation Area. [Fulford and Heslington Ward]

**b) Castle Howard Ox, Townend Street, York, (Pages 67 - 100)
YO31 7QA [23/00123/FUL]**

Conversion of existing building to 16no. student studio apartments with two storey extension to the side/east elevation, first and second storey extension to the rear/north elevation, and single storey rear/north extension following the demolition of the single storey projections. [Guildhall Ward]

**c) 126 Fulford Road, York, YO10 4BE (Pages 101 - 134)
[23/00798/FUL]**

Erection of 1no. attached dwelling to side. [Fishergate Ward]

**d) 25 Orchard Paddock, Haxby, York, YO32 3DW (Pages 135 - 146)
[23/01400/FUL]**

Single storey side and rear extension and dormer to rear following removal of garage. [Haxby and Wiggington Ward]

4. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Jane Meller

Contact details:

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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
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Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

COMMITTEE REPORT

Date: 12 December 2023 **Ward:** Fulford And Heslington
Team: East Area **Parish:** Fulford Parish Council

Reference: 23/00283/FUL
Application at: Fulford Flood Alleviation Scheme Pt Fulford Ings And Pt Playing Fields Selby Road York
For: Flood alleviation scheme comprising a pumping station and associated inlet structure, control kiosk, access track and parking area; culvert under Selby Road; outfall structure and floodwall alignment and penstock across Germany Beck; two earth flood embankments, and a temporary construction compound and tree works within the Fulford Conservation Area
By: City Of York Council
Application Type: Full Application
Target Date: 15 December 2023
Recommendation: Approve

1.0 PROPOSAL**Site**

1.1 The application site includes land either side of the A19 (Selby Road), to the immediate south of the village of Fulford. The land within the red line to the east side of the A19 includes the north end of Fordlands Road Play Area (allocated as existing open space within the Draft Local Plan). This local park has a playground for younger children, outdoor gym, basketball hoop and hardstanding and a small informal football pitch with timber goals. It is bounded by mature trees on its southern and west boundary with the A19.

1.2 Germany Beck runs east to west along the north boundary of the play area, set approximately 4m below the level of the playing field, with steep embankments down to a flat bottomed valley, before dropping further to the Beck itself. The embankments comprise scrub habitat with willow, hawthorne and alder. The Beck then flows through a stone opening, 'Stone Bridge', through a culvert under the A19 towards Fulford Ings to the east and the River Ouse beyond. The junction of the A19 with the new access into Germany Beck Residential Development, 'Thornton Road',

is raised high above the Beck and is bounded by substantial brick stone capped floodwalls on either side of the A19 and along the south side of Thornton Road.

1.3 Land within the northern part of the red line boundary falls within Fulford Village Conservation Area (the stone bridge and land to the north of the watercourse). The land forming the eastern extent of the application site is within Fulford Ings Site of Special Scientific Interest. The floodwalls sit high above the level of the land below. Here the Beck flows through low lying land, in a channel circa 1m deep. Landing Lane provides vehicular access towards the river and the site boundary extends south, into rough grass farmland with individual trees and hedgerows.

1.4 The site is within Flood Zone 2 and 3 and lies within the defined Green Belt (as amended 2022). The site is not in the formal CYC designated areas of archaeological importance, nor relate to any scheduled monuments. However the general area along Germany Beck from East Moor to Middlethorpe Ings has long been assumed to be the site of the Battle of Fulford, between the Vikings and English army in 1066. However it is not currently a 'Registered Battlefield', designated by Historic England.

1.5 The development site area is 0.88ha, therefore the proposal falls outside Schedule 2, Section 10 (h) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as the site area is less than 1 hectare. There is no requirement for an Environmental Impact Assessment and no requirement to undertake a scoping exercise.

Proposal

1.6 Planning permission is sought by the City of York Council for flood alleviation works in the Germany Beck flood cell (an area where the flood risk can be addressed independently of areas up and downstream). The following works are proposed:

- A pumping station (10m x 10m) with trash screen, discharge chamber (3m x 5.8m) and control kiosk (2.6m x 4.4m). Vehicle access including a new dropped kerb access will be required and a new 110 m² area of levelled hardstanding will be created to the immediate south of the pumping station and a 45m² parking area with a 35m² turning head above the Tunnel Drain headwall, with grasscrete or similar material. Handrailing and access steps will be provided around the perimeter of the pumping station.

- Pumping station outfall structure constructed to the west of A19 Selby Road and south of the Germany Beck. The outfall structure will measure approximately 1.75m in height, 2.2m deep with a backwall width of 2m and apron width of 3.77m (excluding steps). The back wall of the structure will be 0.80m offset from the new sheet pile floodwall. Steps will be constructed from the level of the A19 Selby Road to the top of the headwall unit and then steps from the top of the headwall to the apron. The top of the headwall unit will be level with the bottom of the existing bank in the SSSI. The invert of the outfall will be at 5.89m Above Ordnance Datum ("AOD"), approximately 0.39 m higher than the existing Germany Beck bed level.
- Floodwall alignment across Germany Beck to the west of A19 Selby Road - A new 11m long sheet pile floodwall offset from the existing wall by approximately 4m and tying into the existing wall at either end. An actuated penstock will be fitted to the new flood wall within the Germany Beck channel, which will be closed when the levels rise above 7.50mAOD to prevent flooding in Fulford from the River Ouse via Germany Beck. The actuator will be housed on the platform between the new and existing flood walls.
- Flood embankment east of A19 Selby Road - A low level flood embankment will be constructed within the Playing Field to the east of A19 Selby Road. The embankment will tie into the proposed pumping station and natural high ground level in the playing field. The embankment will be approximately 31m long, 0.35m high, 4m wide crest and 6.4m wide at its base. The embankment will be constructed with cohesive earth fill and seeded topsoil. A surface water drain is diverted around the footprint of the pumping station and power cable will be diverted around the footprint of the embankment. A new headwall for the Tunnel Drain culvert outfall will be constructed immediately east of the proposed pumping station. The existing outfall is a concrete headwall with flap-valve arrangement and the new relocated structure will replicate this.
- Earth flood embankment south of Landing Lane and west of A19 Selby Road - A low level flood embankment will be constructed within the agricultural field to the south of Landing Lane. The embankment will tie into high ground associated with Landing Lane and natural high ground level in the field. The embankment will be approximately 20m long, with a 4m wide crest and 1 in 4 slopes. The embankment will be constructed with cohesive earth fill and topsoil seeded with grass.

- Temporary construction compound and construction access - utilising a small area of existing playing field with access from Fulford Road.
- Tree works – removal of 21no. individual trees, 2no. full tree groups and 3no. part tree groups.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1 The revised National Planning Policy Framework (NPPF) 2023 (“the NPPF”) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is a material planning consideration in the determination of this application. Key chapters and sections of the NPPF are as follows :

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision making

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 13 – Protecting Green Belt land

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment

DRAFT LOCAL PLAN (2018)

2.2 The Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in early 2024. The following policies are relevant;

DP2 – Sustainable Development

DP4 – Approach to Development Management

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas

D6 – Archaeology

D7 – Non-Designated Heritage Assets

GI1 – Green Infrastructure

GI2 – Biodiversity and Access to Nature
GI3 – Green Infrastructure Network
GI4 – Trees and Hedgerows
GI5 – Protection of Open Space and Playing Fields
GB1 – Development in the Green Belt
ENV2 – Managing Environmental Quality
ENV3 – Land Contamination
ENV4 – Flood Risk
ENV5 – Sustainable Drainage
T1 – Sustainable Access
T8 – Demand Management

3.0 CONSULTATIONS

3.1 The final received consultation responses are listed below;

INTERNAL CONSULTATIONS

Design Conservation and Sustainable Development (City Archaeologist)

3.2 Detailed advice (set out within the archaeology section) but recommend conditions with regards to a Written Scheme of Investigation, archaeological building recording and a scheme of interpretation for the Battle of Fulford.

Design Conservation and Sustainable Development (Ecologist)

3.3 No objections but recommend conditions with regards to a CEMP, invasive non-native species method statement and LEMP.

Design Conservation and Sustainable Development (Landscape Architect)

3.4 Result in significant loss of existing tree cover either side of Fulford Road. The loss is over a relatively short stretch, although one that is exposed to a busy main road into the city centre. The main amenity value of the trees is their contribution to the natural setting of Fulford village (and conservation area) and the association with Fulford Ings. None of the trees are currently subject to a tree preservation order (TPO). All trees to the north of Germany beck are located within Fulford conservation area.

3.5 The removal of trees appears to be unavoidable, therefore in light of the apparent necessity to implement the flood alleviation scheme, the proposed development is likely to outweigh the harm resulting from the loss of the trees, with the provision of suitable mitigation.

3.6 The landscape proposals and planting schedule is appropriate, however if the Ash (T19) cannot be saved (due to underlying structures and drainage runs), a semi-mature specimen tree, of the parish council's choosing, should be included within the red line to the south of the vehicle route if easements allow, or elsewhere, if not.

3.7 There is also new tree planting by the Environment Agency which will mitigate the effects of loss as viewed from the recreation ground. Unfortunately, the location of the proposed structure excludes new roadside tree planting.

3.8 Any mitigation landscape works to the west of the A19 are agreed with Natural England and CYC Senior Ecologist and countryside officer, since the value of the SSSI is the overarching factor in that area.

Design Conservation and Sustainable Development (Conservation)

3.9 Development Management to assess.

CYC Forward Planning

3.10 Although the Publication Draft Local Plan showed the Recreation Field as being outside the Green Belt, consideration should be given to the Wedgewood Decision, in terms of its Green Belt status. Additionally, subsequent Modifications to the Local Plan, including the recent Main Modifications consultation shows the site as being within the Green Belt. Therefore, the application should be judged against paragraphs 149 & 150 of NPPF. Engineering operations are acceptable uses in the Green Belt, although the case officer must make a decision on whether the associated structures, such as the control kiosk would fall within the scope of engineering operations, in relation to this scheme.

Flood Risk Management Team

3.11 Following on from the submission of Revision 2 of the Flood Risk Assessment, from a flood risk and drainage point of view the Flood Risk Management Team has no objection to the proposed flood defence/resilience scheme.

3.12 Recommend conditions with regards to compliance with flood risk assessment, adoption and maintenance and easements.

Highways

3.13 Objects on the grounds of unacceptable impact on highway safety arising from the proposed arrangement for access to the parking area and access track to Germany Beck.

Public Protection

3.14 Land Contamination - The applicant has submitted a Ground Investigation report. This report demonstrates that the condition of the land is suitable for the proposed use. Recommend an unforeseen land contamination condition.

3.15 The applicant has submitted a Construction Environmental Management Plan. Although this plan does have some controls in place for controlling noise and dust emissions there are insufficient details on the controls that will be put in place to minimise noise and vibration during piling works. Recommend a CEMP condition.

3.16 The proposal includes the installation of a pumping station on site therefore this department would recommend a condition with regards to noise.

Public Rights of Way Team

3.17 Providing the comments made by PROW in our original submission regarding accommodation of the public rights of way and any access impacts mitigated then we have no further comments.

Original comments: There are two recorded public footpaths running just outside of the proposed planning boundary known as Fulford 8 (5/8/10) and Fulford 23 (5/23/10). Although these rights of way are outside the planning boundary it seems the planned works could impact the access to them. Therefore, we would like to see them accommodated and any access impacts mitigated within the development plans. Further, if the works mean there is a need to temporarily close the public footpaths on safety grounds. During and after construction the surface of the footpaths must not be affected for example by drainage across the path or unauthorised vehicle use. If the proposed development results in a deterioration of the current surface of the public footpaths, you will be expected to restore the surfaces to how they were (or improved) before construction started. Similarly, the development must not reduce the current width of the footpaths or interrupt access.

EXTERNAL CONSULTATIONS

Environment Agency

3.18 No objection to the works as long as the development is carried out in accordance with the submitted flood risk assessment.

3.19 The drawing referenced 60651369-ACM-XX-XX-C-DR-1006 shows an activate penstock, if designed electronically there will need to be a contingency plan in place in case of a power failure.

3.20 A Construction Environmental Management Plan, including an invasive non-native species management plan will be required to demonstrate how construction related impacts of the development will be avoided and what treatment measures and management will be implemented to eradicate INNS on the site.

3.21 Recommend a biodiversity net gain informative.

Fulford Parish Council

3.22 Supports the objectives of the scheme to provide much needed flood protection to homes and roads in the vicinity of Germany Beck. Further comments;

- Loss of public open space – owned by the Parish Council and used as informal recreation of the past fifty years. Parish Council recommends further discussions are held with the Applicant in order to investigate whether compensatory land could be offered.
- Impact on green belt – cause some further loss of openness, particularly the pumping station kiosk and car park.
- Impact on heritage – If adequate planting is carried out, the harm to the Conservation Area and to its landscape setting would be less than substantial. Parish Council agrees with response from Historic England in that the harm to the significance and appreciation of the battle site would be less than substantial, which should be weighed against the public benefits. The memorial stone will need to be relocated but this presents an opportunity to restore the stone and place it in a more accessible and suitable location.
- Landscaping/loss of trees – tree survey does not appear to be available. The loss of trees is regrettable but significant new planting is proposed to offset the landscape impact. Parish Council recommend larger specimen trees are

planted rather than smaller saplings. Recommend the kiosk is screened. T19 is regrettable marked for removal and question whether it is necessary.

- Invasive Species – proposed treatment/management of Himalayan Balsam and Nutall's waterweed to provide a net benefit to biodiversity is welcome. Recommend HB eradication is extended further upstream.
- Significant benefits that should be weighed against the overall harm that will result from the scheme.

Historic England

3.23 No objection on heritage grounds. The application site is partially within the Fulford Village Conservation Area and within the area currently being reconsidered for designation as a Registered Battlefield, being the possible location of the Battle of Fulford, 1066 (further historical information provided in their consultation response).

3.24 The site has undergone several phases of archaeological investigation, most recently through four geoarchaeological window samples at Germany Beck. Only one sample recorded waterlogged organic deposits, but has to be considered largely unrepresentative of the landscape at the time of the battle. A series of excavations undertaken by the Fulford Battlefield Society (FBS) has recovered a range of ferrous and non-ferrous objects potentially associated with the battle or the post-battle 'clean up' of the battlefield. However, these objects are still being investigated as part of a research project by Nottingham University and are awaiting publication and peer review.

3.25 There are a number of elements to the flood protection proposal, of varying degrees of impact on buried archaeological deposits and on the setting of both the Conservation Area and possible battlefield.

3.26 Excavation has demonstrated that the eleventh century ground surface is buried under one to three metres of medieval, post-medieval and early modern material across the Fulford Beck area, the implication being that the chief impact of the scheme is likely to be on the setting and legibility of the battlefield.

3.27 Historic England accepts the conclusion of the Heritage Impact Assessment that the impact of the proposal on the setting of the Conservation Area amounts to less than substantial harm.

3.28 Historic England has previously rejected an application for the designation of the Fulford Beck site as a Registered Battlefield, stating that 'While Germany Beck remains to be the most likely location for the Battle of Fulford, the documentary and

archaeological evidence is insufficiently conclusive to make this a secure identification.' However, the discovery of a range of objects potentially related to the battle has led to a reconsideration of that application. This reconsideration of the new material is currently underway.

3.29 The Battle of Fulford may prove to be something of an exception as far as the recovery of artefacts is concerned.

3.30 The current landscape is a mixture of unmanaged riverside wetland, managed playing field and the outer edge of suburban Fulford, indicating that there has been change and modification of the landscape over time. The eleventh century landscape is at some depth below the modern ground surface.

3.31 Given these changes to the landscape and the likely depth of the eleventh century archaeological deposits, we consider that the introduction of the proposed flood defence features will not represent a dramatically negative modification.

3.32 If Fulford Beck is the location of the battle, the progress of the battle will remain legible in spite of the flood defence interventions, and therefore the impact can be considered to represent less than substantial harm to the significance of the non-designated heritage site.

3.33 However, given the recovery of possible battle-related artefacts, we strongly recommend that a comprehensive archaeological mitigation strategy is compiled by your authority, working with as many partners as possible, to specifically address the questions of the eleventh century landscape and the battlefield. Furthermore, we would hope that the introduction of new earthwork features will be assessed to see how the new interventions can increase access to and understanding of the battlefield landscape.

Natural England

3.34 No objection subject to appropriate mitigation being secured. Natural England considers that without mitigation the application would damage or destroy the interest features for which Fulford Ings SSSI has been notified.

3.35 The ecology update report, botanical survey and aquatic ecology baseline survey satisfy the requests for further information and recommend the commitments within them contribute to an appropriate planning condition.

Northern Powergrid

3.36 No Comments received.

Ouse and Derwent Internal Drainage Board

3.37 Board removes the previous objection and is satisfied with the proposal based on the latest drawings. Recommend a condition with regards to a 4m strip from the top of the embankment and informatives regarding maintenance responsibility and consent requirements.

Sport England

3.38 Objection withdrawn. The Football Foundation is not aware of any existing affiliated football activity taking place at this site, so no impact on existing formal football is foreseen.

3.39 The proposed development results in a minor encroachment onto the playing field however having considered the nature of the playing field and its ability to accommodate a range of pitches, it is not considered that the development would reduce the sporting capability of the site. Sport England are of the view that the proposal broadly meets exception E3 of the Playing Fields Policy.

Yorkshire Water

3.40 Water supply – the existing mains in Selby Road will be directly affected by the installation of the culvert under Selby Road. These mains will need to be suitably protected during the construction of the culvert and any proposed method of installation signed off by Yorkshire Water Network Engineering prior to construction. The mains may require diversion if suitable clearance cannot be maintained to the new culvert.

3.41 Yorkshire Water endorse the means of surface water disposal to the watercourse.

4.0 REPRESENTATIONS

4.1 The application was advertised via neighbour notification, press notice and a site notice.

First Notification / Publicity

4.2 One letter of general comment received on the following grounds:

- Worked to ensure a flood protection scheme would minimise damage to the heritage value of the 1066 Battle site.
- The proposal fails to have sensitive design, siting and suitable mitigation.
- Several of the supporting documents are worthless.
- Recognise the need for the facility.
- Heritage and wildlife damage.
- Need for a public inquiry.
- Concerns regarding the justification for the location.
- Planners have ignored evidence this was an active water bowl habitat.
- Statutory consultees ignored available evidence.
- Breach of planning condition in relation to the Germany Beck Housing development (Battle of Fulford trail). Council agreed to discharge the condition without further consultation.
- Original plan resubmitted but may need updating to accommodate the pumping station.
- Site access road crosses a previously unrecognised Roman Road. Material should be taken from the line of this stone-paved Roman Road to create a route to the battle site.
- Flood risk to the access road should have been recognised earlier despite the many warnings and the lack of engineering logic.
- Ignoring evidence.

4.3 The letter also attached annexes with regards to a short history of the Fulford Battlefield, letter to YC from Fulford Parish Council (dated 2003), information submitted to the planning inquiry (2006), a published letter in the YEP (February 2008), submission for the reserved matters planning hearing (2012) and a letter written to the Flood Protection Officer (dated November 2021). A Battle of Fulford Visitor Trail proposal is also attached.

4.4 A further letter received by the same person with regards to the heritage desk based assessment and heritage impact assessment. The following concerns were raised;

- The quality is undermined by its failure to take note of the several heritage investigations undertaken in the immediate vicinity.
- Does not address the various published works about the Fulford Battle site location including the 2010 publication Finding Fulford nor any of the academic papers.

- Makes no reference to the Germany Beck excavations which began in 2013.
- Over a sequence of 7 subsequent digs, the work revealed the presence of a well-constructed and embanked Roman Ford crossing whose identity was confirmed by local and national experts when they visited the site and was inspected by the previous York City archaeologist.
- It does not record the unique wood crossing which was repeatedly notified to the planning authorities when the care home was being proposed and this led to the destruction of the north end of this crossing because this information was ignored. (The survival of the wood in this crossing will be endangered once the periodic flooding is prevented by the pumping station).
- Dismiss the catalogue of metal as inconclusive suggests they have not studied the material.
- The identification of several hearth sites further along Germany Beck along with many part-made weapons have merited publication by the Royal Armouries among others and led to the formulation of the post-battle metal recycling hypothesis. A hypothesis cannot be termed inconclusive in this context where a partial quotation of the NPPF recognises that listed as well as unlisted sites should be protected. (The battle of Fulford is currently in the process of being assessed for designation and was at the time this report was in preparation and this fact should also have been included).
- Report must be rejected and a new assessment prepared
- Impact assessment tries to decide if the battle happened here, relying almost exclusively on outdated and often discredited assessments.
- Assessment relies on poor analysis that was presented 20 years ago on behalf of the developers.
- Under planning rules such important heritage can only be disturbed in exceptional circumstances.
- Note the civic necessity for a pumping station but this must be constructed in a way that does not impact the appreciation by future generations of this exceptional heritage.
- Conclusions that the pumping station will have minimal impact is not backed by analysis of the dynamic nature of this battle.
- The pumping station will significantly impact the heritage and only by a sympathetic location and design can this be minimised and some creative mitigations will also be needed.
- The report needs to be rewritten to include an analysis of lines of sight for visitors to the battlefield, the Roman ford crossing, which is currently covered by car parking for the proposed pumping station and the impact that the changed

hydrology will have on the peat layer including the 5/6 Century wood crossing of the beck.

4.5 Former Ward Councillor Keith Aspden wrote a letter of support (dated 28 March 2023) whilst a member of the council:

- Need to see a permanent solution for the whole area including the A19, Fordland's Road and Fordland's Crescent.
- Work must be undertaken to put an end to the upheaval and disruption caused to lives.
- The applicants have considered various forms of mitigation to offset any harm that a new pumping station will cause.
- Hope for additional trees, landscaping and community gain (such as the provision of open space and community projects) will be considered. One example could be the removal and restoration of the Battle of Fulford Memorial Stone to a more suitable and improved location.
- The stress and worry of regular flooding must be taken into account.
- Must deliver a solution which will protect hundreds of properties in the area, finally ending the significant challenges that frequent floods have brought to the community.

4.6 One general comment (2 April 2023) was received in between the two consultation periods;

- Landowner not informed and only notified by Natural England. Remains neutral but would be useful to have a full methodology and mitigation strategy in place to minimise any disturbances to the SSSI area and making good afterwards.

Second Notification

4.7 One general comment (24 April 2023) received during the second round of consultation on the following grounds;

- Much evidence that the terrain along the Germany Beck is the likely site of the battle.
- While the project is crucial for flood alleviation, implore all members of the council and development program to support the demands of the city Archaeologist. Please support her and use this project as an opportunity to locate further evidence as the likely site of the Battle of Fulford.

- Must have a strong commitment to conduct detailed archaeological surveys prior to work, including time to survey and excavate prior to development beginning and also document any evidence produced to support or abstain this as the site.

5.0 APPRAISAL

KEY ISSUES:

- Green Belt
- Design and Impact on the character and appearance of the Conservation Area and Street Scene
- Archaeology
- Trees and Landscaping
- Open Space and Playing Field
- Ecology and Biodiversity
- Public Protection
- Flood Risk
- Highways and Road Safety
- Public Rights of Way
- Very Special Circumstances

GREEN BELT

Policy

5.1 Paragraph 147 of the NPPF states “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. Paragraph 148 of the NPPF states “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

5.2 A local planning authority should regard the construction of new buildings in the Green Belt as inappropriate with exceptions to this set out at paragraph 149 of the NPPF. Certain other forms of development are also not inappropriate in the Green

Belt under paragraph 150. This approach is repeated by policy GB1 of the Draft Local Plan (2018).

Assessment

5.3 The application site lies within the Green Belt as set out within the amended Green Belt boundaries in the Draft Local Plan (2018). The Green Belt boundary in this particular case was amended in 2022 to include all of the application site. The proposed pumping station is considered to be a building but does not fall into any of the exceptions set out in paragraph 149. The associated infrastructure is considered to be engineering works, therefore not inappropriate development within the Green Belt providing it preserves openness and does not conflict with the purposes of including land within it (paragraph 150(b) of the NPPF).

5.4 The above ground elements of the pumping station and earth embankments being physical structures, would harm openness, both visually and spatially, therefore very special circumstances would need to be demonstrated for these elements of the development. This is explored at the end of the assessment after consideration of all main issues. The below ground works, such as the flood wall and penstock, taking into account their siting and height, are considered to preserve the openness of the Green Belt, therefore is appropriate in this instance and meets Green Belt policy.

DESIGN AND IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA AND STREET SCENE

Policy

5.5 Section 16 of the NPPF, conserving and enhancing the historic environment, states that LPAs should sustain and enhance the significance of heritage assets, giving great weight to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage assets (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, which include registered battlefields, should be wholly exceptional.

5.6 Paragraph 202 of the NPPF states “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.”

5.7 Section 72 of the Planning (Conservation Areas & Listed Buildings) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. This is supported by Policy D4 of the Draft Local Plan (2018) which seeks to protect Conservation Areas and its setting.

5.8 Policy D1 of the Draft Local Plan (2018) relates to placemaking. Development proposals should enhance and complement the character and appearance of landscape and open space. Proposals must take into account York’s special qualities and should make a positive design contribution to the city.

Assessment

5.9 Fulford Village Conservation Area is a ‘designated heritage asset’ which lies primarily north of the Application Site. To the west of the bridge, the Conservation Area boundary lies to the north of the watercourse. However to the east of the bridge, the Conservation Area boundary lies to the south of the watercourse. The bridge is included within the Conservation Area.

5.10. The proposed floodwall, platform and penstock to the west of the bridge lies within the Conservation Area. These elements are fairly shielded from public view and taking into account the existing infrastructure and setting, is not considered to be harmful to the significance of the Conservation Area. The majority of the development and infrastructure, including the above ground structures, are located outside of the Conservation Area boundary, therefore the main impact is on the setting of the Conservation Area and how the pumping station and other works will affect the character and appearance, in particular on entrance into the Conservation Area.

5.11 The proposed pumping station is set down in the topography and against the existing floodwall when viewed from the east, therefore reducing its visual prominence. From Selby Road, there will be glimpsed views of the top of the pumps, however the control kiosk will be most visible. The kiosk will be constructed in brick slip cladding and is of flat roof design. Its design is appropriate for its use and whilst visible, the materials blend with the appearance of the existing brick flood walls. A

condition is recommended to view brick samples prior to construction to ensure they are a suitable match within this setting. The pumps will be painted in a moss green colour to help assimilate them within the landscape. The use of grasscrete for access is considered an acceptable material choice and will not appear unduly prominent in the setting. Its use is minimal and suitable for maintenance and emergency access.

5.12 It is considered the presence of an engineered structure such as this, within a fairly verdant and semi-rural setting, presents some harm to the setting and entrance of Fulford Conservation Area, in particular when arriving from Selby Road. However the harm is assessed as less than substantial and there are significant public benefits arising from the development (reduced flood risk). The proposal therefore meets paragraph 202 of the NPPF and policy D4 of the Draft Local Plan (2018).

ARCHAEOLOGY

Policy

5.13 Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation (paragraph 194 of the NPPF). Footnote 68 of the NPPF, states that “non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets”.

5.14 Policy D6 of the Draft Local Plan (2018) states development proposals that affect archaeological features and deposits will be supported where:

- i. they are accompanied by an evidence-based heritage statement that describes the significance of the archaeological deposits affected and that includes a desk based assessment and, where necessary, reports on intrusive and non-intrusive surveys of the application site and its setting; including characterisation of waterlogged organic deposits, if present;
- ii. they will not result in harm to an element which contributes to the significance or setting of a Scheduled Monument or other nationally important remains, unless that harm is outweighed by the public benefits of the proposal. Substantial harm

or total loss of a Scheduled Monument or other nationally important remains will be permitted only where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss;

iii. they are designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk; and

iv. the impact of the proposal is acceptable in principle and detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

Assessment

5.15 An archaeological desk-based assessment, a heritage impact assessment and a geoarchaeological borehole survey and palaeo-environmental assessment have been submitted as part of this application. These have been reviewed by the Council's Archaeologist. These pieces of investigation have been produced specifically in relation to all archaeological impacts and proposals of the Flood Alleviation Scheme. Previous investigations by Fulford Battlefield Society have been considered by the Council's Archaeologist.

Battlefield

5.16 This area of Germany Beck has long been assumed the site of the Battle of Fulford (1066). The battle is of national significance and is likely to have taken place in the vicinity. However, previous attempts to closely define the battlefield site to have it designated and included on the Register of Historic Battlefields have failed. In light of new evidence, a revised, smaller battlefield area has been submitted to Historic England for designation review. This decision is still pending.

5.17 The Council's Archaeologist has discussed the application with Historic England and it is agreed the site is of high significance but that the proposals are highly unlikely to hinder any future designation decision. In terms of the battlefield, until designated, the site is a non-designated heritage asset of high importance. There are possibilities within this scheme to enhance the visibility and knowledge of the battle in terms of interpretation and for a degree of archaeological excavation to

take place which may further provide further evidence for specialist assessment. The proposed infrastructure for this scheme is located within the heart of the assumed battlefield. The proposal will not significantly harm the setting or legibility of the battlefield site.

Infrastructure location

5.18 Several other options for the pumping station were considered at conception stage. This scheme was identified as the preferred option. Alternative options have been set out in a Decision Summary document (AECOM March 2023). This document acknowledges potential harm to any surviving archaeological features or finds. However, overall, the preferred option scored low-medium in terms of adverse impact. Given, the other constraints to be considered and the actual adverse impact that this scheme would have on the legibility of the battlefield, the Council's Archaeologist does not object to the siting of the station in this area. The creation of the station in this location provides an opportunity for a focussed commercially funded archaeological excavation to take place on the assumed battlefield which may contribute to the evidence base and understanding of the site.

5.19 The above-ground impact of this scheme will not pose any threat to future designation of the battlefield by Historic England- currently under consideration based on Fulford Battlefield Society research and findings.

Archaeological potential

5.20 The submitted desk-based and heritage impact assessments summarise previous investigation in the area relating to Iron Age-Romano-British land use and the Battle of Fulford. The assessments describe the potential for battlefield archaeology to survive within this location as moderate. The area of the proposed pumping station is close to the location on the riverbank where the Fulford Battlefield Society found ferrous material between 2013-2019 likely related to the battlefield. This material is currently under assessment by various specialists. There is the potential to locate more of this material if it survives here during archaeological investigation ahead of construction.

5.21 The planning documents also highlight the stone arch bridge, concrete parapet bridge and the commemorative Battlefield stone as visible items of value which will be impacted upon by the proposed scheme.

5.22 Four window sample boreholes were undertaken to archaeologically assess the geology and palaeo-environmental potential in the areas of the deepest impacts of the proposed scheme. A consistent sequence of sands/gravels, organic deposits, alluvium and made/modern ground was observed across all four boreholes. Organic survival is restricted to the deeper parts of the sequence which remains below the water table. Investigations by the Fulford Battlefield Society in 2018 suggest that a wooden feature, interpreted as a Roman ford crossing, was located within the organic layer.

5.23 A sequence from one of the locations (WS4 west side of A19) was considered good enough to sample. The results revealed a poorly humified sequence of wood peat which was radiocarbon dated and assessed for pollen. The period of sedimentation was assigned to a very specific period of early to mid-Iron-Age. The pollen was low in abundance and diversity.

5.24 The results of this survey showed a similar sequence to that noted by MAP to the north-east of the site and has also resulted in similar radiocarbon dates. It is considered that the site has low potential for the assessment of microfossil remains and no further work on the recovered samples is recommended. However, the area could be productive in terms of macrofossil analysis (plants and insects) should the opportunity to gather bulk samples be presented as part of archaeological mitigation strategy.

5.25 No layers dating to the period of the battle or archaeological finds were noted in the borehole survey. Initial proposals for evaluation trenching were removed from the pre-application investigations. These were due to take place in the area of proposed the bunds, however, due to landscaping and services within these areas this would not have been productive. While further assessment and analysis is required as part of an archaeological mitigation strategy there is sufficient information at this stage to determine the application.

Archaeological Impact

5.26 The construction of the pumping station, trash screen, outfall structure, piled flood walls, and diversion of power cables and drainage have the potential to impact upon archaeological deposits. In particular, any further potential battlefield evidence, alluvial deposits which may contain archaeological features or former land surfaces and organic sediment of palaeoenvironmental interest.

5.27 Excavation for the main pumping station/kiosk structure will be to c.4.32m AOD, the tunnel drain runs alongside at a depth of 5.70m AOD while the highway drain will lie at 7m AOD. Works at these levels impact into layers of archaeological potential. It is anticipated that the creation of flood embankments, A19 car parking area and temporary works will have little to no archaeological impact given the shallow nature of the groundworks required and the disturbed nature of the upper levels in these areas. This includes the creation of the temporary construction access route which crosses the projected line of a potential Roman (or earlier) crossing of Germany Beck observed by Fulford Battlefield Society during excavations between 2014-2019. Should the road survive beneath the playing field it is believed to be located some 2.5+m below current ground surface (which includes flood alleviation land raising) in the location of access road and will be preserved in-situ.

5.28 The construction of the pumping station, trash screen and headwall realignment will impact upon the visibility and setting of the pointed stone arch and concrete bridge parapet. The 1970s battlefield stone will also require repositioning.

Archaeological mitigation requirements

5.29 Ahead of construction bulk samples should be taken from the site to aid assessment of macrofossil remains. This may take place as part of the excavation or as a separate exercise. An archaeological excavation will be required utilising battlefield specific strategies in areas where and specialist advice required on any artefacts recorded. A metal detecting survey is also required in collaboration with battlefield specialists although it has been noted that some of the items retrieved so far have been heavily concreted which makes it difficult to locate by metal detector. The Council's Archaeologist would encourage the collaboration between the relevant commercial archaeological unit and Fulford Battlefield Society during the production of excavation strategy and during the fieldwork itself. Participation in fieldwork will be dependent on Health & Safety excavation guidelines which must be followed. A level 1 photographic recording will be required on the stone bridge arch prior to pumping station construction.

5.30 An interpretation scheme is required alongside the relocation of the 1970s commemoration stone at an appropriate vantage point to be agreed between Fulford Parish Council, Fulford Battlefield Society and City of York Council. It is envisaged that the interpretation scheme will comprise of 2-3 boards written by the Fulford Battlefield Society although the number is still to be decided. The location of these

boards is still to be determined but should be in areas of highest footfall, meaningful points of interest and where landowner permissions allow. There is a proposal by the Fulford Battlefield Society for a longer trail which may be something that can be addressed should designation be achieved. However it is not feasible or proportionate to include a trail on that scale as part of this application.

5.31 A watching brief will take place on levels thought to be modern/disturbed. The intensity of this may vary depending on location and impact. A comprehensive WSI covering all above and below-ground mitigation (photographic recording, metal detecting, sample extraction, excavation, watching brief and plans for interpretation) is required. Conditions can be added in respect of this to secure suitable mitigation in line with policy D6 of the Draft Local Plan (2018).

TREES AND LANDSCAPING

Policy

5.32 Section 15 of the NPPF seeks to conserve and enhance the natural environment. Planning decisions should protect and enhance valued landscapes and sites of biodiversity and recognising the value of trees and woodland. Section 12 sets out the policy on good design, stating that development should add to the quality of the area and be visually attractive with appropriate landscaping. It highlights how trees make an important contribution to the character and quality of urban environments.

5.33 Policy D2 of the Draft Local Plan (2018) relates to landscape and setting. Development proposals will be encouraged and supported where they:

- i. demonstrate understanding through desk and field based evidence of the local and wider landscape character and landscape quality relative to the locality, and the value of its contribution to the setting and context of the city and surrounding villages, including natural and historic features and influences such as topography, vegetation, drainage patterns and historic land use;
- ii. protect and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities;
- iii. demonstrate a comprehensive understanding of the interrelationship between good landscape design, bio-diversity enhancement and water sensitive design;

iv. create or utilise opportunities to enhance the public use and enjoyment of existing and proposed streets and open spaces;

v. recognise the significance of landscape features such as mature trees, hedges, historic boundaries and other important character elements, and retain them in a respectful context where they can be suitably managed and sustained;

vi. take full account of issues and recommendations in the most up to date York Landscape Character Appraisal;

vii. include sustainable, practical, and high quality soft and hard landscape details and planting proposals that are clearly evidence based and make a positive contribution to the character of streets, spaces and other landscapes;

viii. create a comfortable association between the built and natural environment and attain an appropriate relationship of scale between building and adjacent open space, garden or street. In this respect consideration will also be given to function and other factors such as the size of mature trees; and

ix. avoid an adverse impact on intrinsically dark skies and landscapes, townscapes and/or habitats that are sensitive to light pollution, keeping the visual appearance of light fixtures and finishes to a minimum and avoiding light spill.

5.34 Policy G14 of the Draft Local Plan (2018) Development will be permitted where it:

i. recognises the value of the existing tree cover and hedgerows, their biodiversity value, the contribution they can make to the quality of a development, and its assimilation into the landscape context;

ii. provides protection for overall tree cover as well as for existing trees worthy of retention in the immediate and longer term and with conditions that would sustain the trees in good health in maturity;

iii. retains trees and hedgerows that make a positive contribution to the character or setting of a conservation area or listed building, the setting of proposed development, are a significant element of a designed landscape, or value to the general public amenity, in terms of visual benefits, shading and screening.

iv. does not create conflict between existing trees to be retained and new buildings, their uses and occupants, whether the trees or buildings be within or adjacent to the site; and

v. supplements the city's tree stock with new tree planting where an integrated landscape scheme is required;

vi Provides suitable replacement planting where the loss of trees or hedgerows worthy of retention is justified

Assessment

5.35 The application is accompanied by an Arboricultural Impact Assessment (dated December 2022) ("the AIA"). The AIA recorded 40 tree features, including 33 individual trees and 7 tree groups. The trees on site range from young to mature trees and in good or fair condition. Tree removal is required to facilitate the development, which includes removal of;

- 5no. Category B individual trees (3no. Ash and 2no. Sycamore)
- 2no. part Category B groups (Sycamore/Common Alder and Ash/Hawthorn)
- 15no. Category C individual trees (2no. Ash, 7no. Sycamore, 4no. Hawthorn, 2no. Field Maple)
- 2no. Category C groups (Hawthorn/Ash/Sycamore and Field Maple/Hawthorn/Sycamore/Horse Chestnut)
- 1 part Category C group (Sycamore).
- 1 Category U individual tree (Field Maple).

5.36 The Landscape Architect notes the proposed development would result in a significant loss of existing tree cover either side of Fulford Road. The loss is over a relatively short stretch, although one that is exposed to a busy main road into the city centre. The main amenity value of the trees is their contribution to the natural setting of Fulford village (and conservation area) and the association with Fulford Ings. None of the trees are currently subject to a tree preservation order (TPO). All trees to the north of Germany beck are located within Fulford conservation area - two Sycamore trees (category B above) and one Hawthorn tree (category C above) and a small section of a group of trees (G30).

5.37 A proposed landscaping plan has been submitted to include the planting of 12no. individual trees and 2no. woodland mixes, alongside flowering meadows and

species rich grasslands. The higher density woodland belt, approximately 480m², is to be located to the east of the pumping station which will aid in screening from the playing field. The lower density woodland is to be sited along Germany Beck to increase tree cover at approximately 460m².

5.38 The removal of the trees is necessary in order to implement the proposed flood alleviation scheme and the harm arising from the loss of the trees is outweighed by the public benefits and mitigation put forward. The Landscape Architect finds the landscape proposals appropriate and has requested a semi-mature specimen tree, of the Parish Council's choosing, should be included within the red line to the south of the vehicle route or elsewhere if this is not feasible. This can be conditioned.

5.39 To conclude on tree and landscaping matters, it is acknowledged the removal of trees is necessary to facilitate development, which is unfortunate, however the proposed development has wider public benefits and the replacement landscaping is considered appropriate and will screen the development from public viewpoints, particularly from the playing fields. Given the generally low-lying nature of the proposal, it is considered the mitigation would reduce the visual impact of the structures fairly quickly and sufficiently thereby meeting policies D2 and G14 of the Draft Local Plan (2018).

OPEN SPACE AND PLAYING FIELD

Policy

5.40 The land to the west of the A19 is designated as existing open space – Fulford Parish Councils 'Fordlands Road Playing Fields'. Policy GI1 seeks to protect and enhance existing recreational open space. Policy GI5 of the Draft Local Plan (2018) relates to the protection of open space and playing fields. This states:

5.41 Development proposals will not be permitted which would harm the character of, or lead to the loss of, open space of recreational importance unless the open space uses can be satisfactorily replaced in the area of benefit and in terms of quality, quantity and access with an equal or better standard than that which is proposed to be lost.

5.42 Where replacement open space is to be provided in an alternative location (within the area of benefit) the replacement site/facility must be fully available for use before the area of open space to be lost can be redeveloped.

5.43 Development proposals will be supported which:

- provide allotments and productive land, to encourage local food production, and its benefits to education and healthy living;
- protects playing pitch provision except where a local area of surplus is indicated in the most up to date Playing Pitch Strategy;
- improves the quality of existing pitches and ensure that any new pitches are designed and implemented to a high standard and fully reflect an understanding of the issues affecting community sport and;
- provide new pitches in a suitable location that meets an identified need.

5.44 The NPPF at paragraph 99 states that 'existing open space ... and land, including playing fields, should not be built on unless: (a) an assessment has been undertaken which clearly shows the land is surplus to requirements, or (b) the loss would be replaced by equivalent or better provision in a suitable location, or (c) the development is for alternative sports and recreational provision'.

Assessment

5.45 There is a presumption against the loss of open space of recreational importance in both national and local policy. During construction there will be a temporary loss of playing field as it is proposed to utilise the existing playing field access from Fulford Road. This is a short term arrangement and the land will be restored to open space/playing field after the pumping station is constructed.

5.46 The pumping station will be located on land which is currently classed as open space – Fordlands Road Playing Field. Policy GI5 specifically relates to the loss of open space of recreational importance. Officers consider the location of the development is not located on particularly useable areas of open space, taking into account the existing topography and vegetation on site. Additionally the proportion of land is relatively small in relation to the wider Playing Field. Taking into account the proposed replacement landscaping, the proposal will aid in increasing the recreational value of the playing field, on planning balance and given the size of the land it would be unreasonable to ask for replacement open space elsewhere.

5.47 With regards to the impact on the playing fields, Sport England note that the proposal adjacent to Selby Road is surrounded by trees and have the potential to

meet exception E3 of Sport England's Playing Fields Policy in that the land is incapable of accommodating a pitch or part of a pitch. The Football Foundation states they are not aware of any existing affiliated football activity taking place at this site, so no impact on existing formal football is foreseen.

5.48 Sport England conclude the proposed development results in a minor encroachment onto the playing field however, having considered the nature of the playing field and its ability to accommodate a range of pitches, it is not considered that the development will reduce the sporting capability of the site and broadly meets exception E3. Sport England have withdrawn their objection to the scheme.

ECOLOGY AND BIODIVERSITY

Policy

5.49 Section 15 of the NPPF, 'Conserving and enhancing the natural environment', sets a presumption against development where there would be harm to biodiversity, or have a significant effect on a habitats site unless assessment demonstrates otherwise.

5.50 The NPPF, at paragraph 180, states when determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

5.51 The site includes Germany Beck and land within the eastern extent of the Fulford Ings Site of Special Scientific Interest (SSSI).

5.52 Policy GI1 states that York's landscapes, geodiversity, biodiversity, and natural environment will be conserved and enhanced. Policy GI2 seeks to conserve and enhance biodiversity. Development should maintain and enhance rivers, banks and floodplains and other smaller waterways for their biodiversity, cultural and historic landscapes. Biodiversity mitigation and enhancement should be provided on site. Policy G14 'trees and hedgerows' recognises and protects the value to existing tree cover and hedgerows, their biodiversity value and assimilation of development into the landscape.

Assessment

5.53 The Ecological Impact Assessment (EclA) (dated December 2022) identified key ecological receptors that require mitigation during the construction and operation phases of the development.

5.54 With regards to bats, two trees were found to have a low suitability to support a bat roost. One tree with Moderate-High suitability (T13) lies adjacent to the Site in a field south of Landing Lane, and one tree with Moderate suitability (T14) is adjacent to the Site within Fulford Ings SSSI and will not be affected by the proposed development. The arboriculture contractor undertaking the works must be made aware of the potential for roosting bats so that felling can be planned accordingly, and measures can be included in the CEMP.

5.55 In terms of birds (Schedule 1) there is no suitable roosting or nesting habitat within or adjacent to the Site boundary. Barn owl (*Tyto alba*) may forage in the hedgerow features along Landing Lane to the south of the Site. Woodland, scrub and hedgerow may support common species of nesting birds. Mitigation is required to meet legal requirements for breeding birds during the proposed development construction clearance.

5.56 European eel (*Anguilla anguilla*) was found in the baseline fish surveys throughout Germany Beck. Germany Beck supports a population of yellow/adult eels with 13 individuals caught in summer 2021. Eel size ranges were from 100 mm – 410 mm. Construction of the pumping station may impact on the upstream migration of glass eels/elvers. In channel works likely to disturb sediments along with associated vibration and noise could impede the upstream movement of juvenile eels. The key migration window of 1st May to 31st July should be avoided to reduce any potential impacts.

5.57 Construction of the pumping station and outfall may impact water vole if they have colonised the area to be affected since previous surveys. No burrows were found within or immediately adjacent to the Site in previous surveys (the nearest water vole field sign was approximately 20 m away from the works), however water vole may have dug new burrows in the intervening period since the previous survey in 2020 if conditions along the beck remain suitable. A pre-construction water vole survey will be undertaken to confirm the continued absence of burrows within the site. If active water vole burrows are found to be present, an appropriate mitigation strategy will be designed and implemented for temporary impacts on water vole habitat.

5.58 Suitable habitat for reptiles is present within the site although significant populations are unlikely to be present given the habitat types and limited extent. The habitats within and adjacent the Site have some value for hedgehog and common toad and habitat will remain available in the wider area. This species group is included in the assessment due to the low risk of accidental killing and injury during vegetation clearance within the site, therefore mitigation measures to ensure legislative compliance will be adopted.

5.59 Specific mitigation measures are set out at 7.1 in the report, however to ensure the identified impacts can be managed to an appropriate level, as detailed within EclA, embedded and specific mitigation will primarily be provided via a finalised Construction Environmental Management Plan, to include appropriate engineering (i.e., fish-friendly pumps) and a programme of habitat mitigation and enhancement.

5.60 Although an outline CEMP has been provided in support of this application, a finalised document should be secured through a planning condition, as recommended by both the Council's Ecologist and the Environment Agency. It is recommended that the CEMP is viewed as a working document and is reviewed and updated throughout the construction programme to ensure its relevancy.

5.61 The site includes Germany Beck and land within the eastern extent of the Fulford Ings SSSI. The SSSI is described in AECOM's Botanical Survey of Compartment 7 of Fulford Ings Site of Special Scientific Interest' (July 2021) as 'an important example of flood plain mire and comprises four management units (4-7)'. The proposed works would be located in component 7.

5.62 The formal citation for the SSSI states that Fulford Ings is important for its sequence of plant communities which reflect the topography and hydrology, with

alluvial grassland on higher ground, adjacent to the flood bank, a transitional zone of rich fen meadow, and swamp in the most low-lying areas furthest from the river. Such a sequence of plant communities is now uncommon as a result of the drainage and fragmentation of wetlands and the fact that it remains largely intact at Fulford Ings is of particular importance. This sequence of vegetation is represented within the SSSI as a whole, with the actual vegetation present varying unit by unit.

5.63 The SSSI is protected under the Wildlife and Countryside Act 1981. Statutory and public bodies have a general duty to take reasonable steps to further the conservation and enhancement of the special feature of SSSIs. The last condition assessment reported for Unit 7 of Fulford Ings SSSI was completed in 2011 (Natural England, 2021). This records that the unit is in 'unfavourable – declining condition'. The reasons given for this relate to colonisation by invasive plant species and unspecified inappropriate land management regimes. This indicates that both lack of grazing and overgrazing are management issues affecting the condition of some areas of the SSSI. Linked to this, the LBAP (Local Biodiversity Action Plan) also identifies an increase in species-poor reed sweet-grass swamp (one of the reasons for designation of the SSSI) in recent decades as a result of the reduced grazing of parts of the SSSI. Further, it is considered that certain notable communities and species will not recover until these significant management issues are addressed.

5.64 The report concludes that neither the proposed ground investigations or the wider proposed works are likely to adversely affect the botanical integrity of the wider Fulford Ings SSSI and adjacent land. Adverse impacts and effects on wetland vegetation communities beyond the immediate footprint of the proposed works are unlikely. The proposed works do not represent a significant threat to the nature conservation importance and integrity of Fulford Ings SSSI. The affected S5 swamp community is of inherently low botanical diversity and the community is of limited structural diversity and complexity. Its main value relates solely to the contribution it makes to the wider sequence of wetland habitats. Suitable mitigation is proposed including; gaining third party consent (outside of the planning process), ensuring suitable timing of the works, producing an invasive non-native species management plan and site reinstatement and monitoring.

5.65 To conclude on ecological matters, it is not considered that the works would represent a significant threat to the importance and integrity of the SSSI. The Ecologist and Environment Agency recommend an updated CEMP to be secured by condition. Additional conditions such as an invasive non-native species method statement and LEMP have also been added. The proposal is considered to meet

paragraph 180 of the NPPF and policy G12 of the Draft Local Plan (2018) with regards to conserving and enhancing the natural environment.

PUBLIC PROTECTION

Policy

5.66 Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site. Noise should be mitigated and potential adverse impacts kept to a minimum. This is supported by policy ENV2 of the Draft Local Plan (2018) which seeks to ensure development will not unacceptably harm the amenities of existing and future neighbours of the site including adverse noise, vibration and artificial light.

5.67 Policy ENV3 of the Draft Local Plan (2018) relates to land contamination. Planning applications must be accompanied by an appropriate contamination risk assessment.

Assessment

5.68 The proposed pumping station has the ability to produce some noise during operation. As such the Public Protection Team recommend a condition to ensure noise emissions are controlled. This has been added.

5.69 With regards to construction noise and dust, the current Construction Environmental Management Plan dated 23/12/22, does have some controls in place for controlling noise and dust emissions however there are insufficient details on the controls that will be put in place to minimise noise and vibration during piling works. The Public Protection Team require a new CEMP via condition which has been added.

5.70 A ground investigation report accompanies the application (60615369-ACM-X-XX-RP-GT-4003) which demonstrates the land is suitable for the proposed use. A unexpected land contamination condition is therefore sufficient in this instance.

FLOOD RISK AND DRAINAGE

Policy

5.71 Policy ENV4 of the Draft Local Plan (2018) relates to flood risk. Development proposed in areas of flood risk must be informed by an acceptable site specific flood risk assessment, following the Sequential Test and, if required, the Exception Test.

5.72 Proposals located in areas known to be at risk from any form of flooding must demonstrate that:

- i. there is no direct or cumulative increase in flood risk locally or elsewhere in the catchment arising from the development; and,
- ii. The development will be safe during its lifetime with arrangements for the adoption, maintenance and management of any mitigation measures identified in a management and maintenance plan

5.73 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere (paragraph 159 of the NPPF). Development proposals must meet the sequential test and exception test in order to be granted (paragraph 161 and 164 of the NPPF).

5.74 Policy ENV5 relates to sustainable drainage and seeks to promote SuDS. The type of SuDS use should be appropriate to the site in question and should ensure that there is no pollution of the water environment including both ground and surface waters.

Assessment

5.75 The red line application site boundary spans both Flood Zone 2 and 3. Part of the site is located within Flood Zone 3b, categorised as a functional floodplain, comprising land where water has to flow or be stored in times of flood. The development is designed to reduce flood risk, therefore its location is site specific and the sequential test is passed. It is not possible for the development to be located in an area with a lower risk of flooding. The pumping station and associated works is 'essential infrastructure' in Table 2: Flood Risk Vulnerability Classification set out in Annex 3 of the NPPF. Essential infrastructure in Flood Zone 3 must then pass the exception test.

5.76 The FRA suggests that during construction, the temporary construction compound will be located on higher ground in Flood Zone 2 within the playing field but some temporary construction activities must be undertaken in Fulford Ings (Flood Zone 3) due to the nature of flood control projects. It is recommended that contractors subscribe to the Environment Agency Flood Warning system in order to be alerted of potential floods and to stop work on site.

5.77 During operation, the pumping station will be operated automatically using water level sensors so that the penstock closes and first pump switches on when river levels reach 7.50m AOD. If the upstream level rises further to 8.00m AOD then the first of the larger pumps will switch on and above 8.42m AOD both larger pumps will run. Using telemetry will reduce the risk of delayed operation or operator error and reduce risk to operators during a flood event, although a manual override will enable flood response teams to override the telemetry if required. The telemetry system will alert flood response teams should any element of the pumping station fail to operate as planned, at which point there will still be significant freeboard before a flood gate must be closed to complete the line of passive defence and protect the A19 (Flood Risk Assessment, revision 2, dated 17th October 2023 – page 8).

5.78 The road access via the A19, the parking area for the pumping station, the pumping station control kiosk and penstock actuator are all located behind the line of passive defence, should manual intervention be required during operation. The kiosk which houses the critical controls and any water-sensitive equipment additionally has a floor level of 10.54m AOD, which is the 0.1 % AEP 2039 CC flood level on the River Ouse, to protect the controls from extreme flooding beyond the design event. The roof and upper debris screen landing of the pumping station structure is 8.73m AOD, which is above the water level given the pumps shall maintain a level of 8.42m AOD; the roof and landing can therefore be accessed during a flood event to clear the debris screen if required. The lower landing is positioned at 7.42m AOD, which is below the level at which the penstock closes and low flow pump switches on, so must be maintained adequately preceding a flood event. (Flood Risk Assessment, revision 2, dated 17th October 2023 – page 9).

5.79 The Flood Risk Assessment states the new flood defences will improve the Standard of Protection to the 1% AEP 2039 Climate Change event in line with other flood cells delivered by the EA. Flood waters that previously flooded Fulford from the River Ouse will now be contained to a higher level. It is acknowledged that as a

result of this proposal, the results showed that for the 1% present day, and the 1% AEP 2039 climate change event, the Germany Beck works would raise water levels in the River Ouse by 1mm beyond the impact of the works in other flood cells. As a result of this 1mm, one additional property in Cell B8 was now deemed at risk, however properties in the affected area have already received Property Level Resilience funding through the York FAS.

5.80 The Flood Risk Management Team recommend a condition requiring details of adoption and maintenance of the flood defence. It is believed discussions are ongoing with the IDB and CYC about maintenance and clearance of the debris screens to ensure there isn't a breach or failure of the flood defence. The condition has been added, alongside a drainage easement strip condition. Yorkshire Water recommend conditions to protect the public sewer network which have been added.

5.81 The development would provide wider sustainability benefits to the community and the development will be safe for its lifetime taking account of the vulnerability of its users and will reduce flood risk overall. Whilst it is acknowledged a dwelling in Cell B8 will be deemed at risk as a result, it is understood this property already benefits from flood defences. The proposal therefore passes the exception test and meets paragraph 164 and 165 of the NPPF and policy ENV4 of the Draft Local Plan (2018).

HIGHWAYS AND ROAD SAFETY

Policy

5.82 Policy T1 of the Draft Local Plan (2018) requires safe and appropriate access, layout and parking arrangements. Development will be supported where it is in compliance with the Council's up to date parking standards (policy T8). Paragraph 111 of the NPPF states 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.

Assessment

5.83 A main temporary construction compound will be located within the playing field to the east of A19 and will utilise the existing playing field access from Fulford Road. This is a temporary arrangement and likely to be short term. A further smaller

temporary construction compound will be located off Landing Lane (utilising an existing access).

5.84 In terms of permanent features, the proposal seeks the creation of a new dropped kerb and access from Selby Road (A19) in order to reach the vehicular parking area. It is understood this will be used periodically for maintenance and emergency access for the pumping station.

5.85 The Highways Officer requested visibility splays appropriate to 40mph and pedestrian visibility splays. The Officer also requested the applicant submit a vehicle swept path analysis for the largest expected vehicle to be used for the pumping station operation and maintenance purposes to demonstrate that there is sufficient manoeuvring space in the parking area. The vehicle should be able to enter and exit in a forward facing direction, using no more than two changes of gear to turn around.

5.86 The Agent has submitted vehicle tracking details to demonstrate the crossing is adequate. Members will be updated at committee when a response is received from the Highways Officer.

PUBLIC RIGHTS OF WAY

Policy

5.87 Policy GI3 of the Draft Local Plan (2018) seeks to protect and enhance the amenity, experience and surrounding biodiversity value of existing rights of way, national trails and open access land.

Assessment

5.88 A public right of way (5/8/10) lies to the south west, but outside of the application site boundary. It is not considered that the proposed development would detrimentally impact the amenity or recreational value of the public right of way.

VERY SPECIAL CIRCUMSTANCES

5.89 NPPF paragraph 148 states that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm

to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations".

5.90 Very special circumstances need to be demonstrated for the above ground physical structures that would impact on the openness of the Green Belt. The following harm has been identified:

- The pumping station and earth embankments would harm the openness of the Green Belt, both visually and spatially.
- Felling of 21no. trees, 2no. groups and part of 3no. tree groups.
- Less than substantial harm to the setting of Fulford Conservation Area.
- One additional property (in cell B8) would be deemed at risk as a result of the proposal (although the property already benefits from flood defences as part of the wider FAS).
- Minor habitat loss

5.91 The following considerations and benefits are put forward to justify the proposal:

- Reduced flooding and improvements to accessibility into and out of Fulford, including the A19 (Selby Road), Fordland's Estate and the Cemetery.
- Increased protection for residential dwellings on the Fordland's Estate and Selby Road.
- Will provide a Standard of Protection (SoP) up to and including the 1% AEP 2039 climate change event in line with other flood cells delivered by the EA as part of the York Flood Alleviation Scheme.
- The archaeological investigation will provide additional information about the area in general.
- A scheme of interpretation for the Battle of Fulford.
- High quality landscaping scheme in the immediate area.
- Biodiversity enhancements including the treatment and management of invasive non-native species.
- Management of the habitat within the SSSI to seek to contribute to the restoration to a favourable condition (currently unfavourable).

5.92 Significant weight is attached to the wider public benefits of reducing flood risk in this area. The proposals for a flood alleviation scheme are clearly justified and

necessary. It is a matter of planning judgement and even when attaching substantial weight to the harm to the Green Belt, cumulatively there are very special circumstances which, as is required by the NPPF, clearly outweigh the harm to the Green Belt. It is considered to be a ground for very special circumstances which justifies the development.

6.0 CONCLUSION

6.1 The proposals for the flood alleviation scheme are clearly justified and necessary in this location. The development would provide wider sustainability benefits to the community and reduce flood risk overall, in particular around the A19 (Selby Road), Fordland's Estate and the Cemetery. Whilst it is acknowledged a dwelling in Cell B8 will be deemed at risk as a result, it is understood this property already benefits from flood defences. The proposal therefore passes the sequential and exception tests in relation to flood risk.

6.2 The site lies within the Green Belt. Whilst engineering operations are classed as appropriate in the Green Belt, they must still preserve the openness. It is considered the above-ground structures such as the kiosk, would harm the Green Belt visually and spatially. However very special circumstances have been identified to outweigh the harm to the openness arising from the above ground physical structures.

6.3 The overall design and material choice of the infrastructure is suitable for its use, including matching brick slips and moss green pipework. However it is considered the presence of an engineered structure, within a fairly verdant and semi-rural setting, presents some harm to the setting and entrance of Fulford Conservation Area, in particular when arriving from Selby Road. The harm is assessed as less than substantial and there are significant public benefits arising from the development.

6.4 With regards to archaeology, the proposed infrastructure will not significantly harm the setting or legibility of the battlefield site. The above ground impact will not pose any threat to future designation of the battlefield. The development has the potential to impact upon archaeological deposits and mitigation is therefore recommended which is secured by condition.

6.5 The development will be located on land currently designated as open space – Fordlands Road Playing Field, however taking into account existing topography and vegetation, the proportion of land to be used is small and currently not useable for

recreational importance. The proposed replacement landscaping, will aid in increasing the recreational value of the playing field, on planning balance and given the size and use of the land it would be unreasonable to ask for replacement open space elsewhere.

6.6 The removal of trees is necessary to facilitate the development, however the replacement landscaping is considered appropriate and will screen the development from public viewpoints, particularly from the playing fields. Public protection matters such as noise and dust can be controlled by condition. A new access from Selby Road is required for periodic maintenance and emergency access to enter a vehicle parking area for contractors. Members will be updated at committee with regards to the Highway Officers updated comments.

6.7 The Ecological Impact Assessment identified key ecological receptors that require mitigation during the construction and operation phases of the development. Neither the proposed ground investigations or the wider proposed works are likely to adversely affect the botanical integrity of the wider Fulford Ings SSSI and adjacent land. The Ecologist and Environment Agency recommend an updated CEMP to be secured by condition. Additional conditions such as an invasive non-native species method statement and LEMP have also been added. The natural environment is therefore conserved and enhanced.

6.8 On planning balance and taking all matters into consideration, including attaching substantial weight to the public benefits arising from the development, the application accords with the provisions of national planning policy and policies within the Draft Local Plan (2018) and is therefore recommended for approval subject to conditions.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in strict accordance with the following plans:

Site location plan - Re: 60651369-ACM-XX-XX-DR-C-0011, revision P01, dated 02/12/2022.

General Arrangement - Pumping Station and Outfall - Re: 60651369-ACM-XX-XX-DR-C-1001 Revision P03 - dated 06/09/2023.

General Arrangement Site Plan - Re: 60651369-ACM-XX-XX-DR-C-1000, revision P01, dated 02/12/2022.

General Arrangement Landing Lane - Re: 60651369-ACM-XX-XX-DR-C-1002, revision P01, dated 02/12/2022.

Pumping Station Elevation Looking South from Germany Beck - Re: 60651369-ACM-XX-XX-C-DR-1004, revision P01, dated 08/12/2022.

Pumping Station Elevation Looking West from Playing Field - Re: 60651369-ACM-XX-XX-C-DR-1005, revision P01, dated 08/12/2022.

Pumping Station Elevation from A19; Re: 60651369-ACM-XX-XX-C-DR-1007, revision P01, dated 08/12/2022.

Pumping Station Elevation Looking North from Proposed Parking Area: Re: 60651369-ACM-XX-XX-C-DR-1010, revision P01, dated 16/02/2023.

Pumping Station Section towards Selby Road: Re: 60651369-ACM-XX-XX-C-DR-1008, revision P01, dated 08/12/2022.

Pumping Station Section looking East towards Field: Re: 60651369-ACM-XX-XX-C-DR-1009, revision P01, dated 08/12/2022.

Outfall Elevation: Re: 60651369-ACM-XX-XX-C-DR-1006, revision P01, dated 06/12/2022.

Playing Field - Earthworks Sheet 1 of 2 - Re: 60651369-ACM-XX-XX-DR-C-1504 Revision P03 - dated August 2023.

Playing Field - Earthworks Sheet 2 of 2 - Re: 60651369-ACM-XX-XX-DR-C-1505 Revision P01 - dated June 2023.

Landscape Layout Plan - Re: 60651369-ACM-ELS-S1-DR-LV-0001, revision P02, dated 19/12/2022.

Flood Risk Assessment - Re: 60651369 Revision 2 dated 17th October 2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 No development shall take place until details of the means of operation, management, repair and maintenance of the flood defence/resilience works, and associated apparatus have been submitted to and approved by the Local Planning Authority. Details to include; plans and schedules showing the flood

defence/resilience works and associated apparatus to be vested with the relevant Statutory Undertaker/s, land owner and highway authority with a clear understanding of who will operate, repair and maintain at their expense, and any other arrangements to secure the operation and maintenance of the approved scheme. The development shall be carried out in accordance with the approved details.

Reason: To prevent the increase risk of flooding and to ensure the future maintenance of the scheme throughout the lifetime of the development.

4 No development or archaeological investigation shall take place until a written scheme of investigation (WSI) for all outlined archaeological works has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

A programme of post-determination archaeological mitigation, specifically an archaeological watching brief, metal detecting survey and excavation is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

A) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

B) A copy of a report (and evidence of publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction, in accordance with Section 16 of the NPPF.

5 A programme of archaeological building recording, specifically a written description and photographic recording of the stone arch bridge and any other historic bridge fabric to Historic England Level of Recording 1 is required for this application.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

A) The programme of recording and reporting shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

B) A copy of a report and digital images shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The buildings on this site are of archaeological interest and must be recorded prior to alteration or covering of fabric, in accordance with Section 16 of the NPPF and Policy D7 of the Draft Local Plan (2018).

6 A scheme of interpretation relating to the Battle of Fulford is required for this application. The scheme should be agreed between the LPA, Fulford Battlefield Society and any other interested parties, prior to implementation and submitted to and approved in writing by the Local Planning Authority. The scheme should be ready for installation no later than 4 months, unless agreed with the LPA, following the construction of the pumping station and associated infrastructure.

Reason: The site is considered to be an area of archaeological and historic interest, therefore in accordance with Section 12 and 16 of the NPPF, a scheme of interpretation is required.

7 CEMP - BIODIVERSITY

No development shall take place (including enabling works, ground works and vegetation removal) until a finalised CEMP has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency. The construction environmental management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The CEMP shall include, but not be limited to, the following elements:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) Specifications for root protection areas for retained trees and scrub, in

accordance with BS5837:2012.

- e) Details of how the site will be remediated and built without affecting surrounding habitats.
- f) Use of directional/sensitive lighting during construction, to limit light spill on to Fulford Ings SSSI, Germany Beck and foraging and commuting bat habitat.
- g) The location and timing of sensitive works to avoid harm to biodiversity features, including nesting birds and European eels.
- h) Programme of pre-commencement checking surveys, including nesting birds, Water vole, otter and up-dating aerial tree inspections for bats.
- i) Measures to protect common amphibians, reptiles, hedgehogs, and nesting birds. Measures should also include protection for hedgehogs who may access the site for foraging and commuting purposes including and not limited to, precautionary working methods to prevent accidental harm or injury, removal of tree or shrub cuttings from the site and the covering of trenches and capping of any open pipes.
- j) Details of pollution prevention measures required to reduce sediment and other pollutants impacting Fulford Ings SSSI and Germany Beck.
- k) Details of biosecurity measures to manage and/or remove invasive, non-native plant species (with full details provided in separate Biodiversity Management Plan).
- l) Responsible persons and lines of communication.
- m) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- n) Use of protective fences, exclusion barriers and warning signs.

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area. The protection of designated sites in line with Policy GI2 in the Publication Draft Local Plan (2018).

8 Prior to the commencement of development, an invasive non-native species protocol (Biodiversity Management Plan) shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Himalayan balsam and Nuttall's waterweed on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of an invasive non-native species listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended) and to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

9 A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed, including all newly created habitat.

- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions, including reinstatement/enhancement of work areas, haulage/access roads and site compounds.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: To ensure wildlife mitigation, compensation and enhancements measure are managed and maintained appropriately. To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2021) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

10 Before the commencement of development, a comprehensive Arboricultural Method Statement and scheme of arboricultural supervision regarding protection measures for existing trees within and adjacent to the application site shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority in accordance with the recommendations contained within the Arboricultural Impact Assessment. The content of the approved document shall be strictly adhered to throughout development operations. A copy of the document shall be available for reference and inspection on site at all times.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of the area, and to prevent further loss of tree cover.

11 The approved Landscape Layout Plan (60651369-ACM-ELS-S1-DR-LV-0001, rev P02, dated 19/12/2022) shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: The landscape scheme is integral to the amenity of the development and mitigation for lost trees.

12 Within six months of practical completion of the development hereby permitted, details shall be submitted to and approved in writing by the Local Planning Authority of an additional landscape plan showing the proposed location of an additional tree, alongside evidence of consultation and agreement with the Parish Council on the choice of tree. Once the details are approved, the tree shall be planted within three months in strict accordance with the approved details. If the tree dies within a period of ten years from the substantial completion of the planting, or are removed or become seriously damaged or diseased, it shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: The landscape scheme is integral to the amenity of the development and mitigation for lost trees.

13 CEMP AMENITY

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality

14 Prior to the construction of any walls in the development hereby approved, a brick sample shall be deposited on site for the written approval of the Local Planning Authority. Once approved, the walls in the development hereby permitted shall be constructed out in strict accordance with the brick sample approved.

Reason: To ensure the materials assimilate with the setting in the interests of good design and the setting of the adjacent Conservation Area.

15 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation

measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014+ A1 2019, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

16 No development shall take place until a detailed mitigation strategy relating to Fulford Ings SSSI both during the construction period and post construction (with particular reference to bringing the SSSI into favourable condition), has been submitted to, and approved in writing by the Local Planning Authority, in consultation with Natural England. The mitigation strategy shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

Reason: In order to protect the interest features of the Fulford Ings SSSI both before, during and after construction.

17 The recommendations as set out in the following reports shall be implemented and adhered too throughout all phases of development;

- Section 2.4, 3.3 and 4.4 of the Ecology Update Report - dated August 2021
- Section 5.2 of the Botanical Survey - dated July 2021
- Section 9 of the Aquatic Baseline Survey - dated 11 June 2021

Reason: To ensure wildlife mitigation, compensation and enhancements measure are managed and maintained appropriately. To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2021) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

18 No construction works in the relevant area(s) of the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

Reason: In the interest of public health and maintaining the public water supply.

19 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

20 No construction works in the relevant area(s) of the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

Reason: In the interest of public health and maintaining the public sewer network.

21 A strip of land 4 metres wide adjacent to the top of the embankment of the open watercourse known as Germany Beck (which is maintained by Ouse & Derwent Internal Drainage Board under the Land Drainage Act 1991) shall be kept clear of all new structures, walls, fencing and planting, unless agreed otherwise in writing with Ouse & Derwent Internal Drainage Board. Access arrangements should be agreed with Ouse & Derwent Internal Drainage Board.

Reason: To maintain access to the watercourse for maintenance or improvements.

22 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

8.0 INFORMATIVES:

Application Reference Number: 23/00283/FUL

Item No: 3a

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Asked for correct ownership certificates
- Asked for updated reports and plans to satisfy consultee comments - Site Plan, Earthworks Sheet, Flood Risk Assessment, Ecological Survey, Aquatic Ecology Baseline Survey, Botanical Survey, Borehole Survey, Heritage Impact Assessment and Site Options Technical Note.
- Requested vehicle swept path analysis.

2. Environment Agency: The drawing shows an activate penstock, if designed electronically there will need to be a contingency plan in place in case of a power failure.

3. The Ouse & Derwent Internal Drainage Board's prior consent is required (outside and as well as planning permission) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge (either directly or indirectly) to the watercourse will also require the Board's prior consent.

The proposed development is within the Board's area and is adjacent to Germany Beck, which at this location, is maintained by the Board under permissive powers within the Land Drainage Act 1991. However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

Under the Board's Byelaws, the written consent of the Board is required prior to any discharge, or increase in the rate of discharge, into any watercourse (directly or indirectly) within the Board's District, or for any culverting or diversion of any watercourse within the Board's district.

4. CEMP Information: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of

mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. All monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified. For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk

Contact details:

Case Officer: Natalie Ramadhin

Tel No: 01904 555848

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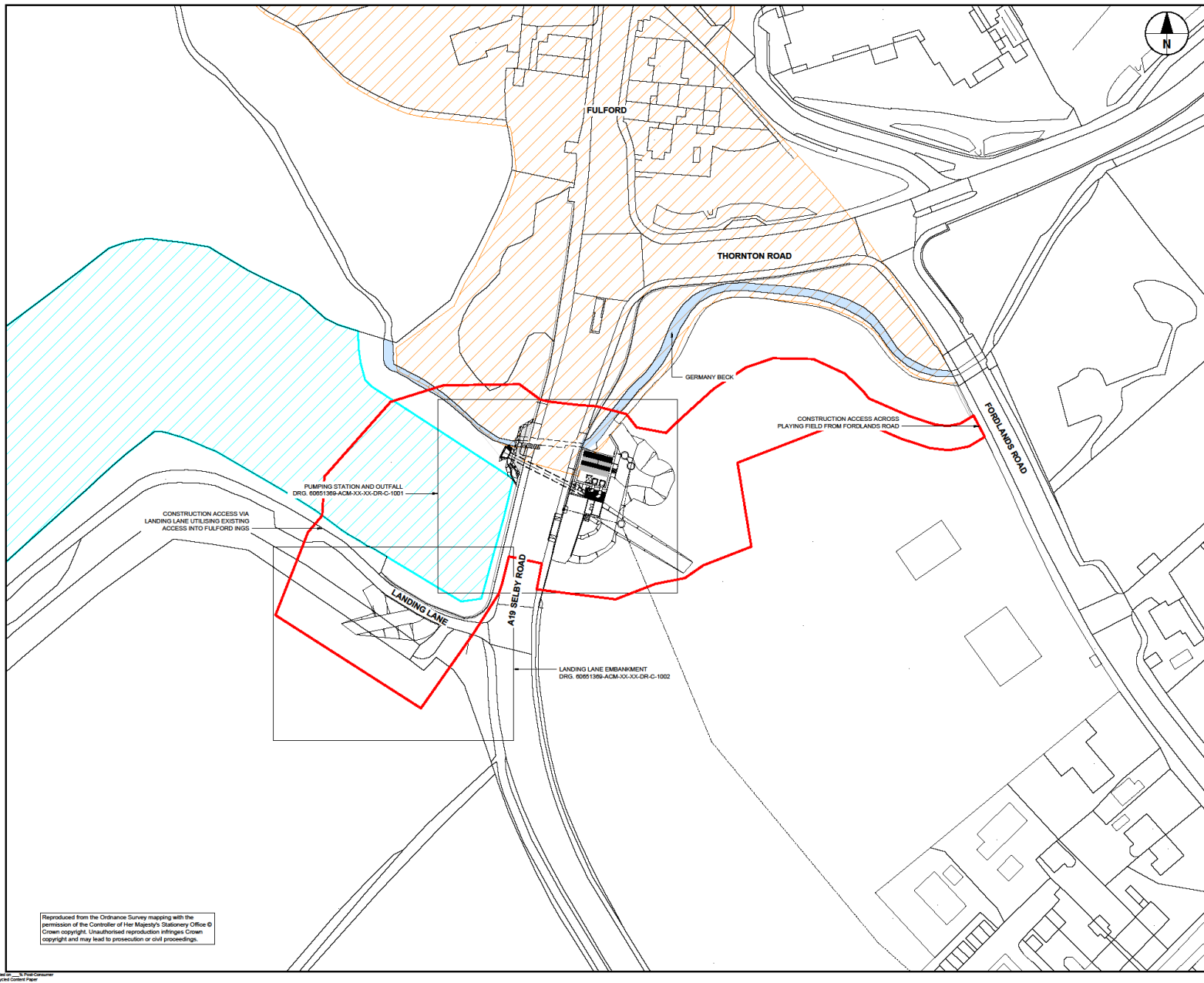


Planning B Committee

23/00283/FUL

Fulford Flood Alleviation Scheme Fulford Ings and Playing Fields

ISO A1 (841mm x 594mm) Approved: BR Checked: VC Designer: KT Project Management Initials: Project Management Initials: DRG. 60651369-ACM-XX-XX-DR-C-1000 GENERAL ARRANGEMENTS DWG



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 - THE FLOOD DEFENCE LEVEL OF 10.04 HAS BEEN CALCULATED FROM THE OUSE WASHLANDS MODEL 100 YEAR + 2.4 % CLIMATE CHANGE ALL OUNAGE FLOOD LEVEL OF 8.82 WITH 0.2% OF UNCERTAINTY.

- LEGEND**
- SITE BOUNDARY
 - CONSERVATION AREA
 - SITE OF SPECIAL SCIENTIFIC INTEREST



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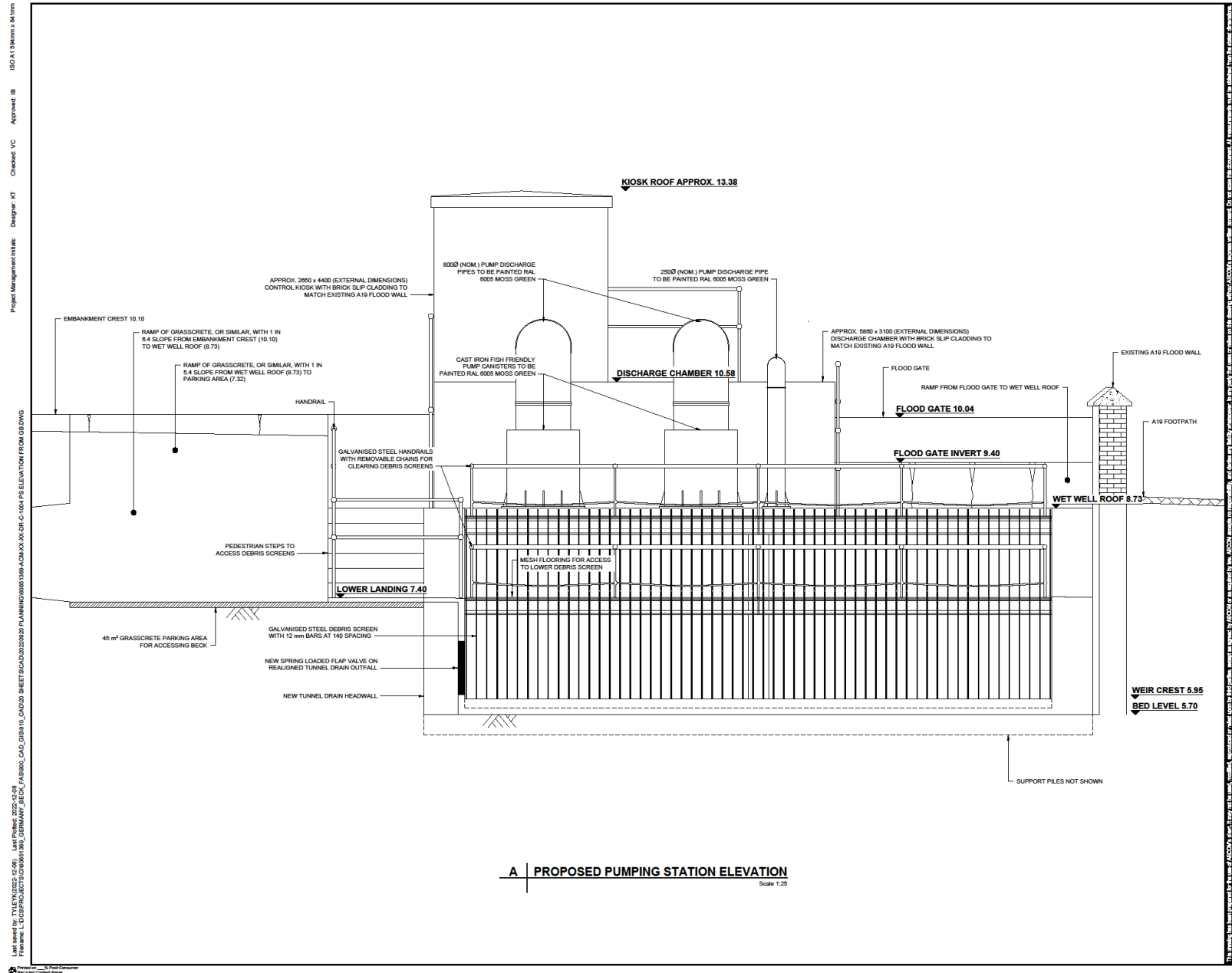
NO	DATE	DESCRIPTION
PO1	02/12/2022	FOR PLANNING
VR1		

PROJECT NUMBER
 60651369

SHEET TITLE
 GENERAL ARRANGEMENT
 SITE PLAN

SHEET NUMBER
 60651369-ACM-XX-XX-DR-C-1000

Pumping station North elevations



ISO A1 60mm x 84mm
 Approved: JB
 Checked: VC
 Designer: KT
 Project Management Initials:
 Left: sheet by: T:\EN\2020\0620 - Last Rev'd: 2020-06-01
 Filename: L:\DCP\PROJECTS\06061900_GBRMAN\BECK_PAS000_CAD_018190_CAD030 SHEET\06061900_GBRMAN\BECK_PAS000_CAD_018190_CAD030 SHEET\06061900_GBRMAN\BECK_PAS000_CAD_018190_CAD030 SHEET

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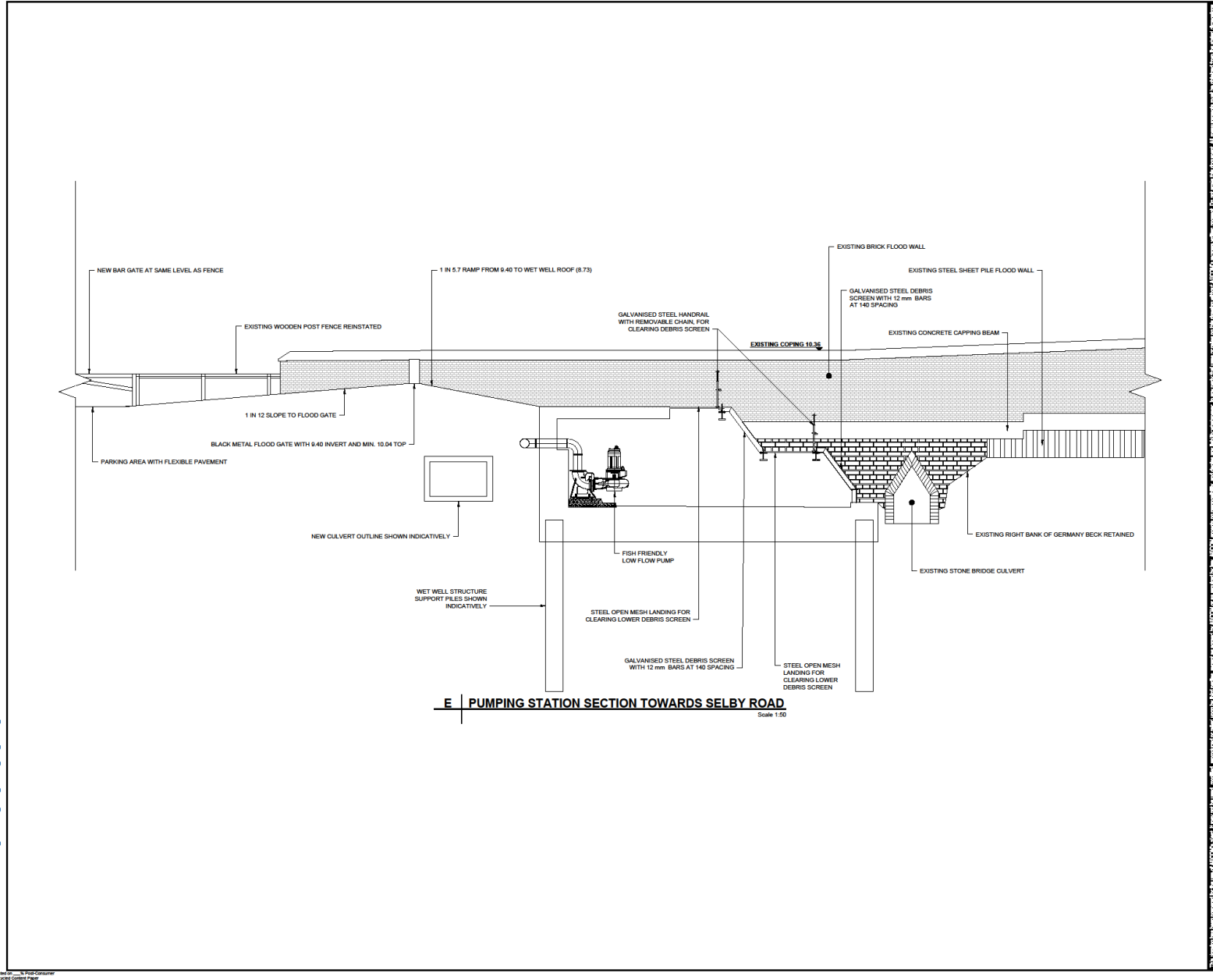
PROJECT NUMBER
60651369

SHEET TITLE
PUMPING STATION ELEVATION
LOOKING SOUTH FROM GERMANY
BECK

SHEET NUMBER
60651369-ACM-XX-XX-C-DR-1004

Pumping Station section towards Main Street

Project Management Initials: Designer: RT Checked: VC Approved: JB
 ISO A1 50mm x 40mm
 Recycled Content Paper



PROJECT
 GERMANY BECK
 FLOOD ALLEVIATION
 SCHEME

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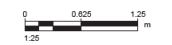
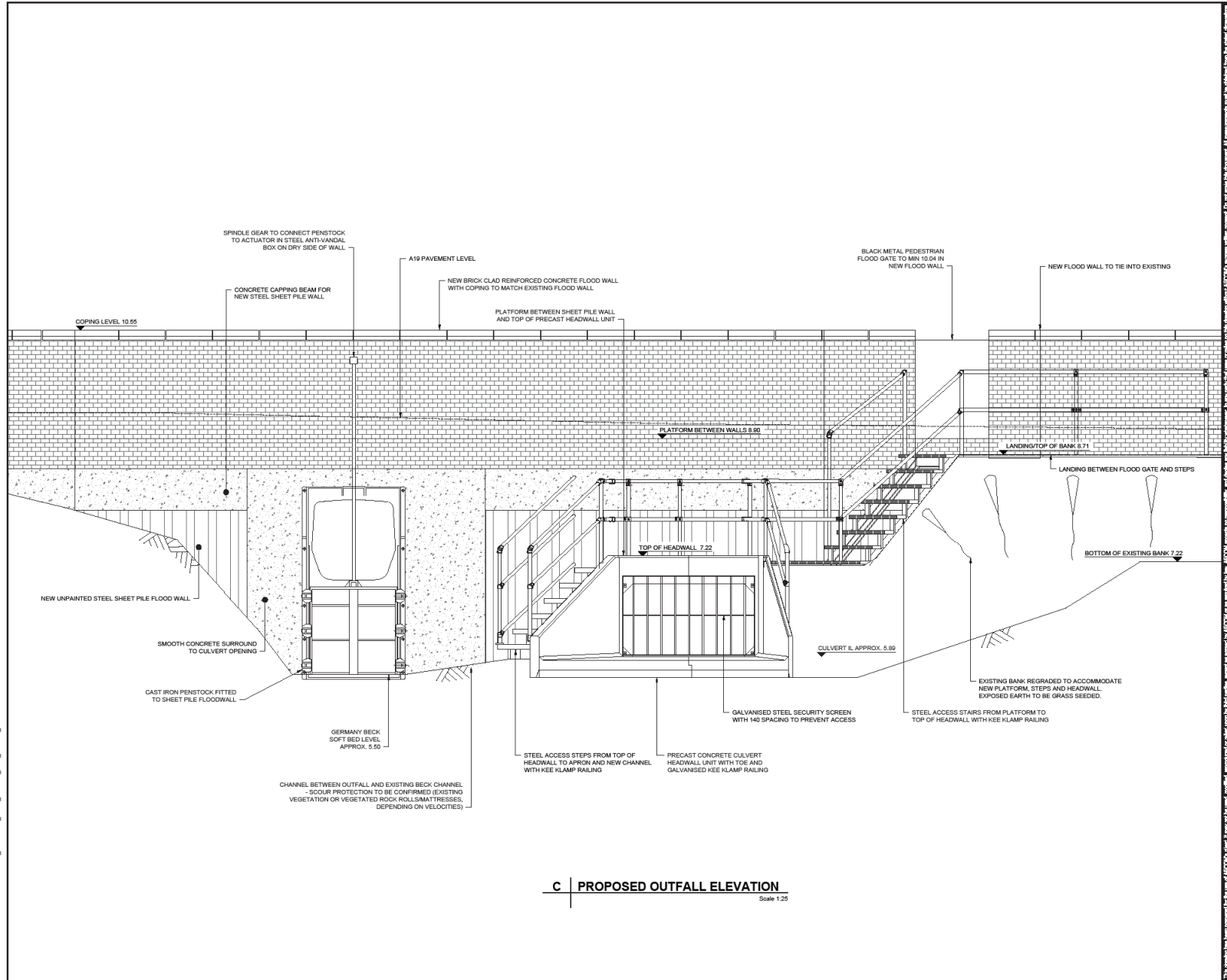
PROJECT NUMBER
 60651369

SHEET TITLE
 PUMPING STATION SECTION F
 LOOKING WEST TOWARDS SELBY
 ROAD

SHEET NUMBER
 60651369-ACM-XX-XX-C-DR-1008

Outfall elevation (west side of Main Street)

Project Management Initials: Designer: KT Check out: VC Approved: IB ISO A1 594mm x 841mm
 Last saved by: TYLEYK (2023, 12, 02) Last Printed: 2023, 12, 08
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PO1	08/12/22	FOR PLANNING
IR1	DATE	DESCRIPTION

PROJECT NUMBER
60651369

SHEET TITLE
OUTFALL ELEVATION

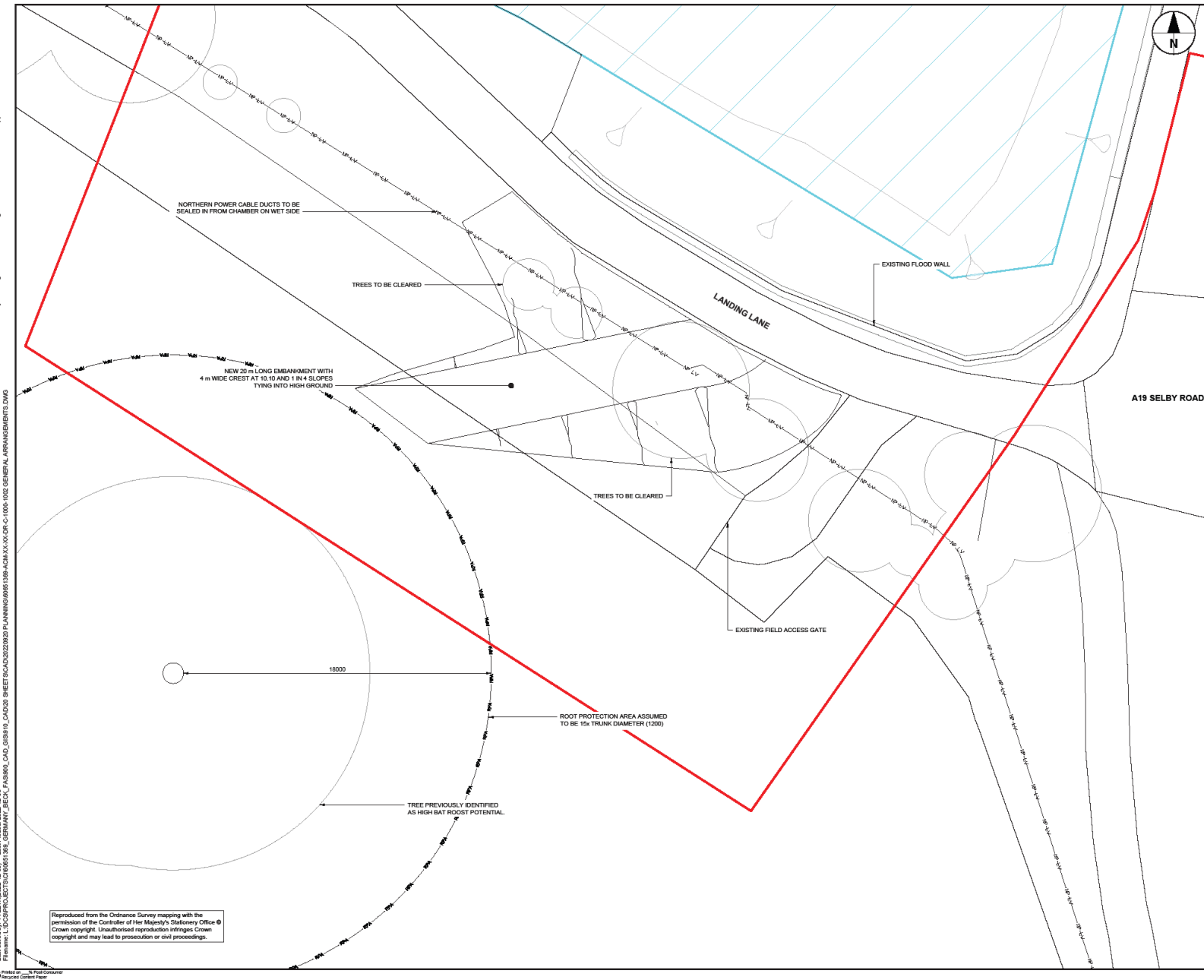
SHEET NUMBER
60651369-ACM-XX-XX-C-DR-1006



Landing Lane embankment

Project Management (M/Ref): Designer: KT Check: VC Approved: IB ISO A1 594mm x 841mm

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PROJECT
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LEGEND

- SITE BOUNDARY
- SITE OF SPECIAL SCIENTIFIC INTEREST



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ISSUE/REVISION

NO	DATE	DESCRIPTION
01	02/12/2022	FOR PLANNING

PROJECT NUMBER
60651369

SHEET TITLE
GENERAL ARRANGEMENT
LANDING LANE EMBANKMENT

SHEET NUMBER
60651369-ACM-XX-XX-DR-C-1002

COMMITTEE REPORT

Date: 12 December 2023 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel

Reference: 23/00123/FUL
Application at: Castle Howard Ox Townend Street York YO31 7QA
For: Conversion of existing building to 16no. student studio apartments with two storey extension to the side/east elevation, first and second storey extension to the rear/north elevation, and single storey rear/north extension following the demolition of the single storey projections

By: Alastair Cliffe
Application Type: Full Application
Target Date: 22 November 2023
Recommendation: Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for the conversion of the public house to 16 no. studio apartments for student accommodation. In addition there would be a two storey extension to the side/east elevation and rear/north elevation and a single storey extension to the north following. A communal room is proposed on the ground floor, there would be external cycle and bin store and outside communal space.

1.2 The site is within the Area of Archaeological Importance. The site is within Flood Zone 1. To the north, east and south of the site is residential development. To the west is former petrol station/garage used as a tool hire shop.

1.3 Officers understand that the public house has been closed since 2017.

Relevant Planning History

1.4 21/00537/FULM - Conversion of public house to 16no. student studio apartments with two storey extension to the side/east elevation, first and second storey extension to the rear/north elevation, and single storey rear/north extension following the demolition of the single storey projections – Refused at the Area Planning Sub-Committee (11 November 2021) on the basis that the site had not been adequately marketed. The site was loss of a community facility. The replacement of a public house with student accommodation would not make a positive contribution to a sustainable community.

1.5 The application is reported to Committee under 5.1 (g) of Art 13 of the Constitution because the previous application was refused by Committee.

2.0 POLICY CONTEXT

2.1 The Publication Draft York Local Plan (2018)

EC2 Loss of Employment Land

H7 Student Housing

H10 Affordable Housing

HW1 Protecting Existing Facilities

D1 Placemaking

D2 Landscape and Setting

D4 Conservation Areas

D6 Archaeology

D7 The Significance of Non-Designated Heritage Assets

D11 Extensions and Alterations to Existing Buildings

GI2 Biodiversity and Access to Nature

GI6 New Open Space Provision

CC2 Sustainable Design and Construction of New Development

ENV2 Managing Environmental Quality

ENV3 Land Contamination

ENV5 Sustainable Drainage

WM1 Sustainable Waste Management

T1 Sustainable Access

DM1 Infrastructure and Developer Contributions

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

Highway Network Management

3.1 No objections subject to conditions regarding redundant crossings; gates etc opening into highway, car-free development, cycle parking storage and refuse bin storage, management and occupation plan, Travel Plan, Method of Works.

Informative: No parking permits in connection with occupation of any unit within the Development.

3.2 Request following contributions via S106 agreement

- £10,000 for City of York Council Travel Plan Support for a period of five years after first occupation
- £3,000 for a Change to Permanent Traffic Regulation Order An amendment to the TRO for the exclusion of a development area from a ResPark

- £6,000 for a Change to Permanent Traffic Regulation Order to provide a disabled parking space within Residents Parking Zone R21 (if applicable, depending on whether Enhanced Access accommodation is provided)

Design, Conservation And Sustainable Development (Ecology Officer)

3.3 No objections, request following condition: submission of biodiversity enhancement plan/drawing. Request following informative: wildlife and lighting.

Design, Conservation And Sustainable Development (Archaeology)

3.4 The Castle Howard Ox lies within the Central Area of Archaeological Importance. The building dates to the mid-19th century, with later additions. It is a non-designated heritage asset. The heritage statement confirms that the main body of the building and the 1930s extensions are of some significance while the mid-late 20th century alterations are not. The statement does not describe the interior of the building. It is unknown whether the building contains any internal features worthy of recording. The proposed works includes extending the existing building. Despite the existing extensions this has the potential to reveal archaeological features and/or deposits. An archaeological watching brief should take place during groundworks to record the nature of any deposits which may survive on the site. The employed archaeologist should also include a brief photographic record of the exterior and any features of interest within the interior of the public house prior to conversion. Request following conditions: programme of post-determination archaeological mitigation.

Design, Conservation And Sustainable Development (Conservation)

3.5 The design of the scheme appears to be the same as the amended design proposed under the former application 21/00537/FULM which was the product of significant modification during the course of the application in response to conservation and design concerns. Request following conditions: details of external materials; a 1x1m brick panel to show brick, coursing, bond, mortar and pointing; scale constructional drawings for all external joinery including any alterations required to the retained historic sash window to ground floor west elevation); details of rooflights.

Lead Local Flood Authority

3.6 No objections, request following conditions: separate systems of drainage for foul and surface water; submission of drainage scheme; no piped discharge of surface water

Public Protection

3.7 No objections, request following conditions: Construction Environmental Management Plan; hours of construction; submission of site investigation and risk assessment; submission of remediation strategy and verification report; reporting of unexpected contamination; Upon completion of the development, delivery vehicles and waste removal vehicles to the development shall be confined to restricted hours; submission of detailed scheme of noise insulation measures

Waste Services

3.8 The site is not acceptable for CYC refuse collections as there is not a suitable point for the refuse collection vehicle to stop. The site is very close to a busy junction, next to a speed reduction road narrowing point and the street immediately next to the proposed development has double yellow road markings.

3.9 City of York Council refuse collectors do not enter private land to make collections. If the developer proposes an acceptable refuse vehicle loading point the bins would have to be presented for collection by site management where the boundary of the development meets the public highway, remaining within the boundaries of the development.

Carbon Reduction Team

3.10 The BREEAM pre-assessments show that the building is expected to perform as follows: BREEAM New Construction 2014 Indicative building score = 76.05% (minimum required = 70% for BREEAM Excellent) BREEAM Refurbishment and Fit Out 2014 Indicative building score = 72.93% (minimum required = 70% for BREEAM Excellent)

3.11 Submitted information demonstrates that the (new build) building emission rate (BER) reduction will be at least 32.3% better than Part L2A (2013) compliance requirements.

Housing Policy Team

3.12 In accordance with the proposed Local Plan Policy H7: Off Campus Purpose Built Student Housing, an affordable housing off site contribution would be required for this application 23/00123/FUL if it is permitted. Accordingly the total affordable housing contribution requirement for this scheme of 16 student studios would be £95,392.

Lifelong Learning And Leisure

3.13 For the 16no. one-bedroom apartments at x £213 per bedroom generates an off-site sports contribution of £3,408. I would suggest the following projects as beneficiaries of these funds to be; a Multi-Use Games Area within Guildhall Ward,

for improvement works or installation of equipment at Clarence Gardens, and / or another project within the ward or connecting wards, the need for which directly arises from the Development. Contribution towards amenity space would be £2,416.

EXTERNAL CONSULTATIONS

Guildhall Planning Panel

3.14 Object, little outside space provided for the number of residents. The number of rooms is an overdevelopment and will put a strain on local resources.

Police Architectural Liaison Officer

3.15 An analysis of police recorded incidents in the area of the proposed development highlights the presence of crime and antisocial behaviour which could impact upon the security of the scheme. The most significant crime issues that could affect this development are burglary, criminal damage and cycle theft. Antisocial behaviour and violence are also problems in the area. Any new development has the potential to increase these levels if the designing out of crime is not considered and implemented. Consideration should be given to security measures at the communal entrance door, the gate to the communal garden, bike store, and external windows on the ground floor.

3.16 There is limited reference as to what crime prevention measures will be incorporated into this development. This information should be a requirement in order to assist the local authority in determining whether this development will comply with paragraphs 92 and 130 of the National Planning Policy Framework.

North Yorkshire Fire and Rescue Service

3.17 No objections

Yorkshire Water

3.18 No comments received

4.0 REPRESENTATIONS

York Civic Trust

4.1 Do not object to the principle of the application of conversion however, do question certain design choices.

4.2 The current application does little to reflect the heritage significance of the building as an example of a former early 19th century public house. The retention of a sign, for example, could go some way to improving this legibility of the former use. To be able to make a balance judgment, more information is required to be able to assess the impact of the proposed changes.

4.3 The massing of the proposed extension is an improvement on the previous scheme and is of a more appropriate size in relation to the existing building. The placement of windows and the double string course is however questionable, as these bear no reference to the main building, making the extension look at odds from the rest of the building. Paragraph 130 (c) of the NPPF states any new developments "are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)". The proposed design gives the appearance of an extension having been stuck on and does not reflect the character and former use of the building.

Neighbour Notification and Publicity

4.4 Five objections

- The prices the site has been marketed has risen from £250k to £400k, and to £600k in just over a year. Marking the price up, so it looks like no one will be interested in buying the property as a pub, so they have a stronger case to knock it down and build student accommodation
- Proposal will result in an increase in parking
- Following interest, the price moved from £250k to £250+vat, then to £250K +vat with an undertaking to operate as a pub (which was the intention), moving to £450k plus vat with a similar undertakings (which made it unviable).
- It seems to be a very intensive use of the space, and increases density whilst reducing amenity
- Proposed extension is visually harmful to a building with significant heritage as a legacy community asset
- Overdevelopment, cramped, and poorly laid out
- Concerned would result in problems to nearby residents
- Insufficient private amenity space
- Concerned regarding the social balance of the area, at one time provided starter housing for single people, couples & families but these are increasingly being displaced by students & short-lets
- Proposed does not provide any additional parking, result in increased parking in the area
- Request clarification as to whether the dropped pavement would be removed, its removal would impair disabled access
- The allocated space per student and 16 flats in this small space constitutes overcrowding. Insufficient space for laundry or outside space.

- Unclear whether any accessible flats have been put in place for this property. difficult for disabled students to get appropriate housing and the absence of including any accessible flats would contribute towards this problem.

4.5 One representation of support

- Visually positive
- Provide needed accommodation.

5.0 APPRAISAL

5.1 NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.2 The planning policies of the National Planning Policy Framework as published are a material consideration in the determination of planning applications. The presumption in favour of sustainable development set out at paragraph 11 of the NPPF does not apply when the application of policies relating to irreplaceable habitats and designated heritage assets (and other non-designated heritage assets of archaeological interest referred to in footnote 68) indicate that permission should be refused.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

5.3 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February and September 2023 following full examination. It is expected that the Plan will be adopted in early 2024.

LOSS OF EMPLOYMENT LAND AND COMMUNITY FACILITY

5.4 Draft Policy EC2 (Loss of Employment Land) of the Draft Local Plan (2018) sets out that when considering proposals which involve the loss of land and/or buildings which are either identified, currently used or were last used for employment uses, the council will expect developers to provide a statement to the satisfaction of the Council demonstrating that: the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses. The supporting text for Draft Policy EC2 sets out that the Council will expect the applicant to provide evidence proportionate to the size of the site of effective marketing the site/premises for employment uses for a reasonable period of time, the Local Plan Policy Modifications details an 18 month marketing period.

5.5 Where an application is seeking to prove a site is no longer appropriate for employment use because of business operations, and/or condition, the LPA will expect an objective assessment to be submitted with the application detailing the shortcomings of the land/premises that demonstrates why it is no longer appropriate

for employment use. The proposed modifications to the Policies are now with the Planning Inspectorate following consultation earlier in the year. The wording of Draft Policy EC2 has not altered in the proposed modifications to the Planning Inspector, only the supporting text as set out above as such this policy is considered to have moderate weight.

5.6 Paragraph 93(c) of the NPPF sets out, among other things, that planning decisions should guard against the unnecessary loss of valued community facilities (including pubs), particularly where this would reduce the community's ability to meet its day to day needs. This stance is echoed by policy HW1 (Protecting Existing Facilities) of the Draft Local Plan (2018) . It states that development proposals that involve the loss of a community facility will not be supported unless: if site constraints do not allow on-site re-provision, facilities of equivalent or greater capacity and quality (as defined above) are re-provided in a location that equivalently or better serves the local community's needs, and is well served by public transport and easy to reach on foot and by bike; robust evidence is submitted to demonstrate that the facilities no longer serve a community function and demonstrably cannot be adapted to meet other community needs or are surplus to requirements; or in the case of commercial facilities, evidence is provided that demonstrates the facilities are no longer financially viable with no market interest . The policy requires Developers to consult with the local community about the value of the asset and the impact that a loss of facilities may have. The narrative to Policies HW1 and EC2 state that a loss of community facilities/employment use will only be permitted when they have been marketed for a minimum of two years/18 months respectively without success, thereby demonstrating that they are unviable. This should consist of (as a minimum) a marketing report explaining the marketing process, and its outcomes, including the terms offered, any interest received and why it was not successful. In addition, policy HW1 requires an open book based viability appraisal to be submitted to demonstrate that the facility is not viable, and could not reasonably be made viable.

5.7 The site had previously been acquired by Star Pubs & Bars in August 2017, the public house was closed on completion of the sale. The supporting information sets out that the public house was unviable and they decided to sell the site in November 2018. No financial information has been submitted about the profitability of the pub.

5.8 Members may recall that in the last application that the supporting information set out that the site was marketed online and a sale board was erected, pub companies, owner occupiers, developers and local builders were targeted. During this time the owners did not open/operate the venue. The public house was advertised for £250,000 freehold. During the marketing over 80 enquires were received. Best and final bids were invited (April 2019) and a total of 12 bids were received. Officers understand that none of these bids were to run the site as a public house or restaurant. All were received from developers or investors. The purchase

(by the applicant) was completed in May 2019. Since that time the public house has been closed. The previous marketing period lasted a total of 7 months.

5.9 Following the refusal of the previous application in November 2021 the site was marketed again. The initial marketed valuation was £250,000, the supporting information sets out that there were offers to run as a public house and as a community facility and sets out that there were offers in the region £250,000 with a number of comments advising that a further costs would be required for refurbishments, in addition the poor condition of the property was mentioned making the use as a public house unviable. As such this potentially brings into question whether the subsequent increase in price to £450,000 (in circa May 2022) and recently to £600,000 is a realistic valuation. The agent advised that the increase in the marketed price is due to a range of costs including: council tax; insurance; security measures; the cost of submitting two applications for planning permission; utility costs; marketing fees; and screens and signs. The agent advises that the overall cost of the property to the applicant including the original purchase price has risen to £500,000 and the price the applicant is willing to sell for is £600,000. From a letter (07.07.2023) written by the estate agent Flurets only unconditional offers are being considered.

5.10 The agent has submitted information setting out that 4 or 5 offers (it is not clear from the submitted information) have been received during the current marketing period to run the property as a public house. The agent advises that 2 of these offers were withdrawn. The stated reasons being the cost of refurbishment and the necessary capital expenditure. The two/three remaining pub use offers were rejected as the offers were £250,000. It is unclear at what stage these offers were made and what the pub was being marketed for at the time of the offers but the offers were made prior to the rise to £600,000.

5.11 Officers understand that two of the offers were for a community centre (the offer being £450,000), officers understand that one offer was made prior to Jan 2023 when the site was being marketed for this price, and another offer was made between February and June 2023. The information submitted by Flurets briefly sets out that the first offer did not progress as the offer was dependent on a bank loan, however proof of funding was not provided, The second offer was withdrawn following the purchase of another property.

5.12 The second round of marketing of the site started 02 March 2022 and officers understand that the marketing is still ongoing, at the time of writing (November 2023) the site had been marketed for 20 months. Officers have been previously led to understand that that the previous owners had decided to sell as the public house was considered unviable. As such whilst the £250,000 was considered a reasonable price for a public house the subsequent increase in the price does not appear to be a reasonable or justifiable price and thus the site does not appear to have been reasonably marketed.

5.13 The supporting text to the policy sets out that the loss of community facilities will be approved if it can be demonstrated that they no longer serve a community function and cannot be adapted to meet other community needs, or are surplus to requirements. Applications which involve the disposal of community assets must therefore include an assessment of the current function, accessibility, and adaptability of the facility. Any assessment which seeks to demonstrate that the facility is surplus to requirements must provide evidence of facilities in the immediate area which can appropriately cater for the loss of the relevant facility and is accessible for current users by public transport, foot and cycle. Applications must demonstrate how alternative other facilities will meet or exceed these standards of provision from the facility to be lost. As part of this process, it is expected that developers will consult with the local community to understand their needs. The approach to consultation should be agreed with the Council. Officers are not aware that any consultation has taken place with the local community.

5.14 Officers understand the public house use struggled to compete with neighbouring public houses together with high turnover of tenants. The site is tightly constrained by the adjacent properties, highway frontages. The opportunities for expansion or diversification are very limited. The Punch Bowl public house at the corner of Lowther Street and Haxby Road to the north of the site was closed at the time of the decision on the previous application but has since been re-furbished and re-opened.

5.15 Policy HW1 requires an open book based viability appraisal to be submitted to demonstrate that the facility is not viable, and could not reasonably be made viable. No open book viability appraisal has been submitted with the application as such the development does not comply with Policy HW1. As set out above officers do not consider that the site has been appropriately marketed (for an appropriate price) and as such fails to comply with Policies HW1 and EC2.

STUDENT ACCOMMODATION

5.16 Policy H7 (Student Housing) of the Draft Local Plan (2018) sets out that proposals for new student accommodation should demonstrate that: there is a proven need for student housing; it is in an appropriate location for education institutions and accessible by sustainable transport modes; The rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University; and the development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area; and The accommodation shall be occupied only by full-time students enrolled in courses of one academic year or more and conditions or obligations shall be imposed to secure compliance with this requirement and for the proper management of the properties. Policy H7 is in general supportive of Purpose Built Student

Accommodation (PBSA) as a means of freeing up housing suitable for wider general housing needs.

5.17 The Council's Strategic Housing Market Assessment 2016 ("the SHMA") analyses the needs of specific groups within the population, such as older people and students. The student population in York is projected to continue to grow. Higher Education Student Statistics (HESA) data referenced in the SHMA shows 23,095 student in the City by 2014, with most significant growth in numbers of full-time students. The SHMA acknowledges that the student rental market remains strong and that demand for purpose built student accommodation is high, particularly from international students. Latest HESA data (2020/21) shows 30,275 students enrolled at York St John University and the University of York.

5.18 The applicants provide a summary of approved PBSA since 2015. Officers consider the record of recently approved and completed schemes is reasonably consistent with that provided by the applicant, albeit that we note the omission of St Joseph's Convent, Lawrence Street (+526 units, completed 2016/17). The Planning Statement does not provide analysis of current levels of provision/vacancy. Officers are not aware of concerns around PBSA vacancies, and would suggest that applicants operating in a competitive market are well placed to determine capacity in that market.

5.19 The supporting information does not advise whether the rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University. This aspect of the modified policy has received objections in the consultation earlier this year and the LPA is waiting for the Inspector's report. As it has received objections it is not consistent with para 48 of the NPPF and as such can only be provided limited weight.

5.20 Policy H7 requires new student accommodation proposals to provide a financial contribution towards delivering affordable housing elsewhere in the City. The contribution required for the proposed development would be J95,392, this would be sought via a 106 legal agreement. The agent has been advised of the required contribution and has agreed to pay the requested contribution should planning permission be granted.

IMPACT ON HERITAGE ASSETS

5.21 The site is within Area of Archaeological Importance, and whilst just outside of the Central Historic Conservation Area (Character area 1: Bootham Park Hospital) it is considered to fall within the setting of the Conservation Area. The site is considered to fall within the setting of Grade II listed former Groves Chapel, Union Terrace. The building is also considered to be an undesignated heritage asset.

5.22 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990 (“the 1990 Act”), the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the 1990 Act requires the Local Planning Authority to have regard to preserving the setting of Listed Buildings or any features of special architectural or historic interest it possesses. Where there is found to be harm to the character or appearance of the Conservation Area, or the setting of a listed building, the statutory duty means that the avoidance of such harm should be afforded considerable importance and weight.

5.23 The legislative requirements of Sections 66 and 72 of the 1990 Act are in addition to government policy contained in Section 16 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 16 of the NPPF advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 197, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness.

5.24 The Draft Local Plan (2018) policies D4, D6, D7 reflect legislation and national planning guidance that development proposals should preserve or enhance the special character and appearance and contribution to the significance and setting of the heritage assets and respect important views.

5.25 The National Planning Policy Guidance sets out that non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets. Local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications. Policy D7 of the Draft Local Plan (2018) set out the criteria for assessing potential non-designated heritage assets.

5.26 Paragraph 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy D7 of the Draft Local Plan (2018) sets out that Development which would remove, harm or undermine the significance of such assets, or their contribution to the character of a place, will only be permitted where the benefits of the

development outweigh the harm having regard to the scale of the harm and significance of the heritage asset.

5.27 The Castle Howard Ox is a purpose-built public house of the first half of the nineteenth century, with later alterations and additions, built abutting Bootham Stray on the corner of Townend Street and Clarence Street. There is evidence to suggest a build date in the 1830s/40s era which accords with the laying out of Penley Grove Street/Townend Street in that period. The heritage appraisal accompanying the application charts the development of buildings on the site and identifies the contribution the building makes to settings of the Central Historic Core Conservation Area and the Groves Chapel which faces the site across Clarence Street. As identified by the appraisal the earliest built form is the southern block with its gable entrance to Townend Street.

5.28 The building retains a number of attractive architectural features. The south gable is of characteristic symmetrical nineteenth century arrangement, with arched head window to the apex, and the front door is flanked by shallow arched windows with brick quoined surrounds and projecting moulded brick drip over the lintel and similar sills, elements of which are replicated in the brick door surround. The latter features suggest a remodelling of the early decades of the twentieth century which accords with photographic evidence potentially dating from 1906. Windows are mainly replaced PVC frames, but whilst poor quality they replicate the layout of the earlier sashes to the upper floors and the three-light mullion and transom windows to the ground floor. To the west elevation is a three-light timber sash window set in an impressive corbelled and dentil-corniced surround within a decorative brick projection which probably dates to the latter decades of the nineteenth century; and a bracketed and dentilled timber gutter support which may be to the original design. Substantial chimney stacks and a coped verge also contribute to a characterful historic building.

5.29 The building survives from the small-scale 2-storey terraced form of the wider area which was developed as the city expanded in the 1840s. Although much demolition in the Groves took place in the '60s/'70s for redevelopment by the Local Authority, the historic "gateways" to the area were maintained so they still preserve the small scale 19th century character of the main streets (Clarence St, Haxby Road, Monkgate, Huntington Rd). The building has always had a dual aspect as indicated on the 1852 map, facing Clarence St over former Stray land (now the former garage forecourt)

5.30 The building has previously been identified as a non-designated heritage asset as a consequence of its architectural and historic interest. As a public house it also has communal value.

5.31 The proposed development would retain the original part of the building, the design of the proposed extension is simple and is not considered to result in harm to

the designated heritage asset. The use of different materials whilst complimenting the existing building give a clear understanding that the extensions are latter additions. The proposed extension is considered to have a neutral impact on the heritage asset. The conditions requested by the Conservation Officer are considered to be reasonable and necessary to ensure a development that respects the host building and the surroundings.

Setting of Conservation Area and Listed Building

5.32 No harm to the setting of the conservation area as a consequence of the revised proposals has been identified. The scheme respects the townscape and streetscape. The development would not materially impact the setting of any listed buildings.

Archaeology

5.33 The site is within the City Centre Area of Archaeological Importance. NPPF paragraph 194 states that “where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”. NPPF footnote 68 states that non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

5.34 The Castle Howard Ox lies within the Central Area of Archaeological Importance. A heritage statement confirms that the main body of the building and the 1930s extensions are of some significance while the mid-late 20th century alterations are not. The statement does not describe the interior of the building. It is unknown whether the building contains any internal features worthy of recording. The proposed works have the potential to reveal archaeological features and/or deposits. The Archaeologist has requested the following condition: an archaeological watching brief should take place during groundworks to record the nature of any deposits which may survive on the site, it should include a brief photographic record of the exterior and any features of interest within the interior of the public house prior to conversion. This condition is considered to be necessary and accords with paragraph 205 of the NPPF.

VISUAL AMENITY AND CHARACTER

5.35 Chapter 12 of the NPPF gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 130 of the NPPF states that planning decisions should ensure that development, inter alia, will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This

advice is reflected in Draft Local Plan (2018) policies D1 and D2 and, therefore, these policies can be given weight.

5.36 The proposed flat roofed two storey extension is set back from the Townend Street elevation and uses different materials (brick) to the host building (render). The proposed extension would be viewed as a later additional and appears subservient to the host building. The proposed extensions are considered to be of neutral appearance and are not considered to result in harm to the visual amenity of the host building or the character and appearance of the streetscene when travelling along Townend Street. Conditions for the materials, rooflights, and joinery are considered to be necessary.

RESIDENTIAL AMENITY

5.37 The NPPF seeks a good standard of amenity for all existing and future occupants, and that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policies D1 and ENV2 of the Draft Local Plan (2018) seek to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

5.38 The site is considered to be within a sustainable location close to York St Johns and close to public transport for other educational establishments the site is close to local amenities. The surrounding area contains a number of residential streets with restricted parking controlled by the Respark scheme.

5.39 The proposal represents an intensification of use of the site combined with the acknowledged impacts from noise and disturbance, parking pressures, and accumulation of rubbish that can be associated with student accommodation, balanced against the impacts of the lawful Public House use of the building. Officers consider that the amenity concerns about the development can be split into two main areas; the first being the impact of the structures themselves and second being the concern about the intensity of the development, the behaviour patterns of students and the impact of this behaviour on the residential amenity of existing residents.

5.40 The proposed two storey extension would have windows in the side/east and rear/north elevation. The proposed ground floor windows would be screened by the existing boundary wall. The first floor windows in the side/east elevation would face the front garden and side elevation of No. 3 Townend Street. No 3. Townend Street has private outside amenity space to the rear of the property and a car port between the side of the property and the application boundary, there are no windows at first floor level in the side elevation. The proposed two storey extension (6.5 metres in

height) is set back from the shared boundary by 4 metres. For these reasons the proposed development is not considered to result in a loss of privacy or overlooking to the occupants of 3 Townend Street. The proposed extensions are not considered to result in a loss of light or overshadowing.

5.41 No. 1 Lowther Mews stands to the rear/north of the proposed development, it has a first floor window in the side elevation which appears to be a staircase/hallway window. The proposed rear/north elevation windows of the two storey extension would be 7.5 metres from the staircase window. As the staircase is not considered to be a primary room it is not considered that the proximity of the windows would result in a loss of privacy. Furthermore it is considered that the proposal will not result in a harmful loss of light or impact overshadowing.

5.42 The previous use would have had some impact on the local environment and residential amenity by reason of general activity during the day and evening. The agent has confirmed that the proposed development would be managed, and a condition could be imposed that requires a management plan to be submitted to and approved by the Local Planning Authority. The plan could address issues such as: refuse collection; change over days, security measures, maintenance, fire safety, student liaison and community involvement etc. The introduction of 16 student studio flats in this location is not considered to be a significant concentration that would be potentially harmful to local residential amenity.

5.43 The access gates of the proposed development have been set into the site which allows for refuse bins to be presented on the day of collection and not block the pavement. In addition if the development was considered to be acceptable it would be considered necessary to ensure that the refuse storage area within the site is retained as such and complies with Policy WM1 (Sustainable Waste Management).

5.44 If the development was considered acceptable it is considered necessary to condition the occupancy of the building to only students engaged in full-time or part-time further or higher education in the city.

BIODIVERSITY

5.45 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of the functions, to the purpose of conserving biodiversity. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan (2018) policies reflect this advice in relation to trees, protected species and habitats.

5.46 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then

planning permission should be refused. A Bat, Breeding Bird and Barn Owl Survey has been submitted to support this application. The Ecology Officer is satisfied with the submitted ecology information and that there are no protected species in the building. It is considered that the recommendations of the report (e.g. bat and bird boxes) can be sought via condition.

SUSTAINABILITY

5.47 Policy CC2 'Sustainable Design and Construction of New Development' states that developments which demonstrate high standards of sustainable design and construction will be encouraged. The policy requires that change of use to residential should achieve BREEAM domestic refurbishment 'very good' as a minimum. The submitted BREEAM report demonstrates sets out that the proposed extension and change of use of the existing building would achieve BREEAM 'Excellent' based on a BREEAM New Construction 2014 with a score 76.05% or BREEAM Refurbishment and Fit Out 2014 with a score of 72.93% (minimum score level for BREEAM 'Excellent' rating is 70%).

HIGHWAYS

5.48 The NPPF encourages development that is sustainably located and accessible. Paragraph 110 requires that all development achieves safe and suitable access for all users. It advises at paragraph 111 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 112 requires development to give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the Draft Local Plan (2018) supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

5.49 The site is considered to be in a sustainable location. No vehicle parking is proposed as part of the development and the surrounding area is restricted to residential permit parking. Covered and secure cycle parking for 18 cycles is provided within a store on the site. The proposals are considered to be acceptable in terms of principle of development and their impact on the surrounding highway network. It is considered necessary to condition the submission of a travel plan. The Highway Network Management team have requested that contribution of £10,000 towards the City of York Travel Plan support, however given the scale of the development proposed this is not considered to be reasonable in terms of the statutory tests in CIL Regulation 122 that requires that obligations must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

5.50 The resident's parking zone R25 is considered to be over-subscribed. The potential for additional parking pressures from this development have been considered and it is recommended that the development should be removed from the zone, meaning that future residents would not be able to apply for permits. This is considered to be reasonable, necessary and directly related to the development. The costs of removing the site from the Respark Zone (£3000) would form part of the contributions being sought in a s106 agreement.

DRAINAGE

5.51 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. The Draft Local Plan (2018) Policy ENV5 (Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced. There would be no increase in impermeable areas, it is considered that the details of the means of the surface water drainage can be sought via condition.

SAFE ENVIRONMENTS

5.52 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder". Paragraphs 92 and 130 of the NPPF require developments should create safe places and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The requirements for secure cycle park, secure external doors and opening restrictors on first floor can be achieved by condition.

OPEN SPACE CONTRIBUTION

5.53 Public Realm has confirmed that an open space contribution is required in this case. This can be secured through a s106 agreement. The amenity open space contribution of £2,416 would be used to improve the amenity open space within the ward. This obligation is considered to comply with CIL Regulation 122.

PUBLIC SECTOR EQUALITIES DUTY

5.54 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.55 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.56 The PSED does not specify a particular substantive outcome, but ensures that the decision made has been taken with “due regard” to its equality implications.

5.57 Officers have given due regard to the equality implications of the proposals in making its recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

6.0 CONCLUSION

6.1 The proposed development is considered to be within a sustainable location. In assessment of Heritage Assets, the scheme would preserve the setting of the Conservation Area, and the setting of listed buildings within it, in addition the proposal would be of appropriate scale, form and materials and is not considered to result in harm or loss of an undesignated heritage asset. Impacts on archaeology are considered to be acceptable and can be mitigated by planning condition. The proposed development is not considered to result in harm to residential amenity or highway safety, nor would the proposal have an unacceptable impact on ecology on or adjacent to the site.

6.2 The presumption in favour of sustainable development, as set out in NPPF paragraph 11 therefore applies. There is evident demand for purpose built student accommodation and the NPPF requires planning decisions give “substantial weight” to the value of using suitable brownfield land within settlements for housing (which includes student accommodation).

6.3 Paragraph 93 of the NPPF sets out, among other things, that planning decisions should guard against the unnecessary loss of valued community facilities (including pubs), particularly where this would reduce the community's ability to meet its day to day needs. This stance is echoed by policy HW1 (Protecting Existing Facilities) of the Draft Local Plan (2018). The NPPF at paragraph 38 states that the LPA should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development (paragraph 81). This stance is echoed by policy EC2 (Loss of Employment Land) of the Draft Local Plan (2018). It is not considered that the site has been reasonably marketed and as such there is insufficient evidence to demonstrate that the facilities no longer serve a community function and demonstrably cannot be adapted to meet other community needs or are surplus to requirements; neither has it been sufficiently demonstrated that the facilities are no longer financially viable with no market interest.

7.0 RECOMMENDATION: Refuse

1 The applicant has failed to demonstrate that the public house is unviable having failed to adequately market the property. The local planning authority are not convinced that the site has been reasonably marketed and as such there is insufficient evidence to demonstrate that the facilities no longer serve a community function and demonstrably cannot be adapted to meet other community needs or are surplus to requirements. Neither has it been sufficiently demonstrated that the facilities are no longer financially viable with no market interest. The proposed development will therefore result in the unacceptable loss of a community facility and employment land that would help to meet the day-to-day needs of the local community. The proposal fails to comply with Policies HW1 (Protecting Existing Facilities) and EC2 (Loss of Employment Land) of the Draft Local Plan (2018) and paragraphs 81 and 93 of the National Planning Policy Framework.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Request further information

Application Reference Number: 23/00123/FUL

Item No: 4b

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

Contact details:

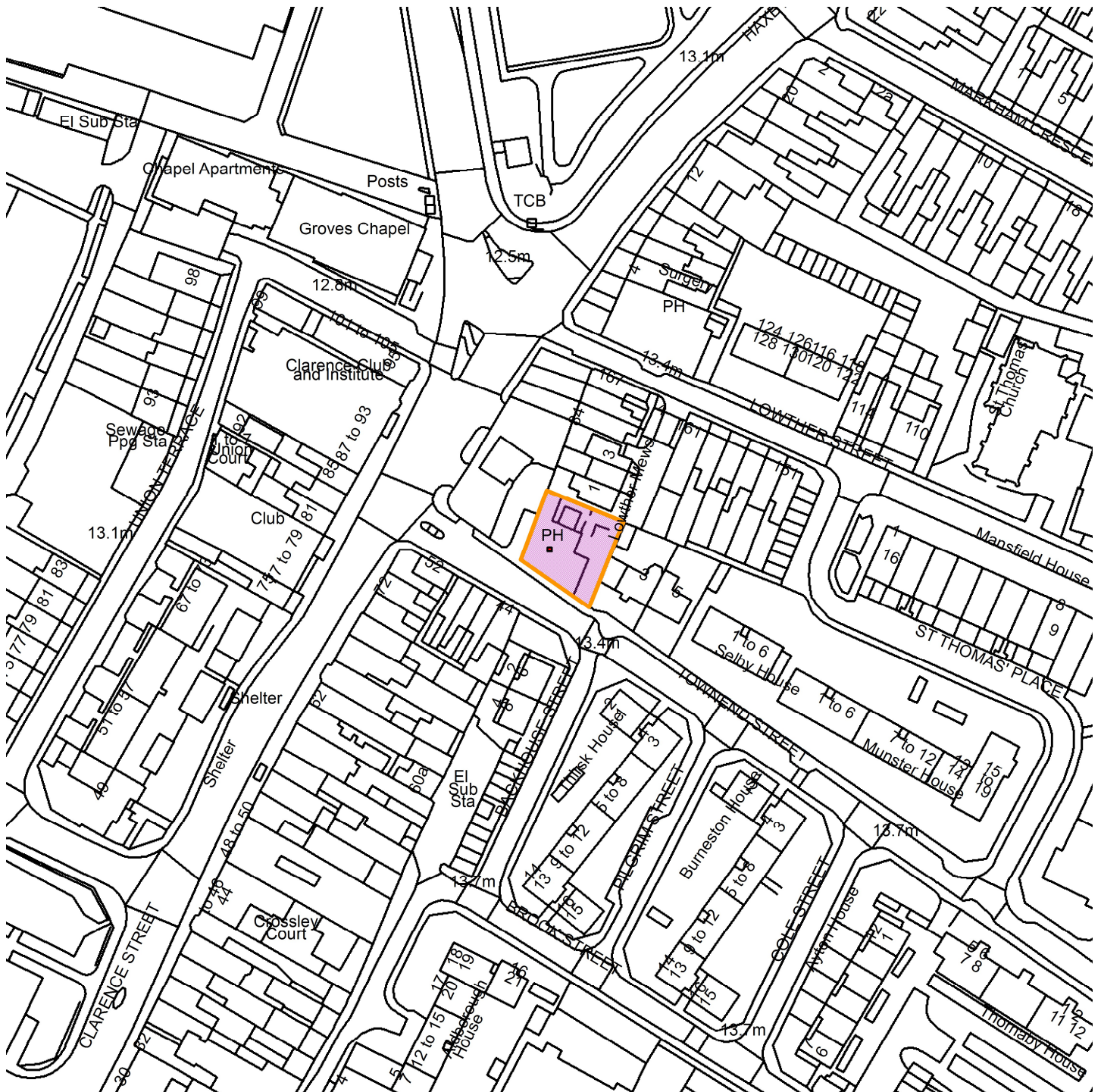
Case Officer: Victoria Bell

Tel No: 01904 551347

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23/00123/FUL

Castle Howard Ox, Townend Street YO31 7QA



Scale : 1:1277

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Organisation	City of York Council
Department	Directorate of Place
Comments	Site Location Plan
Date	01 December 2023
SLA Number	Not Set

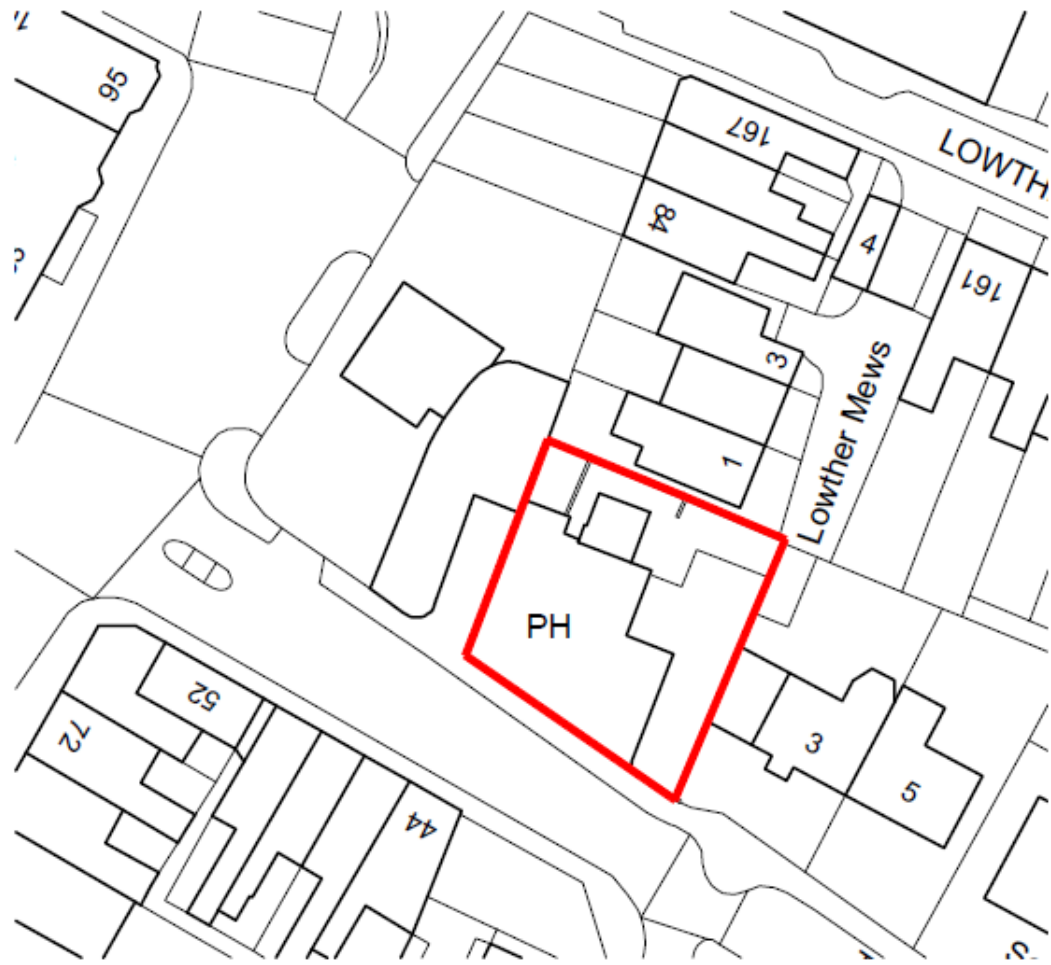
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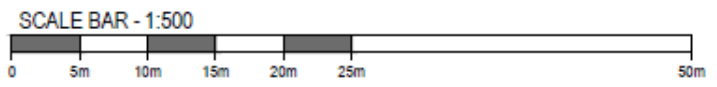
Planning B Committee

23/00123/FUL

Castle Howard Ox, Townend Street



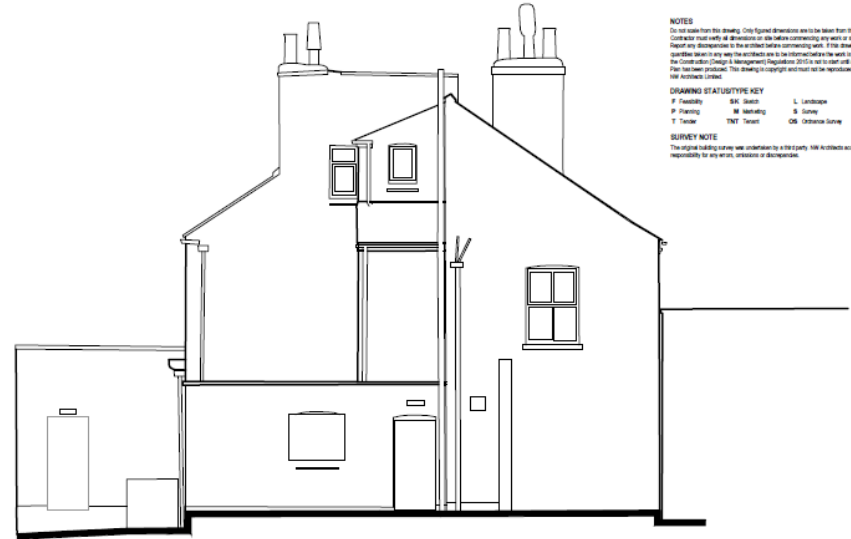
SITE PLAN



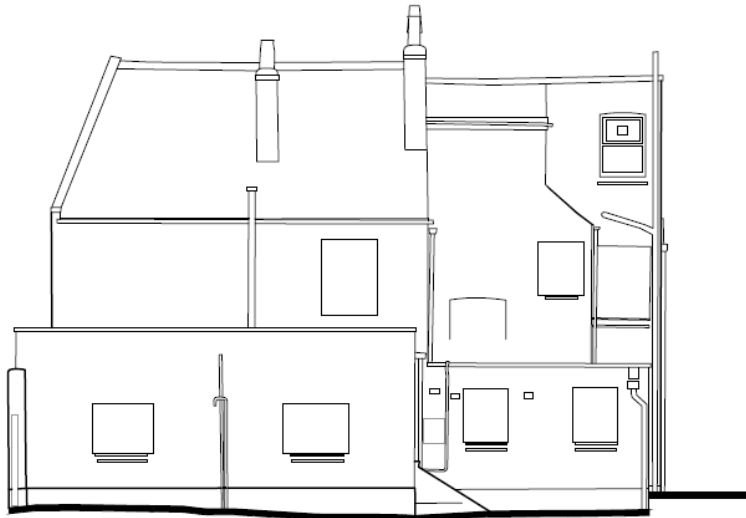
Existing Elevations



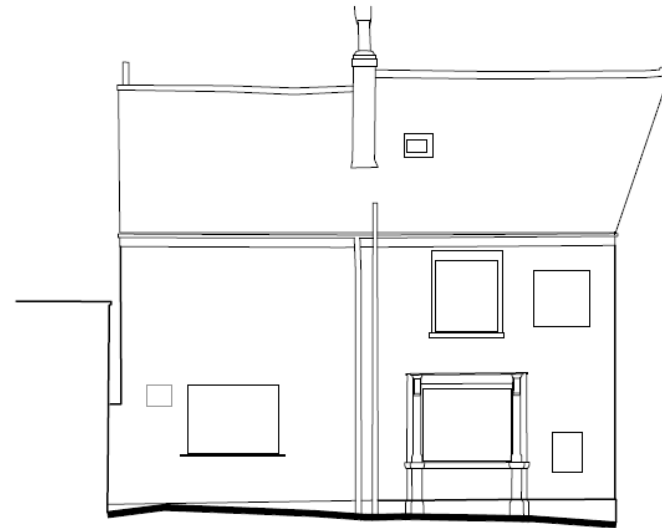
SOUTH ELEVATION EXISTING



NORTH ELEVATION EXISTING



EAST ELEVATION EXISTING



WEST ELEVATION EXISTING

NOTES
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DRAWING STATUSTYPE KEY
F Feasibility SK Sketch L Landscape C Construction
P Planning M Marketing S Survey AB Air Ball
T Tracker TWY Trace CB Circulation Scheme

SURVEY NOTE
The original building survey was undertaken by a third party. NW Architects accepts no
responsibility for any errors, omissions or discrepancies.

REV	DESCRIPTION	ISSUED	DATE	DRAWN	CHECKED	DATE
REVISIONS						

NW-ARCHITECTS
27 York Place Leeds LS1 2EY
leeds@nw-architects.co.uk Tel: 0113 960 0910 Fax: 0113 960 0911
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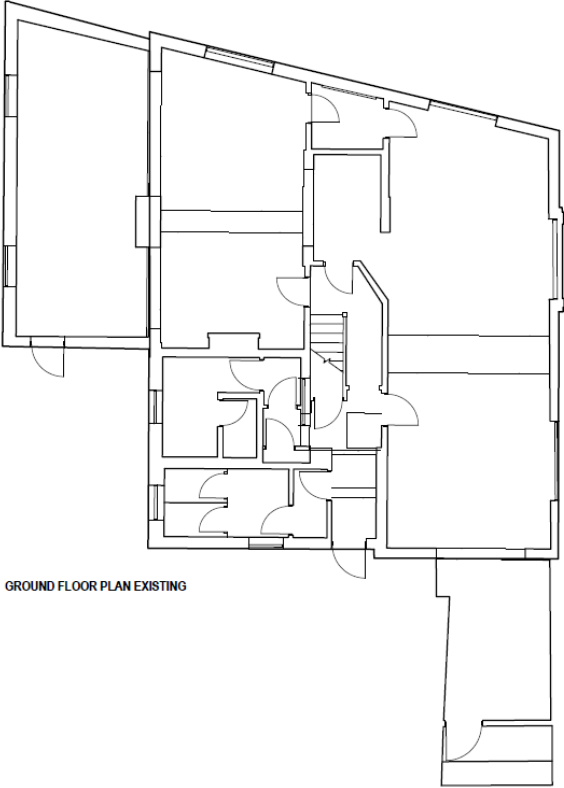
CLIENT
Alfa Homes Ltd

PROJECT
Townend Street
York

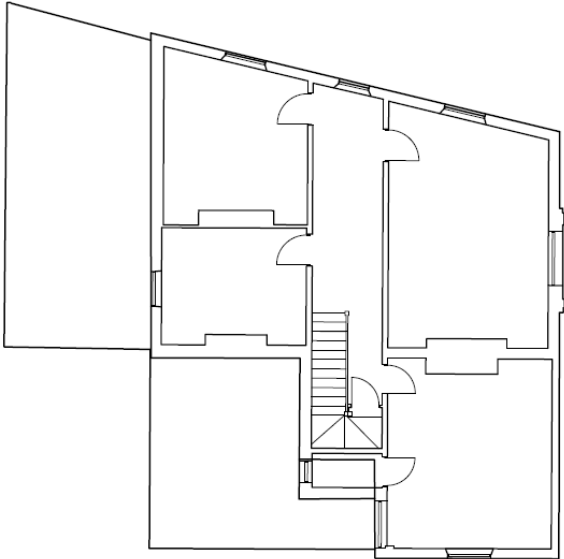
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Elevations
Existing

Scale	1:100 @A3	Drawn By	NW	Checkd By	NW	Date Created	07-15-20	Date Checked	07-15-20
Drawing No.	19023-S120	Revision	-						

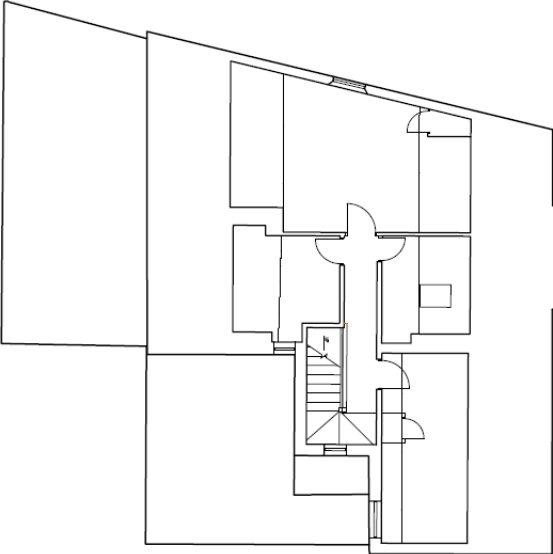
Existing floor plans



GROUND FLOOR PLAN EXISTING



FIRST FLOOR PLAN EXISTING



SECOND FLOOR PLAN EXISTING

As proposed site plan



Proposed elevations



WHITE TIMBER REPLACEMENT WINDOWS TO FOLLOW EXISTING PATTERNS

WHITE TIMBER REPLACEMENT WINDOWS TO FOLLOW EXISTING PATTERNS

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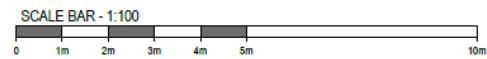
DRAWING STATUSTYPE KEY
 F Feasibility SK Sketch L Landscape C Construction
 P Planning ME Masterplan G Garden AH Air-raid
 T Terrain TNT Terrain OS Ordnance Survey

SOUTH ELEVATION PROPOSED

NORTH ELEVATION PROPOSED



EAST ELEVATION PROPOSED



WEST ELEVATION PROPOSED

REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
D	REWORKED	RS	07/06/21	HW	07/06/21
C	DESIGN REACHED	RS	06/05/21	HW	06/05/21
B	ISSUED TO GET CLIENT COMMENTS	RS	16/03/21	HW	16/03/21
A	CLIENT WORK AGREED	RS	07/10/20	HW	07/10/20



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CLIENT
 Alfa Homes Ltd

PROJECT
 Townend Street
 York

DRAWING TITLE
 Elevations
 Proposed

Date	Drawn by	Check by	Scale
28-05-20	RS	HW	1:100 @A3
07-10-20	RS	HW	

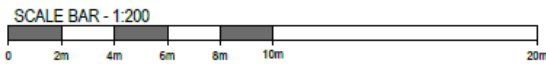
Drawing No: 19023-P220 Revision: D



SOUTH STREET SCENE ELEVATION EXISTING



SOUTH STREET SCENE ELEVATION PROPOSED



REV	DESCRIPTION	DATE	CHECKED	DATE
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A	CURTAIN IRONING REVISION	07/10/20	NW	07/10/20

REVISIONS



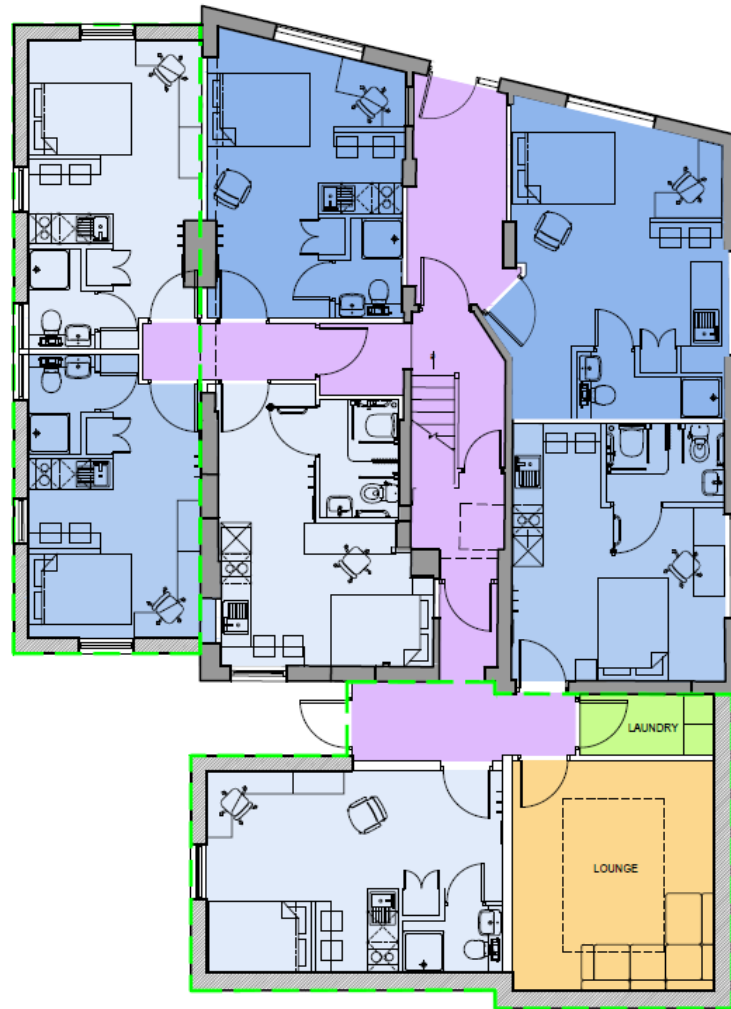
27 York Place - Leeds - LS1 2EY
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CLIENT
 Alfa Homes Ltd

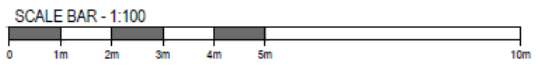
PROJECT
 Townend Street
 York

DRAWING TITLE
 Street Scene Elevation
 Existing & Proposed

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	Checked By	
	NW	07-10-19
DRAWING NO.	Revision	
19023-P221	B	



GROUND FLOOR PLAN PROPOSED



- KEY:
- NEW WALLS
 - EXISTING WALLS RETAINED
 - AREA OF NEW BUILD

REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
1	LAUNDRY ADDD	RS	28-05-20	NW	28-05-20
2	DOORWAY REMOVED	RS	19-05-20	NW	19-05-20
3	AMENDED TO MET CLIENT COMMENTS	RS	19-05-20	NW	14-10-20
4	CLIENT WALLS REMOVED	RS	07-10-20	NW	07-10-20
5	WINDOWS ADDED	RS	01-10-20	NW	01-10-20
6	WALL UNIT AMENDED	RS	24-08-20	NW	24-08-20
7	TOP FLOOR AMENDED	RS	24-08-20	NW	24-08-20
8	STUDIOS ADDD	RS	09-08-20	NW	25-08-20

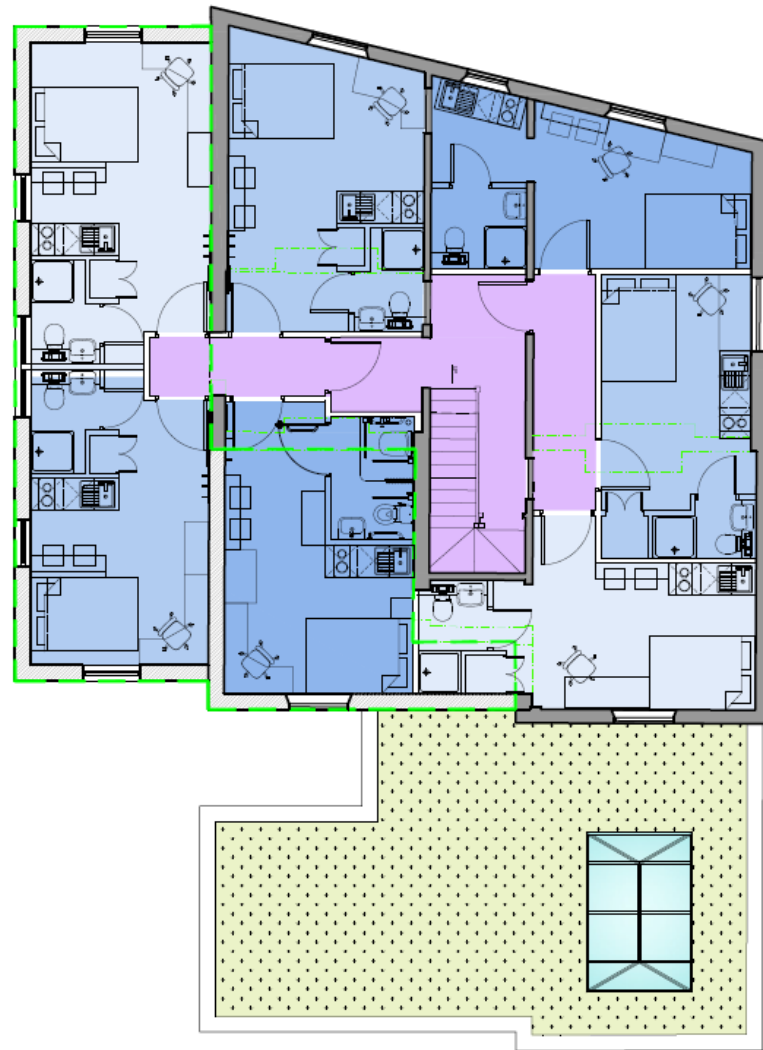
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CLIENT
 Alfa Homes Ltd

PROJECT
 Townend Street
 York

DRAWING TITLE
 Ground Floor Plan
 Proposed

Scale	Drawn By	Date Drawn
1:100 @A3	RS	28-05-20
	Checked By	Date Checked
	NW	07-10-20
Drawing No:	Revision	
19023-P210	H	



FIRST FLOOR PLAN PROPOSED

SCALE BAR - 1:100



KEY:



NEW WALLS



EXISTING WALLS RETAINED



AREA OF NEW BUILD

REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
J	FINALISED FOR REGISTRATION	RS	21-09-21	NW	21-09-21
H	LAYOUT AMENDED	RS	21-09-21	NW	21-09-21
G	CORNER REMOVED	RS	18-05-21	NW	18-05-21
F	AMENDED TO SUIT CLIENT COMMENTS	RS	14-10-20	NW	14-10-20
E	CLIENT NAME AMENDED	RS	07-10-20	NW	07-10-20
D	WINDOWS ADDED	RS	21-10-20	NW	21-10-20
B	TOP FLOOR AMENDED	RS	18-09-20	NW	24-09-20
A	STUDIOS ADDED	RS	22-09-20	NW	22-09-20

REVISIONS



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CLIENT
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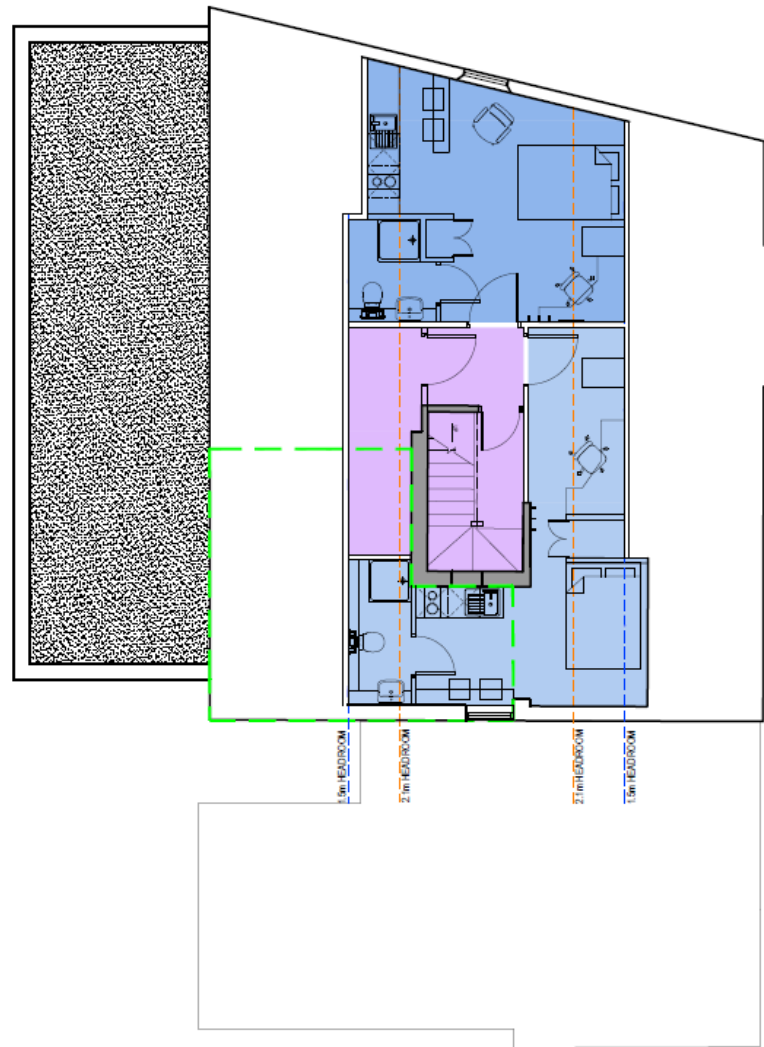
PROJECT
 Townend Street
 York

DRAWING TITLE
 First Floor Plan
 Proposed

Scale	Drawn by	Checked by
1:100 @A3	RS	20-05-20
	NW	07-10-19

Drawing No.
 19023-P211




Revision
 J



SECOND FLOOR PLAN PROPOSED

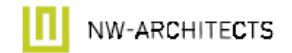
CALE BAR - 1:100



- KEY:
-  NEW WALLS
 -  EXISTING WALLS RETAINED
 -  AREA OF NEW BUILD

REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
G	SCHEMATIC APPROVED	RS	16/05/21	NW	19/05/21
F	APPROVED TO SUB CLIENT COMMENTS	RS	14/10/21	NW	14/10/21
E	CLIENT APPROVED	RS	07/10/20	NW	07/10/20
D	WINDOWS APPROVED	RS	01/10/20	NW	01/10/20
C	TOP FLOOR APPROVED	RS	10/08/20	NW	10/08/20
B	TOP FLOOR APPROVED	RS	04/08/20	NW	04/08/20
A	STUDIOS APPROVED	RS	03/08/20	NW	03/08/20

REVISIONS



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CLIENT
 Alfa Homes Ltd

PROJECT
 Townend Street
 York

DRAWING TITLE
 Second Floor Plan
 Proposed

Scale	Drawn By	Drawn Date
1:100 @A3	RS	28-05-20
	Checked By	07-10-19

Drawing No: 19023-P212 Revision: G

COMMITTEE REPORT

Date: 12 December 2023 **Ward:** Fishergate
Team: East Area **Parish:** Fishergate Planning Panel

Reference: 23/00798/FUL
Application at: 126 Fulford Road York YO10 4BE
For: Erection of 1no. attached dwelling to side
By: Mr Stephen Hazell
Application Type: Full Application
Target Date: 11 July 2023
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSALThe Site

1.1 The application site is 126 Fulford Road which is in a primarily residential area around 450m south of the city walls. The north western boundary of the site abuts Grange Garth. The site is broadly triangular in area. It is around 17m wide at its widest point and 16m deep. The site surface is mainly tarmac with a small area of grass at the eastern and northern edges. It was previously used as a car parking area in association with the Priory Hotel which occupied the buildings to the south. The buildings that formed the hotel are currently in the process of being converted/re-modelled to 3 dwellings with car parking provided to their rear (planning permission 21/02237/FUL). One dwelling is within the former off-shoot.

1.2 The site is within Flood Zone 1 (low risk). It is located within Fulford Road Conservation Area. The Gatekeeper's Lodge immediately to the north of Grange Garth is Grade II Listed.

The Proposed Scheme

1.3 It is proposed to erect a two storey dwelling. It has two bedrooms within the first floor with a small study indicated in the roof space. The property has a semi-circular north elevation and a two storey bay to the front which would visually take the form of a dormer at first floor height. The ground floor elevation has a high

internal height reflecting the proportions of the adjacent existing building. The property would have a small garden to the front and sides of the building. An internal store is located within the rear of the building. This would provide space for cycle parking and general storage, though would not allow garaging for a car and no car parking is proposed within the site.

1.4 The current application has been subject to several revisions since it was submitted. This includes a reduction in the eaves and ridge height of the proposed building by around 3.4 metres, the removal of any indication of use of the store as a garage (with removal of associated vehicular access) and the retention of a wider visibility splay across the front garden.

Planning Committee call-in

1.5 The application is brought to Committee at the request of Cllr. S. Wilson. The reason given is local residents' concerns regarding the appropriateness of the building in the Conservation Area, though she also states that residents feel the reduction in size of the dwelling is a positive move.

2.0 POLICY CONTEXT

National Planning Policy Framework

2.1. The National Planning Policy Framework (NPPF) sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in the determination of planning applications. Key chapters and sections of the NPPF relevant to this application are as following:

Chapter 2 – Achieving sustainable development

Chapter 5 - Delivering a sufficient supply of homes.

Chapter 4 – Decision making

Chapter 9 – Promoting healthy and safe communities

Chapter 12 – Achieving well designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

PUBLICATION DRAFT LOCAL PLAN (DLP 2018)

2.2 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in early 2024.

2.3 The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas.

D5 – Listed Buildings

H2 - Density of Residential Development

GI4 – Trees and Hedgerows

ENV3 – Land Contamination

ENV5 – Sustainable Drainage

CC2 Sustainable Design and Construction of New Development

WM1 – Sustainable Waste Management

T1 – Sustainable Access

3.0 CONSULTATIONS

3.1. Consultation took place in regard to the scheme as originally submitted and the later amendment showing a lower building and removal of on-site car parking.

INTERNAL CONSULTEES

Public Protection

3.2 No objections. The ground investigation includes the proposed site (known as Area 2 in the report) therefore appropriate ground investigation works have been completed. There were some elevated levels of contaminants found (lead, arsenic and PAHs) therefore the conditions regarding necessary remediation works are necessary. Also suggest a condition regarding construction impacts on neighbours and also noise insulation of the building.

Lead Local Flood Authority

3.3 The submitted Existing and Proposed Site Block Plan does not show foul and surface water drainage proposals both on and off site. Foul water must be in accordance with the requirements of Yorkshire Water and surface water in accordance with our Sustainable Drainage Systems Guidance for Developers and the hierarchy of surface water disposal.

Highway Network Management

3.4 No objections subject to provision/retention of suitable visibility splays and the removal of the dropped crossing given it will be redundant in a scheme without off-street car parking.

Design, Conservation and Sustainable Development (City Archaeologist)

3.5 An archaeological evaluation is required. This is due to the undeveloped nature of the site, the size of the proposal and its location in proximity to other known archaeological features. An evaluation rather than a watching brief may be a better way to check whether any resource exists on this plot. This method will allow any resource to be identified and excavated where appropriate ahead of construction starting. This can be covered by a pre-commencement condition.

Design, Conservation and Sustainable Development (Conservation Officer)

3.6 No objections subject to the revised drawings and re-location of the arch. Conditions are needed for detailing and materials to secure a quality of build that lives up to the ornamental design. Should also consider removal of permitted development rights for changes to joinery, surfacing and garden buildings.

EXTERNAL CONSULTEES

Yorkshire Water

3.7 No comments received.

Fishergate Planning Panel

3.8 No comments received.

York Conservation Area Advisory Panel (Updated comments following revision):

3.9 Object – Despite the reduction in scale the building is over-assertive and an uncomfortable juxtaposition with the listed lodge. It lacks the potential to bring delight.

4.0 REPRESENTATIONS

4.1. Publicity in April 2023 and re-notification in July 2023 regarding the scheme. The main changes introduced in July included lowering the height of the building and also the removal of car parking from the application site. Because of the significant difference between the original and revised schemes comments on each are listed separately:

April 2023 Publicity

4.2 Four objections and a general comment raising the following issues:

- Building is overbearing on adjacent Lodge and doesn't reflect local character.
- The arch should not be the boundary wall.
- The garden to the front included public land that used to contain a bench.
- Should consider reducing the width of the entrance to Grange Garth and other ways to slow traffic.
- The proposal will impact on road visibility at the junction.
- It is further piecemeal development.
- Will overlook the lodge.
- Concerns regarding the compatibility of development with archaeology.
- The removal of the tarmac parking area and planting will enhance the corner.

4.3 Two letters of support raising the following issues:

- The current site is an eyesore and the waste of a brownfield site.
- The proposed house will improve the appearance of the corner/gable wall.
- The seat was removed 30 years ago as it led to anti-social behaviour.
- There will be a fraction of the traffic associated with the use compared to the hotel that has closed.

Fishergate, Fulford and Heslington Local History Society.

4.4 Do not oppose building on the plot but the proposed building and associated gable is too large. It will also be overbearing in respect to the listed lodge. The proposed arch location is inappropriate. Believe the strip of land and site of former bench is public land.

July 2023 Re-notification

4.5 Three letters of objection were received setting out the following concerns:

- The arch should not be the boundary wall. Should be part of the building to ensure it remains upright.
- The arch looks out of place in front garden.
- The garden to the front included public land that used to contain a bench.
- Proposed bay and conical roof is out of character with the area.
- The proposal will impact on road visibility at the junction. Area is well used by children. Planting and the arch will be harmful to visibility.
- Was the ginnel at the site a public right of way? (Case officer comment – It is a dead end route. It was discussed with the Council’s Public Right of Way team and they considered it very unlikely to ever have been a public right of way). confirmed it is private)
- passers-by who do not live in the neighbourhood and who, quite understandably, do not take local issues into account should be given little weight.

4.6 Three letters of support were received making the following points:

- Clever use of space that doesn’t detract from the elegance of the host building.
- It uses sympathetic materials.
- Provides much needed housing.
- Relates well to the adjacent listed Lodge.
- Will have good quality soft and hard landscaping.
- Replacing car parking with a house must tick sustainability and policy objectives.
- A welcome addition to the street.

Fishergate, Fulford and Heslington Local History Society.

4.7 Do not oppose to building on the plot but still consider the development is out of character with the conservation area. We request that the Society is consulted when consideration is being given to the location of the re-erected Harper Theatre Arch.

5.0 APPRAISAL

5.1 Key Issues

- Principle of the Proposed Development
- Impact on Heritage Assets
- Archaeology
- Impact on neighbouring dwellings.
- Highway and parking implications.
- Sustainability.
- Quality of accommodation
- Habitats and Ecology
- Flood Risk
- Open Space

POLICY CONTEXT

5.2 The National Planning Policy Framework (NPPF) indicates a presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The purpose of the planning system is to contribute to the achievement of sustainable development. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. Paragraph 69 states that small sites can make an important contribution to meeting the housing requirements of an area and supports the development of windfall sites within existing settlements. Issues relating to impacts on heritage assets are contained in the section discussing that issue.

Publication Draft Local Plan 2018

5.3 Policy D4 sets out the criteria that will be used to assess proposals in conservation areas including the need to preserve or enhance character and appearance. Policy DP2 'Sustainable Development' emphasises the importance of

providing good quality homes. Policy D1 'Placemaking' is an overarching policy that seeks high quality development and the sustainable use of buildings.

PRINCIPLE OF THE PROPOSED DEVELOPMENT

5.4 Paragraph 60 of the NPPF seeks to significantly boost the supply of homes. Chapter 9 of the NPPF promotes sustainable transport. Chapter 11 of the NPPF seeks to make effective use of land.

5.5 Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 119 of the NPPF). Planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land (paragraph 120(c) of the NPPF). The proposals are for redevelopment of what falls within the definition of brownfield land (sometimes referred to as previously developed land).

5.6 The site is within a sustainable location, close to public transport facilities and local amenities. The city has demonstrable housing need. In principle residential re-use of the site is appropriate when applying the NPPF, in particular sections 5, 9 and 11 which relate to housing, sustainable transport and effective use of land.

IMPACT ON HERITAGE ASSETS

5.7 Section 16 of the NPPF, conserving and enhancing the historic environment, advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

5.8 Section 72 of the Planning (Conservation Areas & Listed Buildings) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. This is supported by Policy D4 of the Draft Local Plan which seeks to protect Conservation Areas and their setting.

5.9 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in determining planning applications for development which would

affect a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.10 Policy D1 of the Draft Local Plan supports development where they improve poor existing urban environments. Design considerations include the urban structure, grain, density, massing, spacing, scale and appearance.

5.11 Policy D11 of the Draft Local Plan supports the extension and alteration to existing buildings subject to ensuring the design responds positively to its immediate architectural context and sustains the significance of the heritage asset and its setting.

5.12 Policy D5 of the Draft Local Plan sets out the importance of preserving or enhancing the setting of Listed Buildings.

5.13 The site is within Fulford Road Conservation Area. The 2009 appraisal that related to the extension to the conservation area to incorporate this site makes reference to the good quality stone detailing of the (former) hotel. It is defined as a building that makes a positive contribution to the area. The property opposite the side of the property (2 Grange Garth) is listed.

5.14 The scale of the proposed building has been much reduced during the course of the assessment. It is noted that public comments on the application have differing views regarding its merits. The Council's Conservation Officer has been involved in negotiations and considers the scale and design is sensitive to the location and adjacent Lodge and will enhance the corner site. The eaves height of the proposed building are relatively low and open views of the lodge will remain across the landscaped garden. The existing tarmac area previously used as a hotel car park (and its use as a car park) detracts from the appearance of the area. It is considered that subject to conditions relating to details and materials the proposal would not detract from the character of the conservation area or setting of the listed building. It is considered it conforms to national and local policy and legislation regarding such matters.

5.15 It is important that care is taken in regard to the landscaping of the garden boundaries. It is not considered that permitted development rights need to be removed in respect of outbuildings or extensions as the constraints of the site and

location within a conservation area severely restricts the ability to erect permanent structures without requiring planning permission.

ARCHAEOLOGY

5.16 Draft Local Plan Policy D6 relates to archaeology. Development must not result in harm to the significances of the site or its setting. It should be designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk.

5.17 Where harm to archaeological deposits is unavoidable, detailed mitigation measures must be agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

5.18 The below-ground impact of the proposal will relate to foundations and drainage. Any archaeological resource that exists on the site is likely to relate to Romano-British or earlier features relating to land use. These features are likely to be at relatively shallow levels and will be cut into the natural levels.

5.19 An archaeological evaluation is required, which the City Archaeologist is satisfied can be covered by condition.

IMPACT ON NEIGHBOURING DWELLINGS

5.20 NPPF section 12 sets out policy in respect of design, paragraph 130(f) states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 15 refers to noise and its potential impact on amenity. Policy ENV2 of the Draft Local Plan seeks to ensure development does not unacceptably harm the amenities of neighbours and future occupants.

5.21 The proposed dwelling will abut the two bedroom house being created in the rear offshoot of 126 Fulford Road. It is tight to the slender property, however, it is noted that when the application was submitted it was within the same ownership as the current site and any future occupiers will be aware of the proposed relationship. The home in the offshoot has main openings in two elevations and its very narrow form is such that natural light levels within spaces will remain acceptable. The

proposed first floor opening abutting the garden in the off-shoot dwelling would have frosted glass. This is shown on the elevations and can also be conditioned.

5.22 The ground floor openings of the proposed house would be around 12m from the Lodge across Grange Garth and the first floor opening around 14m. Most of the building will be viewed against the larger gable of the 'host' property. It is considered that the frontage relationship is acceptable within an inner urban area. The Lodge will retain a south-easterly outlook past the new home out towards Fulford Road.

HIGHWAYS AND PARKING

5.23 The NPPF requires development be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

5.24 Policy T1 of the Draft Local Plan seeks to ensure development proposals demonstrate safe and appropriate access. Development must provide sufficient convenient, secure and covered cycle storage. Policy T8 relates to demand management and improving the overall flow of traffic in and around the City Centre.

5.25 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 (paragraph 111 of the NPPF).

5.26 Policy WM1 of the Draft Local Plan relates to waste management which promotes the integration of facilities for waste prevention, recycling and recovery in association with the planning of new housing development.

5.27 The car park was associated with the hotel and is surplus to requirements. The site will contain no off-street car parking but will provide good quality cycle parking in the proposed large store. The removal of parking and vehicle access is beneficial in regard to highway safety. Future occupiers will be able to seek permits for on-street car parking. Revisions have been created showing the retention of a suitable visibility splay on the corner outside the boundary of the front garden. It can

be conditioned that this remains free from any walls or vegetation over 0.6m in height.

5.28 The area of land at the front of the property adjacent to Fulford Road that was outside the fenced garden is not indicated on Council records as being adopted Highway. The applicant has submitted a title plan indicating the land is within their ownership. The land was unkempt and served no positive purpose in regard to the appearance of the conservation area. It is partly retained as the visibility splay.

SUSTAINABILITY

5.29 The modified wording (January 2023) of draft 2018 Local Plan Policy CC2 'Sustainable Design and Construction of New Development' states developments should achieve high standards of sustainable design and construction by demonstrating: energy and carbon dioxide savings in accordance with the energy hierarchy; water efficiency; and consideration of good practise adaptation principles for climate resilience. All new residential development of 1 or more should achieve: on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19% should come from energy efficiency measures; and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations). Pending anticipated changes to Building Regulations, developments should further aim to achieve up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) unless it is demonstrated that such reductions would not be feasible or viable. Any higher level of reductions required through Building Regulations or other legislation will supersede the above requirements.

5.30 The proposal is within an established residential area and has storage for cycles and recycling etc. Sustainable construction techniques are addressed by condition.

QUALITY OF ACCOMMODATION

5.31 NPPF section 12 in respect of design advises decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 15 refers to noise and its potential impact on amenity. Policy ENV2 of the Draft Local Plan seeks to ensure development does not unacceptably harm the amenities of existing and

future occupants on the site occupiers and existing in neighbouring communities. Policy ENV3 relates to land contamination.

5.32 The property will provide generous and characterful accommodation in an accessible location. Although the proposed garden is small it is capable of meeting the occupants' needs for sitting out. Public Protection have requested details in regard to the acoustic qualities of the home given it is located on a main route into the city centre. It is considered issues regarding glazing quality and ventilation can be considered through the condition details regarding materials and sustainable construction. As the building contains large areas of glass care will need to be taken to avoid over-heating, however, it is noted that the largest expanses of glass are on the northern elevations.

HABITAT AND ECOLOGY

5.33 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of the functions, to the purpose of conserving biodiversity. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

5.34 The existing site is largely a tarmac surface. The introduction of greenery and hedges will enhance its value for biodiversity.

FLOOD RISK

5.35 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Policy ENV5 requires sustainable drainage and states that for all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate (i.e. 30% reduction in existing runoff), unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff.

5.36 Much of the site is currently hard surfaced and in the context it is considered that issues relating to designing surface water run-off can be dealt with by condition without concern that the development will increase run-off rates from the site.

INFRASTRUCTURE AND OTHER DEVELOPER CONTRIBUTIONS

5.37 Policy GI6 of the Draft Local Plan states “Residential development proposals should contribute to the provision of open space for recreation and amenity in accordance with current local standards and using the Council’s up to date open space assessment. The successful integration of open space into a proposed development should be considered early in the design process.”

5.38 The site is unable to accommodate on-site provision therefore an off-site financial contribution would be required. There is a deficit in the ward in respect to outdoor sport, children’s play and informal amenity space. The contribution calculation is 1x2-bed = £1,254

5.39 The contribution could be used towards improvements at Cemetery Rd play area, Low Moor allotments and supporting community access to tennis at Rowntree Park.

5.40 This contribution can be secured through the provisions of a S106 Legal Agreement in the event the application is approved. The proposed planning obligations would meet the statutory tests set out in Regulation 122(2) of The Community Infrastructure Levy Regulations 2010 (as amended).

6.0 CONCLUSION

6.1 It is considered that the proposal would make efficient use of the former hotel site which currently detracts from the appearance of the Conservation Area. The proposed property is relatively bold, however, the scale and design relates well to the host property and it creates a feature of the end/corner elevation. The height drops towards the listed lodge. It is not considered to detract from the character or appearance of the Conservation Area or setting of the listed building.

6.2 It is not considered it would cause unacceptable harm to neighbours’ living conditions and provides suitable cycle parking. The accessible location is such that

the property is not reliant on use of a car, though occupiers can seek to obtain on-street parking permits.

6.3 The proposal accords with national planning policy and draft local policy therefore is recommended for approval subject to conditions and subject to the signing of a legal agreement to secure a financial contribution towards improvements to nearby off-site play and amenity space.

7.0 RECOMMENDATION:

That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:

a. The completion of a Section 106 Agreement to secure the following planning obligations:

Open Space and sport contribution: £1,254 towards amenity, play space provision and outdoor sport.

ii The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

iii The Head of Planning and Development Services be given delegated authority to determine the final detail of the planning conditions

Conditions

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in strict accordance with the following plans:

Location plan, 2301-0c received on 20 April 2023.

Proposed rear elevation 2301 16B received on 14 July 2023.

Proposed roof plan 2301 16B received on 14 July 2023.

Proposed first floor plan 2301 11C received on 14 July 2023.

Proposed attic plan 2301 12C received on 14 July 2023.

Proposed side elevation 2301 15E received on 02 October 2023.

Proposed ground floor plan 2301 10F received on 02 October 2023.

Proposed front elevation 2301 14C received on 02 October 2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used, including for windows and doors, gutters, slates, and stone dressings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices sample materials should be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance within the Conservation Area.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

5 Notwithstanding the approved drawings details of all means of enclosure and gates or gateways on the site or its boundaries shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences and shall thereafter be provided and retained in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the conservation area and highway safety.

6 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level and the works shall be carried out in accordance with the approved details.

- o Exterior doors
- o Windows
- o Surround and frame to front door
- o Canopy over front door
- o Dormer window structure
- o Eaves and guttering construction

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

7 Notwithstanding the approved details, a scheme detailing the proposed hard-landscaping / surfacing details for the site shall be submitted to and approved in writing by the Local Planning Authority prior to any groundworks. The scheme shall be fully implemented in accordance with the approved details prior to first occupation.

Reason: In the interests of amenity and local distinctiveness and the character and appearance of the conservation area, in accordance with NPPF sections 12 and 16 (note it is expected the setts along the access road will be retained).

8 Prior to the development coming into use the sight lines shown on the approved ground floor plan shall be provided free of all obstructions which exceed the height of the adjacent carriageway by more than 0.6m and shall thereafter be so maintained.

Reason: In the interests of road safety.

9 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site including the sustainable management of surface water run off.

10 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-5 stages of work. Each stage shall be completed and agreed by the Local Planning Authority (LPA) before it can be approved.

A) No archaeological evaluation or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is

required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

11 The approved dwelling shall achieve a reduction in carbon emissions of at least 31% compared to the target emission rate as required under Part L of the Building Regulations 2013 and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Should the dwelling not achieve a reduction in carbon emissions of 75%, compared to the target emission rate as required under Part L of the Building Regulations 2013, prior to construction a statement to demonstrate that such reductions would not be feasible or viable shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Draft Local Plan 2018.

12 Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.

13 Prior to first occupation or use, remediation works shall be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

14 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

15 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 1 (or any Order revoking and re-enacting that Order with or without modification) the rear first floor window shall at all times be obscure glazed and fixed shut up to a height of 1.7m above the internal floor level.

Reason: In the interests of amenity, to ensure no unacceptable overlooking of existing houses and gardens surrounding the building. As such the Local Planning Authority considers that it should exercise control over any future windows which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

16 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 2 (class A) (or any Order revoking and re-enacting that Order with or without modification) no walls or fences shall be erected at the site other than those approved by this consent and the subsequent discharge of conditions.

Reason: In the interests of the visual amenities of the conservation area and highway safety.

17 The large ground floor store shown on the approved plans shall be retained with the existing external access and not be used for the parking of a car or van and shall not be used for any other purpose than storage and the parking of cycles etc.

Reason: To ensure that the property retains adequate space for cycle storage and general storage without need to erect a shed in the exposed garden.

18 Notwithstanding the provisions of The Town and Country Planning (General

Permitted Development) (England) Order 2015, Schedule 2 Part 1 (or any Order revoking and re-enacting that Order with or without modification) there shall be no windows inserted in the dwelling other than those shown on the approved plans.

Reason: In the interests of amenity, to ensure no overlooking of existing houses and gardens surrounding the building. As such the Local Planning Authority considers that it should exercise control over any future windows which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

19 The approved dwelling shall not be occupied until all vehicular crossings providing access to the site have been removed (or if deemed acceptable reduced in scale) in accordance with details approved by the Local Planning Authority which indicate the reinstatement of the footpath and kerb to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Asked for retention of visibility splay, reduction in scale of building and removal of car parking from the site.

2. DEMOLITION AND CONSTRUCTION

All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

- The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-

2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

- Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link.

https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites

- All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

- There shall be no bonfires on the site.

- The visibility splay shown on the approved drawings shall remain free from any storage or use that impacts on visibility over 60cm in height.

3. PLANNING OBLIGATION

The developer should note the existence of a s106 agreement relating to this permission.

4. DRAINAGE REQUIREMENTS – CONDITION 9

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDS). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuDS. Please note, the testing must be site specific (BGS data will not be accepted), carried out prior to determination of the application and the testing cannot be conditioned.

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

City of York Council's Flood Risk Management Team should witness the BRE

Digest 365 test.

If SuDS methods can be proven to be unsuitable then In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas during the 1 in 1 year event). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100-year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. Please note, the CCTV drainage survey must be carried out prior to determination of the application and all hard paved areas should not be assumed to connect. Where making use of an existing piped connection an assessment of its existing capacity shall be carried out and the 70% applied to this whichever is the lower rate.

If existing connected impermeable areas not proven, then Greenfield sites are to limit the discharge rate to the pre developed run off rate. The predevelopment run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size) during a 1 in 1 year event.

Where calculated runoff rates are not available the widely used 1.4l/s/ha rate can be used as a proxy, however, if the developer can demonstrate that the existing site discharges more than 1.4l/s/ha a higher existing runoff rate may be agreed and used as the discharge limit for the proposed development. If discharge to public sewer is required, and all alternatives have been discounted, the receiving public sewer may not have adequate capacity and it is recommend discussing discharge rate with Yorkshire Water Services Ltd at an early stage.

In some instances, design flows from minor developments may be so small that the restriction of flows may be difficult to achieve. However, through careful selection of source control or SuDS techniques it should be possible to manage or restrict flows from the site to a minimum 0.5 l/sec for individual residential properties, please discuss any design issues with the City of York Council Flood Risk Management Team.

Surface water shall not be connected to any foul / combined sewer, if a suitable watercourse/surface water sewer is available. Suitability of the watercourse/surface water sewer must be proven.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme shall be provided.

Contact details:

Case Officer: Neil Massey

Tel No: 01904 551352

126 Fulford Road, York YO10 4BE

23/00798/FUL



Scale : 1:1277

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Organisation	City of York Council
Department	Directorate of Place
Comments	Site Location Plan
Date	01 December 2023
SLA Number	Not Set

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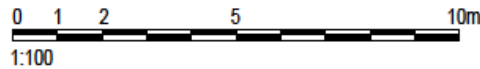
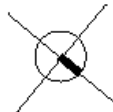
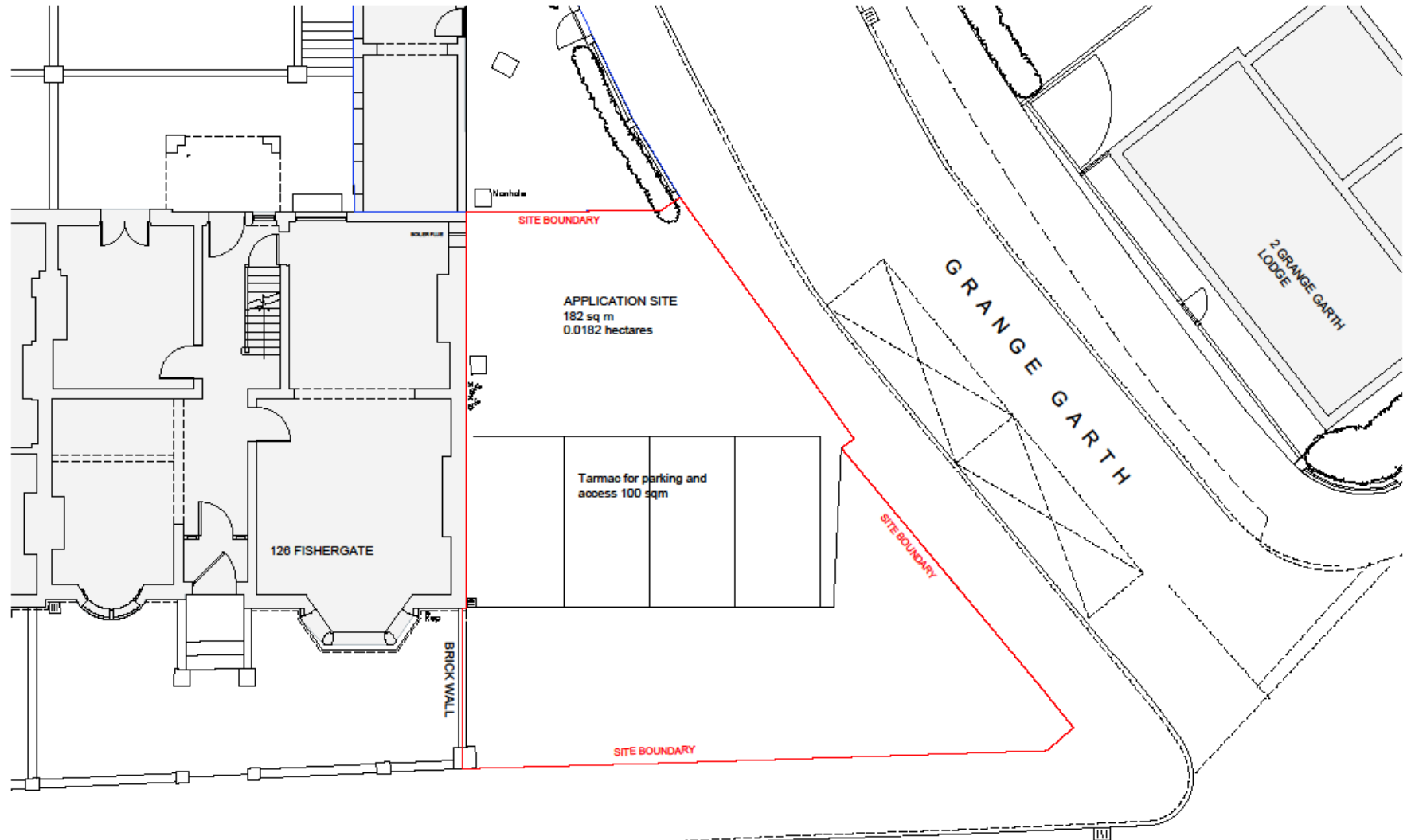


Planning B Committee

23/00798/FUL

126 Fulford Road

Existing site plan



1:100

FULFORD ROAD

CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A3	Jan 2023
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
EXISTING TOPO SITE PLAN	2301-01	gabyhiggsarchitects@gmail.com 07590 990902	

PLANNING

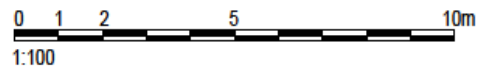
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Proposed site and ground floor plan



FULFORD ROAD

PLANNING

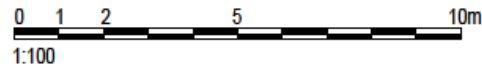
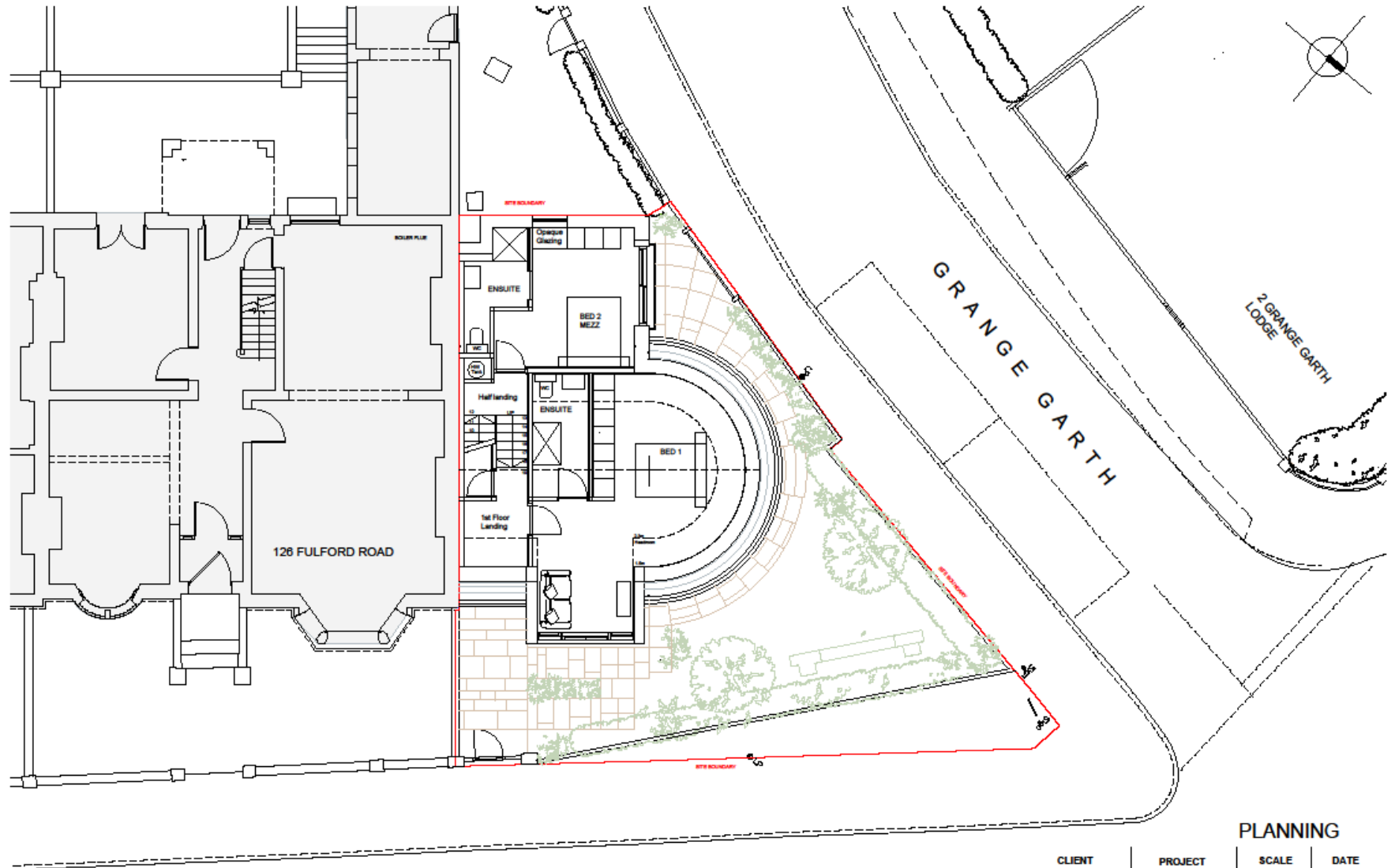


- Rev A - 09.06.23 amendments following discussion with CoYc planning and conservation officers
- Rev C - Utility Recycling, Refuse and Cycle storage instead of car space in garage
- Rev D - Arch position tbc on site, brick walls and metals railings/gates to Grange Garth boundary omitted. Boundary to have picket fence, hedge and timber gates instead. Cycle store/utility space with reduced width opening and traditional timber coach doors. Vehicular movements out of Grange Garth into New Walk and from New Walk to Fulford Road indicated as existing and unchanged by the proposals.
- Rev E - Set back splay for highways visibility. Shed door to be single leaf for cycle access and storage
- Rev F - Entrance gate lowered to 1m, Turning manoeuvres as existing removed.
- Gate off Grange Garth reduced in width for cycle access off Grange Garth

CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A3	March 23
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
PROPOSED GD PLAN	2301 10F	gabyhiggsarchitects@gmail.com 07260 990902	

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Proposed first floor plan

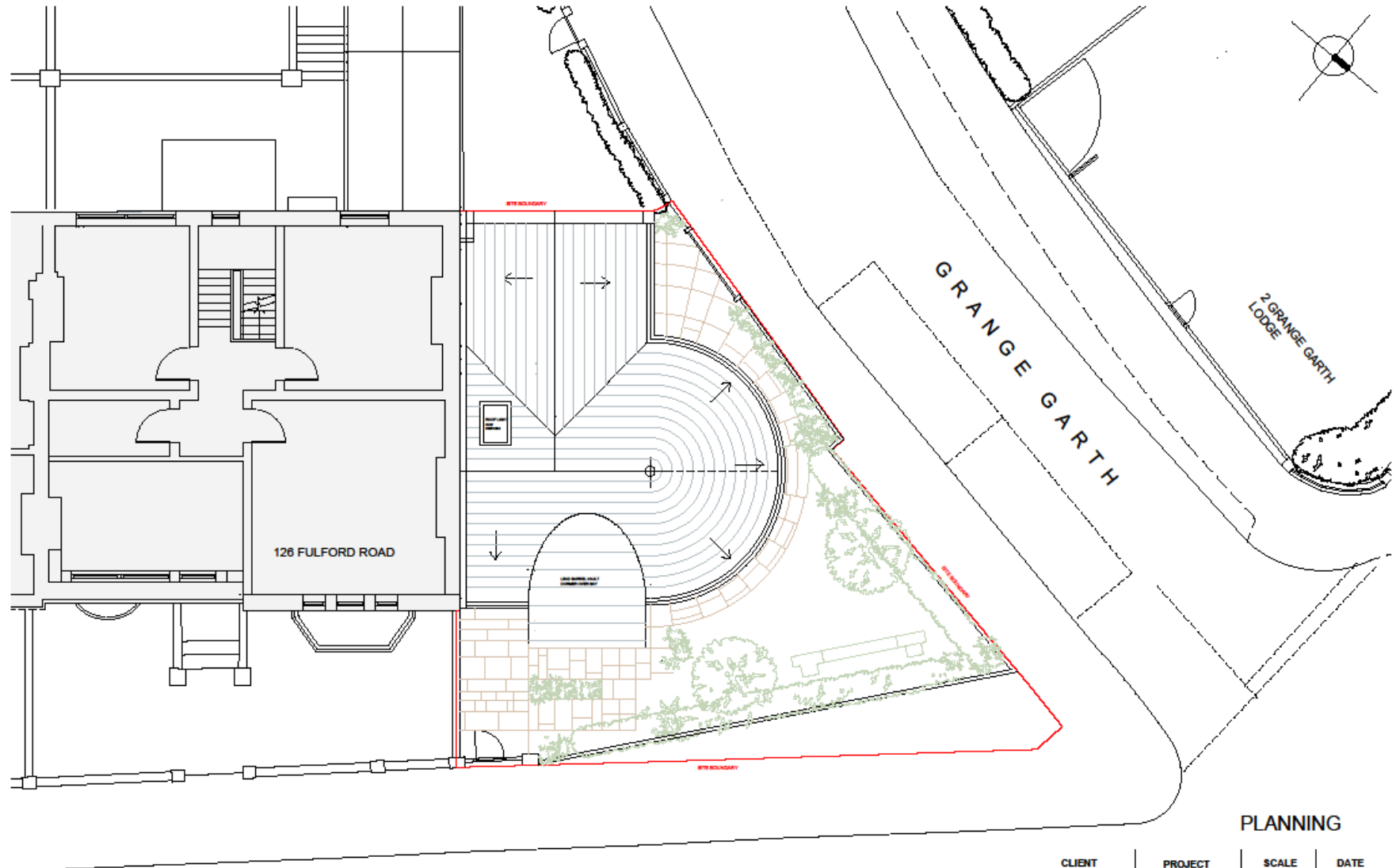


Rev A - 09.06.23 amendments following discussion with CoYc planning and conservation officers
 Rev B - Wall, piers and metal gates removed from Grange Garth boundary. Picket fence/hedge with 5-bar timber gate added. Smaller window and Juliette and opaque glazing to rear window in Bed 2.
 Rev C - Set back splay for highways visibility.

PLANNING			
CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A3	Jan 2023
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
PROPOSED 1ST PLAN	2301 11C	gabyhiggsarchitects@gmail.com 07590 990902	

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Proposed roof plan



Rev A - 09.06.23 amendments following discussion with CoYc planning and conservation officers
 Rev B - Wall, piers and metal gates removed from Grange Garth boundary. Picket fence/hedge with 5-bar timber gate added.
 Rev C - Set back splay for highways visibility

FULFORD ROAD

PLANNING

CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A3	Jan 2023
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
PROPOSED ROOF PLAN	2301 13C	gabyhiggscarthfoto@gmail.com 07690 666902	

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Existing and proposed front elevations



EXISTING FRONT ELEVATION - NORTH EAST TO FULFORD ROAD

Rev A - 09.06.23 amendments following discussion with CoYc planning and conservation officers
 Rev B - Relocated stone arch position to be confirmed, timber 5 bar gate added as existing to Grange Garth
 Rev C - Front gate reduced in height for better sightlines

PLANNING

1:100

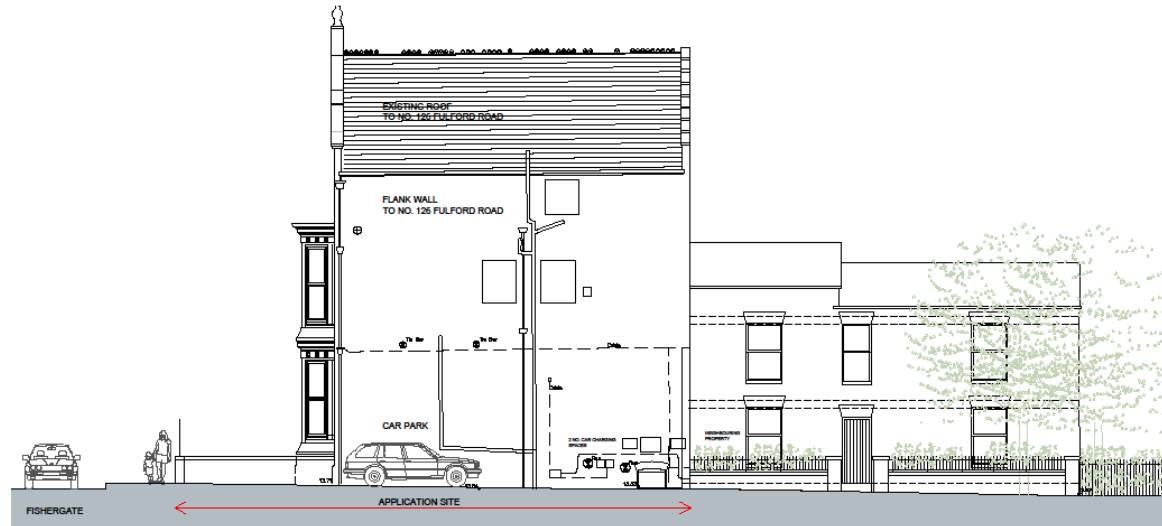
CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A2	March 23
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
EX and PR FRONT ELEVATION	2301-14 C	gabyhiggscare@bt.com 0780 999802	

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Existing and proposed side elevations

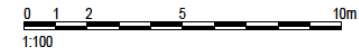


PROPOSED SIDE ELEVATION - NORTH WEST TO GRANGE GARTH



EXISTING SIDE ELEVATION - NORTH WEST TO GRANGE GARTH

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Rev A - 09.06.23 amendments following discussion with CoYo planning and conservation officers
 Rev B - Utility Recycling, Refuse and Cycle storage instead of car space in garage
 Rev C - Wall, piers and metal gates removed from Grange Garth boundary. Picket fence/hedge with 5-bar timber gate added. Reduced width to openings for cycle/utility store and corresponding bedroom windows/juliette over.
 Rev D - Single leaf timber door to coyle store with fixed glass panel for natural daylight
 Rev E - Timber gate to be single leaf for level cycle access off Grange Garth

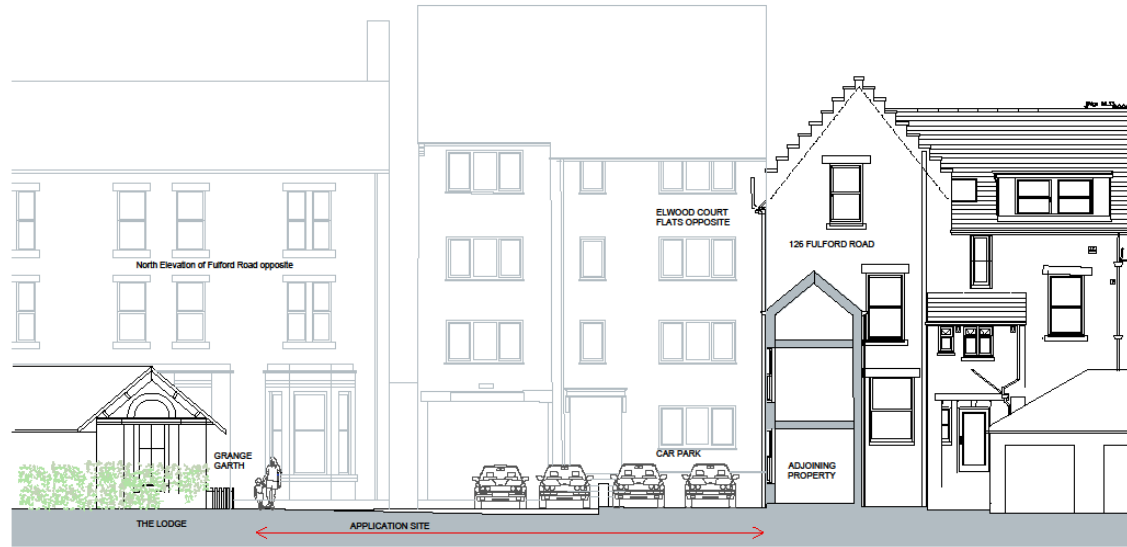
PLANNING

CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORY HOTEL	1:100 @ A2	March 23
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
EX & PR SIDE ELEVATION	2301-15 E	gabyhiggsarchitects@gmail.com 07810 810022	

Existing and proposed rear elevations

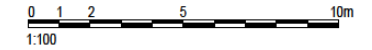


PROPOSED REAR ELEVATION



EXISTING REAR ELEVATION

Rev A - 09.06.23 amendments following discussion with CoYc planning and conservation officers
 Rev B - Wall, piers and metal gates removed from Grange Garth boundary. Picket fence/hedge with 5-bar timber gate added.



PLANNING

CLIENT	PROJECT	SCALE	DATE
HAZELL	PRIORITY HOTEL	1:100 @ A2	March 23
DRAWING	DWG. No.	GABY HIGGS ARCHITECTS	
EX & PR REAR ELEVATION	2301-10B	gabyhiggsarchitects@gmail.com 07590 990022	

COMMITTEE REPORT

Date: 12 December 2023 **Ward:** Haxby And Wigginton
Team: West Area **Parish:** Haxby Town Council

Reference: 23/01400/FUL
Application at: 25 Orchard Paddock Haxby York YO32 3DW
For: Single storey side and rear extension and dormer to rear following removal of garage
By: Mr E Pearson
Application Type: Full Application
Target Date: 16 November 2023
Recommendation: Householder Approval

1.0 PROPOSAL

1.1 This application seeks permission for the erection of a single storey extension to the side and rear of a single storey semi-detached dwelling in Haxby, along with the erection of 1no. dormer to the rear roof slope, following the removal of an existing garage.

1.2 The application has been brought to Planning Committee B under 2.2(e) of the Scheme of Delegation because the applicant is a serving Councillor.

Planning History

1.3 Permission was granted at Committee for a similar scheme, following amendments, in 2021 (20/02256/FUL). This permission has not been implemented, and the latest submission represents an update to the previously approved scheme.

2.0 POLICY CONTEXTNational Planning Policy Framework

2.1 The National Planning Policy Framework (NPPF) sets out the Government's overarching planning policies, and at its heart is a presumption in favour of sustainable development. Paragraph 130 (NPPF Chapter 12, 'Achieving Well-Designed Places') states that planning policies and decisions should ensure that

developments will achieve a number of aims, including that they are sympathetic to local character, surrounding built environment and their landscape setting. The NPPF also places great importance on good design. Paragraph 134 says that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Draft Local Plan (2018)

2.2 The City of York Draft Local Plan was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in 2024. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.3 Policy D11 (Extensions and Alterations to Existing Buildings) states that proposals to extend, alter or add to existing buildings will be supported where the design responds positively to its immediate architectural context, local character and history in terms of the use of materials, detailing, scale, proportion, landscape and space between buildings. Proposals should also sustain the significance of a heritage asset, positively contribute to the site's setting, protect the amenity of current and neighbouring occupiers, contribute to the function of the area and protect and incorporate trees.

Supplementary Planning Document 'House Extensions and Alterations' (2012)

2.4 The Supplementary Planning Document (SPD) covering house extensions and alterations, dated December 2012 and referred to in Draft Local Plan Policy D11, provides guidance on all types on domestic types of development. The SPD provides guidance relating to such issues as privacy, overshadowing, oppressiveness and general amenity as well as advice which is specific to the design and size of particular types of extensions, alterations and detached buildings. A basic principle of this guidance is that any extension should normally be in keeping with the appearance, scale, design and character of both the existing dwelling and the road/street-scene it is located on. Furthermore, proposals should not unduly affect neighbouring amenity with particular regard to privacy, overshadowing and loss of light, over-dominance and loss of outlook.

3.0 CONSULTATIONS

Haxby Town Council

3.1 No comments received.

4.0 REPRESENTATIONS

Neighbour consultation

4.1 No comments received.

5.0 APPRAISAL

Key Issues

5.1 Impact on the dwelling and character of the surrounding area; impact on neighbour amenity; Access/waste and cycle storage.

Comparison with previous scheme

5.2 A similar scheme was granted permission at Committee on 11 June 2021. The approved scheme involved more significant massing to the side of the dwelling, with the approved side extension sitting flush with the front elevation of the house, and with a side dormer incorporated to the hipped roofslope above.

5.3 The latest submission omits the approved side extension and side roof enlargement in favour of a hip-to-gable roof extension with large rear dormer. The newly proposed rear and side extension would be set back significantly from the front of the house, sitting towards the furthest rear extent of the side elevation of the house.

Impact on the dwelling and character of the surrounding area

5.4 The proposed side and rear extension would be of a reasonably subservient scale and sympathetic design and would lack public prominence given the proposed set back from the front elevation of the house, in accordance with paragraph 12.3 of the Council's SPD. Its visual impact when viewed from the street would be similar to

that of the existing detached garage, set to the rear of the house, which it would replace.

5.5 The proposed hip-to-gable roof extension, although a departure from the prevailing hipped roof form evident along the row of bungalows on the eastern side of the street, would not be considered to dominate the roof or cause the dwelling to appear unduly top-heavy or out of character with its neighbours, as per paragraphs 14.1 and 14.5 of the SPD. The proposed addition would be less visually impactful than the corresponding element which was previously granted permission. Whilst resulting in a loss of symmetry with the attached neighbouring bungalow, it is acknowledged that in isolation, a hip-to-gable conversion could be carried out without the need for planning permission, under permitted development rights.

5.6 The proposed rear dormer would be set below the main ridge, and would not be prominent in public views given its position on the house. When viewed from the street, the side of the dormer would not appear overly dominant in visual terms, and it is again acknowledged that this element, in isolation, would fall within permitted development limits.

5.7 The proposed roof light to the front roof slope would not have an undue impact on the visual amenity of the property.

5.8 When considered as a whole, the proposed additions to the dwelling would not constitute undue massing at the property and would not be considered to impact unduly on the visual amenity of the dwelling or wider street scene. The use of render above ground floor level to the side and rear elevations would not be considered to unduly dilute the overall brick-built character of the dwelling as a whole, and would provide a sympathetic visual separation between the existing bungalow and the proposed additions at roof level. The proposed solar panel arrays to the roof of the dormer and proposed rear offshoot would not be prominent when viewed from the street, and would not be considered to harm visual amenity in the location.

Impact on neighbour amenity

5.9 The proposed side and rear extension would not impact unduly on residential amenity. At the boundary with no.27, it would have a reasonable eaves height and would have no significant impact above that of the existing garage, being screened from the main neighbouring amenity space and rear-facing openings by the garage and rear offshoot in place at the adjacent property. The 3no. small side-facing

windows in the adjacent offshoot are likely that these serve non-habitable rooms, or larger rooms served by other larger openings, and the siting of the extension to the north of these would not be considered to have an undue impact on light or outlook, in accordance with paragraph 13.2 of the SPD.

5.10 The proposed addition would be set a good distance from the side boundary with no.23 and would not impact unduly on light or outlook to this side.

5.11 Paragraph 14.2 of the SPD states that regard should be given to the impact of dormers on neighbour privacy, outlook and light. The proposed rear dormer would incorporate a Juliet balcony and a smaller opening, both serving bedrooms. Neither of these would be considered to introduce unacceptable overlooking of any neighbouring property. There would be an adequate separation distance between the dormer and the neighbour to the rear, and any overlooking of the neighbour at no.23 would be mitigated by the screening provided by the existing conservatory at the side boundary, and would not be out-of-keeping with the levels of overlooking to be expected from the relatively tight-knit residential layout of the area. It is noted that a similar degree of overlooking could result from a dormer erected in the same position using permitted development rights.

Access/waste & cycle storage

5.12 As existing, bin and cycle storage is largely achieved through the use of side driveway and detached garage set to the rear of the house. Although the proposal would result in the loss of external access to the rear of the property, internal access without entry to the main house would be achievable through the proposed extension, and the scheme would largely replicate the existing arrangement through its provision of internal garage storage and the retention of a stretch of driveway to the side of the house. Acceptable provision of waste and cycle storage would likely be achievable in this proposed layout, and it is not considered that the application should be resisted on these grounds.

6.0 CONCLUSION

6.1 The proposal is considered to comply with the National Planning Policy Framework (2023), policy D11 of the City of York Draft Local Plan (2018) and advice contained within Supplementary Planning Document 'House Extensions and Alterations'.

7.0 RECOMMENDATION: Householder Approval

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing No. 0507ACD01B (received 19th July 2023) - Alterations + Extensions

Drawing No. 0507ACD01D (received 19th July 2023) - Location + Site Plan

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

3 The materials to be used externally shall be in accordance with details included on the submitted plans and application form.

Reason: To achieve a visually acceptable form of development.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

Contact details:

Case Officer: Sam Baker

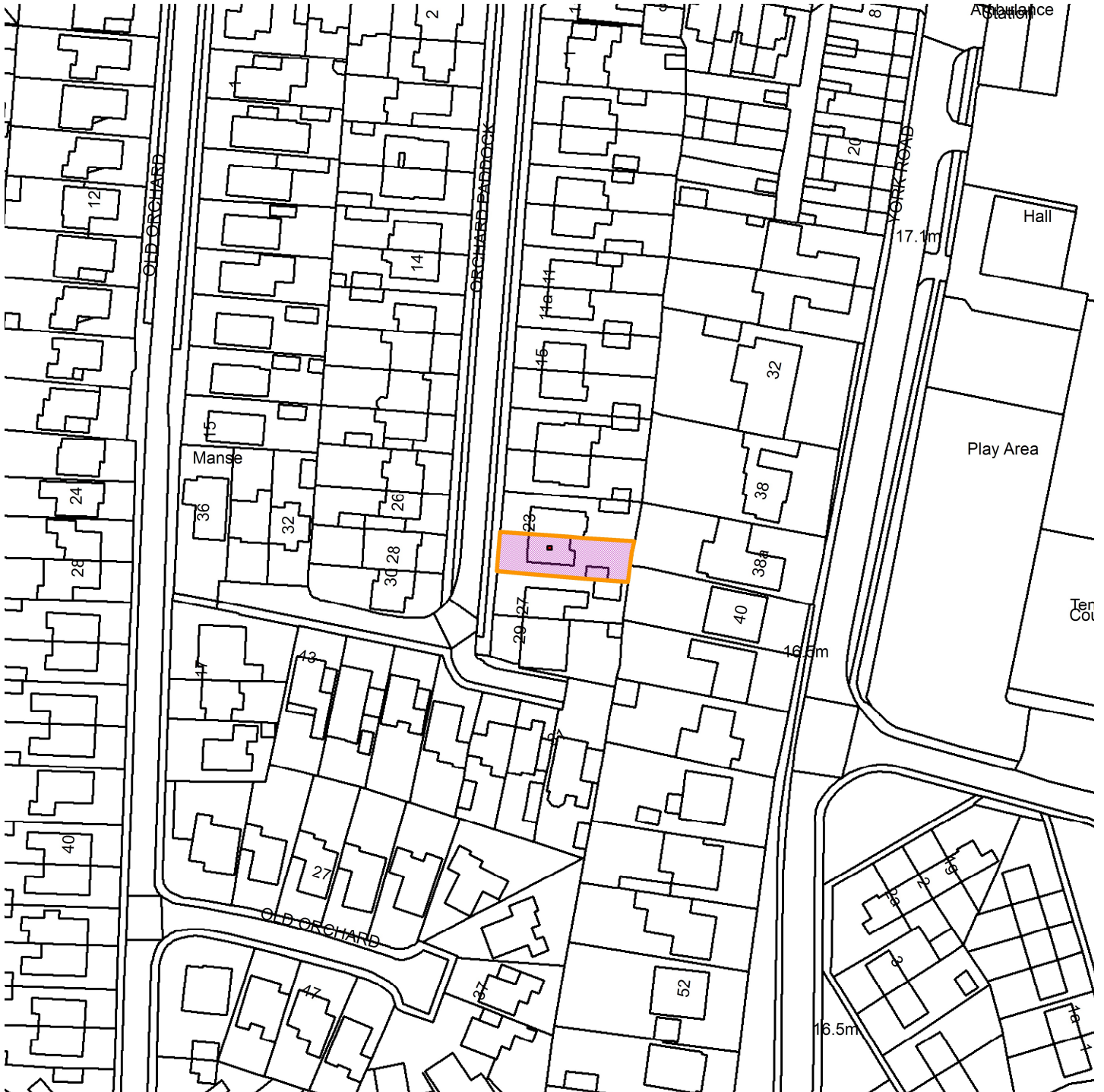
Tel No: 01904 551718

25 Orchard Paddock, Haxby, YO32 3DW

23/01400/FUL



GIS by ESRI (UK)



Scale : 1:1277

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Organisation	City of York Council
Department	Directorate of Place
Comments	Site Location Plan
Date	01 December 2023
SLA Number	Not Set

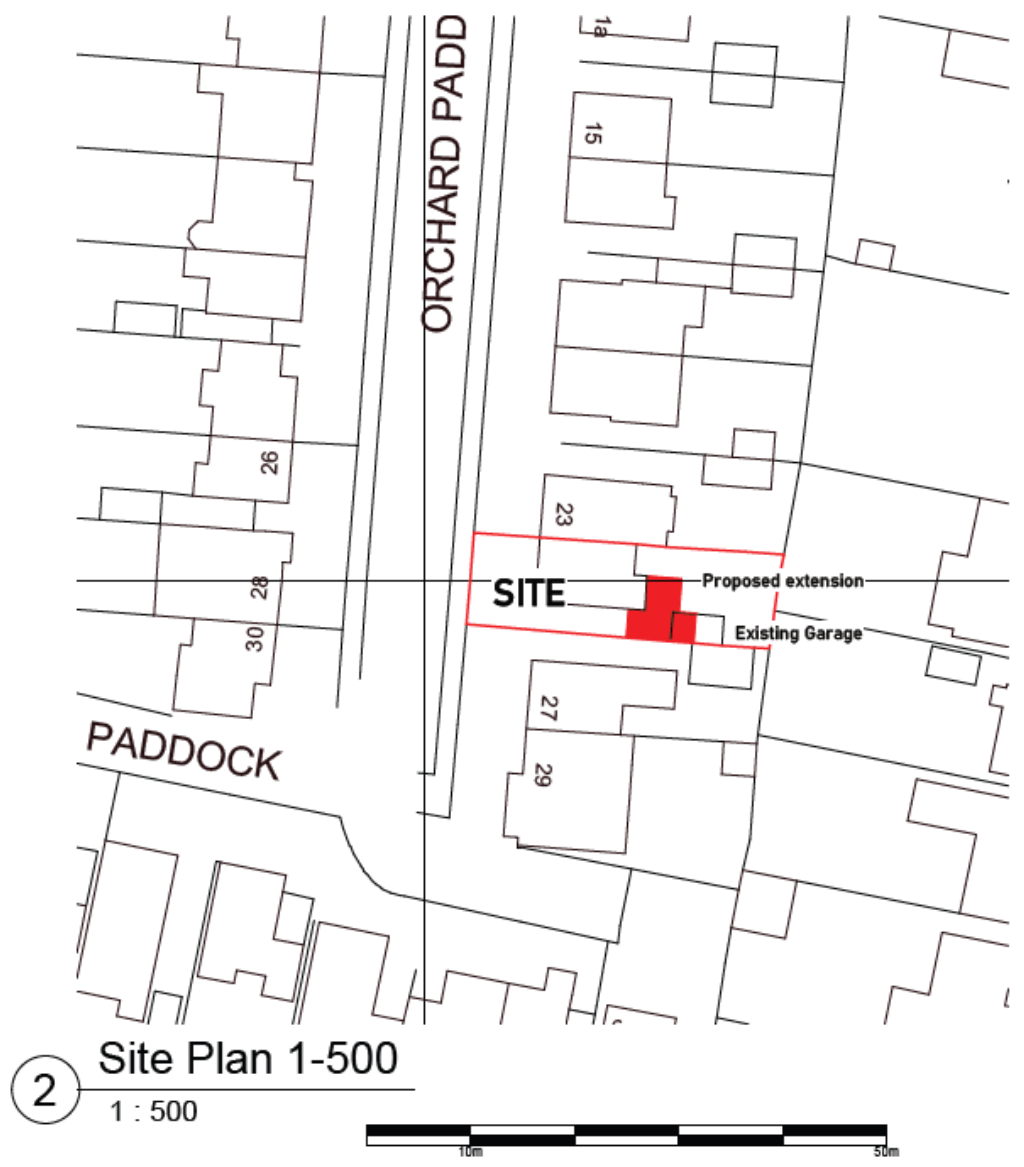
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Planning B Committee

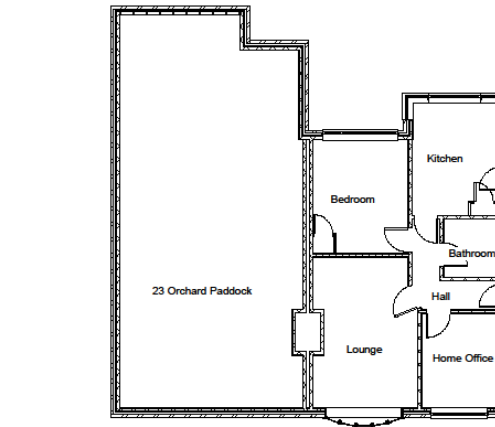
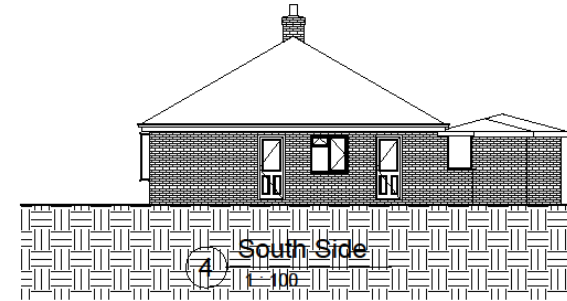
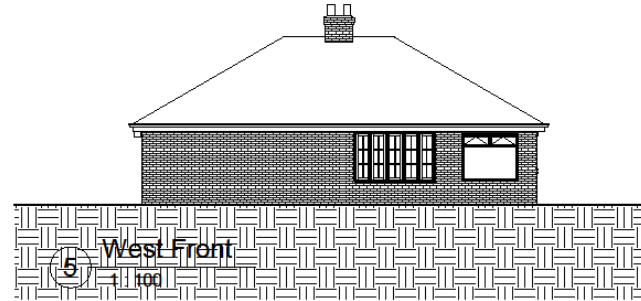
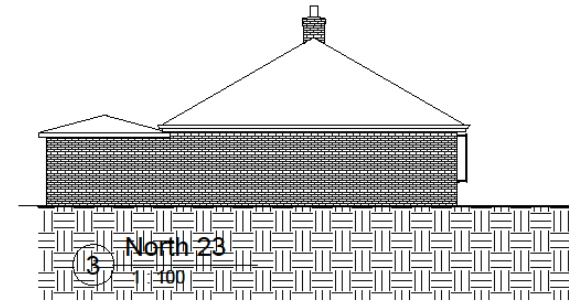
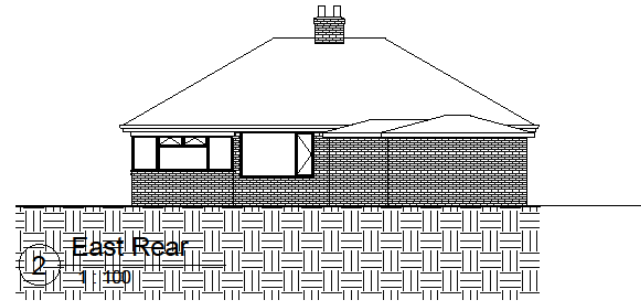
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25 Orchard Paddock Haxby



2 Site Plan 1-500
1 : 500

Existing Plans And Elevations



1 Level 1 Ground Floor plan
1:100

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 M: 07951 602860
 info@architecturaldesign.co.uk

All Project Notes to be read and understood before work commences and they are not the full extent of the works -

IN DOUBT ASK

All work to be as the Approved Planning Drawings and the Approved Planning Notice Conditions

All levels and dimensions to be checked on site before work commences and discrepancies must be brought to our attention immediately Refer to figure dimensions do not scale!!

The practice disclaim any responsibility for any variation from this drawing without their express written consent. Please ensure this is the correct drawing and no revisions have been made

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Robust Details to be used on all Semi-Detached and Flat Projects to avoid Pre Completion Testing. Plots to be Registered prior to work starting on site. www.robustdetails.com

All construction to Accredited Details. The Party Wall Act is to be implemented as required

All works to comply with Parts L1A L1B L2A and L2B of the Building Regulations as applied to the project. SAP IGBEM Calculations for new projects

No.	Description	Date

CODE	SUITABILITY DESCRIPTION
STATUS	PURPOSE OF ISSUE

PROJECT
Alterations + Extensions

TITLE
As Existing

CLIENT
Mr E Pearson

DRAWN BY Author	CHECKED BY Checker	DATE Issue Date
SCALE (@A2) 1 : 100	PROJECT NUMBER 0507	
DRAWING NUMBER 0507ACD01A		REV

