COMMITTEE REPORT

Date:	26 September 2024	**Ward:**	Fishergate
Team:	East Area	**Parish:**	Fishergate Planning Panel

Reference:	22/02613/FUL
Application at:	St Georges Field Car Park Tower Street York
For:	Flood mitigation measures within St Georges Field Car Park and Tower Street to include a new flood defence wall from car park to tie into abutment wall of Skeldergate Bridge, the strengthening of the abutment walls of the bridge, the raising and strengthening of existing walls attached to the pumping station, the raising of the access ramp into the car park and the installation of support post to bridge masonry wall to enable deployment of temporary flood barrier across Tower Street
By:	Environment Agency
Application Type:	Full Application
Target Date:	17 November 2023
Recommendation:	Approve

1.0 PROPOSAL

1.1 Following flooding in 2015 the Environment Agency (EA) has developed the York Flood Alleviation Scheme (FAS) to defend areas against anticipated increased flood risk up to 2039. The scheme is being implemented in phases and the flood risk areas have been divided into 19 Flood Cells.

1.2 This application is for the scheme within Flood Cell F1 which covers the area of St George's Field car park and Tower Street and comprises of -

St George's Field Car Park

- Raising and strengthening existing flood defence at Skeldergate Bridge.
- New section of wall to form a barrier at the north-east corner of the car park, with approx.. height of 11.08m AOD; running from Skeldergate Bridge around the Foss Barrier pumping station and connecting to the access ramp into the car park.
- Increasing the height of the existing car park access ramp by a maximum of 0.65m (at its highest point) as the current ramp height is short of the target flood defence height of 10.85m AOD.

Tower Street

- Framework for a demountable flood system across Tower Street. This includes a retaining wall in front of the Crown Court embankment, to provide a structure to support the demountable barrier.
- Strengthening of wall on the eastern side of St Georges Field gardens.
- A stop log which prevents water transfer between St Georges Field gardens and the road by accommodating a demountable flood defence at the top of the staircase onto Tower Street.

1.3 The EA advise that 627 properties will benefit from the proposed improvements to the proposed flood defences whilst no properties have been identified as being affected by a transfer of flood risk due to the raising in height of the flood defences in St George's Field car park, or by installing demountable flood defence framework across Tower Street.

1.4 The application was deferred at Planning Committee B held 15th November 2023 with further information on the following matters requested –

1. Further modelling work on the flood impact of the Tower Street barrier on Peckitt Street properties (referred to as Flood Cell B15 in this report).
2. Clearer drawings of the proposals.
3. More information on how and whether the St Georges Field access ramp could be made accessible.

1.5 A further submission was received 4 July 2024 containing an updated set of drawings and a deferral submission summary report. The EA report is included in the agenda papers. The submission was subsequently subject to consultation. Five further objections have been received and are reported at paragraph 4.1.

2.0 LEGISLATIVE / POLICY CONTEXT

2.1 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas when determining planning applications. Section 66(1) of the same 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.

2.2 The National Planning Policy Framework ('NPPF') key sections are as follows –

Achieving sustainable development (chapter 2)
Decision-making (chapter 4)
Meeting the challenge of climate change, flooding and coastal change (chapter 14)
Conserving and enhancing the historic environment (chapter 16)

DRAFT LOCAL PLAN (DLP 2018)

2.3 The Draft City of York Local Plan 2018 was submitted for examination on 25 May 2018. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.4 Key relevant 2018 Draft Local Plan policies are as follows;

SS1 Delivering Sustainable Growth for York
D1 Placemaking
D2 Landscape and Setting
D4 Conservation Areas
D5 Listed Buildings
D6 Archaeology
ENV4 Flood Risk
T1 Sustainable Access
GI2 Biodiversity and Access to Nature
GI4 Trees and Hedgerows

3.0 CONSULTATIONS

INTERNAL

INTERNAL (comments same as previous committee report)

HIGHWAY NETWORK MANAGEMENT

St George's Field
3.1 The ramp providing access to the car park and the riverside paths does not comply with accessibility requirements. The proposed ramp is designed with a gradient of 1 in 10 (officer note - this is also the typical current gradient). Inclusive Mobility (page 29) states: "Generally, pedestrian environments should be level, which means that there should be no gradient in excess of 1 in 60. (…) If a level route is not feasible, then gradients should not exceed 1 in 20. (…) Gradients steeper than 1 in 20 can be managed by some wheelchair users, but only over very short distances (1000mm or less). Even over these short distances the maximum gradient used should be no more than 1 in 10. As a general rule 1 in 12 should be the absolute maximum."

Tower Street
3.2 Dropped kerbs to enable pedestrians and wheelchair users to cross Tower Street immediately south of the flood barriers when they are in place are proposed. The detail of these works can be conditioned.

3.3 Method statements and traffic management plans to include information on contractor parking, construction vehicle routes, revised diversion routes are recommended to be secured through condition.

DESIGN & CONSERVATION (CONSERVATION ARCHITECT)

Wall strengthening
3.4 Support the proposed strengthening of the wall and although there would be some minor loss of original fabric and aesthetic interest the benefits outweigh the harm.

Stone clad retaining wall
3.5 The revised drawings reflect pre-application advice and is considered to have a less harmful impact on the setting of the listed Crown Court. This option still results in considerable change to the setting of the historic structures and the character of the area but is significantly less harmful than the option originally presented. The "Rubberwall" connection for fixing the temporary barriers to the bridge abutment walls will also result in a degree of harm but again this is outweighed by public benefits.

3.6 Whilst the scheme overall results in harm to the historic environment, the degree of harm is low and would be regarded as at the lower level of "less than substantial". Attempts have been made to reduce the harm and there is clear public benefit.

DESIGN AND CONSERVATION (ARCHAEOLOGIST)

3.7 An archaeological watching brief is required on works within the York Castle area relating to the installation of retaining wall and seepage trench. A watching brief is also required on works related to the construction of the new wall in St George's Field car park. Condition recommended.

DESIGN AND CONSERVATION (LANDSCAPE ARCHITECT)

3.8 No objection. The applicant intends to provide five replacement trees for every one removed. The Sorbus T70, at the back of the Crown Court, has been in decline for several years. There is ample space here that would benefit from new tree planting. T52 is a nicely established young fastigiate Hornbeam within the car park at the base of the wall. There would be no scope to replace a tree in the same or immediate place, so different locations for tree planting in the wider vicinity would have to be sought and agreed with the Council.

3.9 Provided great care is taken during demolition and construction in accordance with the recommendations of the Arboricultural Impact Assessment, the risk of harm to the remaining trees is acceptable.

DESIGN, CONSERVATION (ECOLOGIST)

3.10 Construction Management: - Recommended the Method Statement be up-dated to provide the following additional information. Alternatively a CEMP is conditioned (officer note – condition 10 is recommended in this respect).

- Pollution prevention measures to reduce impacts on Fulford Ings SSSI, the River Ouse and retained trees – pollution events via surface and ground water.
- Reduction/directional temporary lighting for construction works to reduce impacts on bats.
- Precautionary working methods for nesting birds – for both buildings and trees.
- Pre-works checks of trees for bats.

3.11 Biodiversity Enhancements: The plans show an area of new turf / grass to the west of the site. In the interest of providing biodiversity net gain post construction, it is recommended that this area along with the existing verges to the west of the access road are improved for biodiversity. Enhancements could include a more diverse seed mix, such as a flower lawn mix, planting native bulbs and/or pollinator friendly shrubs.

PUBLIC PROTECTION

3.12 The proposed works have the potential to cause disturbance to nearby residential dwellings on Terry Avenue and Fewster Way / Browney Court. Recommend a condition requiring submission of a Construction Environmental Management Plan (CEMP).

FLOOD RISK MANAGEMENT TEAM

3.13 No objection subject to conditions.

3.14 The modelling outcomes and conclusions are accepted in terms of fluvial impacts alone and the direct influence of river levels including exceedance flows overtopping the Peckitt Street wall.

3.15 However, it is noted that the adjacent B15 flood cell, which benefits from the Peckitt Street flood resilience measures, is further impacted by a complex interaction of surface and groundwater flooding and the Environment Agency should work closely with the community and City of York Council to ensure the operation of the demountable defence is considered alongside any future mitigation measures that are developed in B15. It is essential that the Environment Agency provide detailed information for all flood plans – including those of the North Yorkshire Local Resilience Forum – before the scheme is in operation and all partners fully understand the triggers and decision processes that will initiate closure. A formal

review process should also be put in place to ensure the operations remain effective and do not place undue pressure on access and amenity needs in Tower Street and the wider city centre.

Officer note – Council officers responsible from strategic flood risk management have confirmed the above issues of collaboration between the EA and City of York Council are strategic operational matters (an agreement has been in place since the 1980's); they are not management procedures expected or required to be addressed through the planning process.

3.16 The construction of a new 20m section of flood wall and the raising of the access ramp will lead to a total loss of 1.54% of the 1% AED flood storage area. The potential options to mitigate this loss are noted and the conclusion is that the preferred scheme, notably to protect 'Strategically Important Assets', satisfies NPPF para 173 and should be approved.

EXTERNAL (Comment from Historic England added)

ENVIRONMENT AGENCY

3.17 No objection - the FRA has taken a hierarchical approach to possible mitigation measures and whether or not they are feasible, and the proposed works will not result in an increase risk to others, but will provide a flood risk benefit to those properties protected by the proposals.

HISTORIC ENGLAND

3.18 No comment and defer to local authority officers. Do not need to be consulted on the scheme unless there is a material change in the proposals.

4.0 REPRESENTATIONS

4.1 Following the submission of further information from the EA and public consultation 5 further objections have been received. Comments are summarised below. The EA have provided responses to the points raised in Appendix D of the submission summary.

- No hint in the submission that previously voiced concerns have been considered and there is a distinct lack of information and adequate response following previous interactions with Environment Agency (EA). The EA have not engaged with residents since the planning committee. No further work has been undertaken and the submission is the same as previous. Despite the outcome of committee, no further modelling has been undertaken.

- Tower street, Tower Place, Friars Terrace, South Esplanade and Peckitt Street are Grade 2 listed buildings and the proposal threatens to damage all these further. The buildings are close to the Historic Monument of Clifford's Tower therefore in the environs of a higher graded listed building of National importance. Should the adversely affected rectangle be flooded again it will detract from the monument and the enjoyment of the recent improvement of the monument.

- There has been no consideration of the ground water issues that Tower Place have and therefore that impact on the modelling.

- The EA data is incorrect as the properties do not flood at the levels the EA suggest. Residents claim to have provided more detailed data which the EA have not evidentially considered. Residents advise they have experienced water levels in excess of 10m AOD (when the defence is breached) yet the properties in the street have not been flooded.

- In the EA Deferral Submission Appendix A does not reflect the local topography relevant to flooding of buildings such as pavement levels, threshold levels and internal floor levels, which will be significantly higher than the contour values used. As previously stated, all properties in this area are not flooded at 10m AOD.

- Residents do not want additional flood water directed to their area when there are high river levels.

- The scheme should incorporate additional flood storage to prevent unnecessary flooding to local properties. Or it should provide some betterment to existing flood defences to deal with the much more frequent flood events than the 1 in 100 proposed scheme. At meetings with the EA residents have requested feasibility studies for provision of a demountable barrier to protect Peckitt Street.

- It is unclear when the new defences will be deployed as there are different trigger points in various documents.

- The flood risk from a 1 in 100 event can be adequately dealt with using sand bags.

4.2 Eleven representations have been received previously raising objections relating to this proposal increasing the flood risk to the community of Tower Street, Tower Place, South Esplanade, Friars Terrace, Peckitt Street and Tower Gardens. The objections are summarised as follows;

- This community is at risk of flooding at various river levels, starting at below 4.0m river level and is currently defended by temporary barriers and pumps at Tower Gardens and Peckitt Street which keep the river and ground water level under

control up to 4.7m. We should be defended above 4.7m river levels. Previously, this area was defended to river levels up to 5.1 m by a combination of a permanent flood wall, temporary barriers and sewer pumping.

- This proposal puts our community on the unprotected (River Ouse) side of the flood barrier and therefore abandons our community at levels above 4.7m. The barrier across Tower Street will hold water within our community increasing flood risk to our properties and making existing flood worse, and of longer duration, for others. This is water that otherwise would escape from our community.

- The EA has declared no flood transfer risk by stating that our properties have always flooded. This is incorrect for several properties and ignores that the severity and duration of flooding is an important factor in the damage done.

- It may protect 627 properties but this is at the cost of sacrificing over 40 historic (many listed) properties in the City Centre. The new proposed flood defence should incorporate matching flood defences to our properties which is technically feasible.

- It is understood that properties identified as being at increased risk of flooding post FAS be provided where feasible with property flood resilience measures. The EA originally said that flood resilience would be offered to owners of properties within this area but have since refused this. Flood protection measures however (e.g. the use of pumps and barriers to help keep water out) are being offered. Use of these measures can lead to structural damage from hydrostatic pressure. Resilience should be included in the application to mitigate the risk.

- Flood resilience measures offered by the EA are basic and mostly useless.

- The consequences to those living on the River Ouse side of the barrier is unclear and described by the EA in unquantified terms such as "minimal" and formalising a sandbagging procedure within the existing flood plan. No one has seen sandbags used in this position before nor have we seen a flood plan. This procedure is entirely new to us and untested. There should be a full analysis of the potential negative impact on the properties in this catchment area which should include full consultation with residents.

- The FRA contains no assessment of ground water flooding and finds that the new flood defence will reduce available flood water storage in our locality.

- Ground floor level flooding to properties in Tower Place will restrict access to properties in Tower Place and South Esplanade via the Tower Place walkway.

- The proposed scheme would involve periodic closures of Tower Street which would cause disruption to residents in accessing car parking spaces.

- The submitted Method statement states that the barrier across Tower Street would be deployed at 9.1m AOD and that traffic diversion would have normally commenced and the lower level sections of Tower Street would be unpassable. This is incorrect as the pumping of Tower Place, which prevents Tower Street from being flooded, is not started until much higher than 4.1m.

- Public Protection considers the potential disturbance from noise and dust during the proposed works to the properties on Terry Avenue and Fewster Way / Browney Croft but Tower Place and adjacent properties have not been identified as at risk of disturbance. These locations should be included in the Construction Environmental Management Plan (CEMP).

5.0 APPRAISAL

5.1 KEY ISSUES

- Principle of the proposed development
- Flood Risk
- Impact on Heritage Assets
- Accessibility
- Impact on Trees / Ecology

SUMMARY OF FURTHER INFORMATION PROVIDED FOLLOWING DEFERRAL

5.2 In respect of the 3 grounds of deferral at planning committee B on 15 November 2023 the revised submission is summarised below. The full document forms an appendix to this report. Appendix D of the document runs through the deferral items and answers questions raised by residents. It also explains why the EA determined a scheme to protect the B15 cell was unfeasible, and did not meet government funding criteria.

<u>Further modelling work required to evidence impact on flood of properties on Peckitt Street and the surrounding area.</u>

5.3 The EA maintain there is no increase in flood risk elsewhere and this is accepted by the Local Planning Authority. The maximum ground level in Peckitt Street is less than 10m AOD. As per the existing arrangement when flood water levels reach 10m AOD the decision whether to erect the defences at Tower Street is triggered. The EA maintain that when the decision to erect the Tower Street defences is triggered, Peckitt Street is already flooded. This is irrespective of whether sandbags or the proposed demountable barriers are deployed.

5.4 The EA advise that in terms of flood risk in Cell B15 -

- In the instance of river levels above 10m AOD, the EA know from observed historic flood events, that many properties in South Esplanade, Peckitt Street, Tower Street and Friars Terrace (Cell B15) are already flooded.
- The proposals are for demountable measures to be in the same position and to be deployed at the same flood event as existing incident management measures.
- The hydraulic modelling (Transfer of Risk (ToR) model) shows that with / without the proposal water levels in the B15 flood cell are unchanged.

Clearer drawings of the proposals.

5.5 Appendix B shows renders of the proposed works. It is understood the Tower Street barrier was of particular interest. The images illustrate the extent of the new retaining wall within the grass bank in front of the Crown Court (permanent) and the demountable barriers in-situ.

More information on how and whether the St Georges Field access ramp could be made accessible.

5.6 There is no change to the scheme since the previous committee. The EA advise the original submission contained justification and they have paid due regard to access issues, as required under the Equality Act. The justification is as follows -

- There is an alternative access/egress to the car park under Skeldergate Bridge and through St Georges Field. This is the route promoted by signs within the car park.
- The ramp into the car park, and the car park itself, are both City of York Council owned and maintained assets.
- The current gradient of the access to the car park is an average of 1:10, with sections of 1:7 at its steepest. Advice is that the maximum gradient on a ramp should not be steeper than 1:20 unless special circumstances apply. Where special circumstances apply, a relaxation in ramp gradient to 1:15 may be permitted, or even to 1:12 in cases of extreme difficulty. On the proposals the steepest gradient (of any point) of the ramp will remain 1:10. The ramp as proposed will remove the very steep sections (1:7) that currently exist.

5.7 The EA has considered alternative options for the access ramp into the car park, including shallowing the gradient of the ramp by extending into the car park and/or lowering the footpath adjacent to the vehicular carriageway. Having given due regard of their duties under the Equality Act 2010 the EA consider the scheme, as currently proposed, is the appropriate one to put forward for approval, for the following reasons –

- Slackening the gradient of the access ramp will result in a significant re-design of the car park including loss of parking spaces.

- Re-alignment will require additional construction work to realign and tie-in existing flood defences in the car park.
- Lowering the footpath, but retaining the current alignment of the access ramp, would result in a safety risk to pedestrians and vehicle-users.
- The current proposal does provide marginal betterment in comparison to the existing condition of the ramp – therefore improving accessibility for disabled users using the access ramp into the car park.
- All options result in a significant increase in construction time and cost. Public funding for the Foss Basin Project is allocated for the provision of improved flood protection. While the EA is open to providing additional benefits where possible, this cannot be at the detriment of flood protection or the economic viability of the flood scheme itself.

PRINCIPLE OF DEVELOPMENT

5.8 In principle the EA Flood Alleviation Scheme is in accordance with the NPPF overarching principle to reduce flood risk, and its environmental objectives which include to mitigate and adapt to climate change. They are also in accordance with Draft Local Plan 2018 (DLP 2018) Policy SS1 which seeks to ensure flood risk is appropriately managed.

FLOOD RISK

5.9 The site is within Flood Zone 3, where flood risk is high. The NPPF advice on flood risk, relevant to this application is as follows –

- Paragraph 173 states when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- The sequential test is applicable because of the flood risk classification of the site; the NPPG requires the test to be applied for development in flood zones 2 and 3.
- The Exception Test is not applicable due to the type of development proposed.

5.10 The submitted FRA explains the extent of the proposed flood defence works and the city-wide project to reduce risk.

- 627 properties will benefit from the proposed improvements to the proposed flood defences.
- No properties identified as being affected by a transfer of flood risk due to the raising in height of the flood defences in St George's Field car park, or by installing demountable flood defence framework across Tower Street.
- The minor reprofiling of the access ramp into St George's Field and the realignment of an existing wall adjacent to the Pumping Station, will result in a minor loss of flood storage which is considered to have little or no impact on the existing flood risk.

Flood risk elsewhere

5.11 NPPF paragraph 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. The information provided by the EA demonstrates this and the Local Planning Authority is in agreement. The Tower Street works subject to objection by residents are only a replacement of an existing means of defence – deployment of the demountable barrier will be more efficient than deployment of sandbags. The deployment trigger is unchanged. The EA project does not protect Cell B15 but there is no change in that respect. There is no conflict with the NPPF requirement as there is no increased risk in Cell B15.

5.12 The demountable defence will only be erected after water levels reach 10m AOD. In comparison, the Peckitt Street retaining wall and the measures at Tower Gardens entrance are overtopped at 9.7m AOD. The Tower Street demountable defence is not, and would not, be the determining factor in either the onset of flooding or the speed of flood water receding in the B15 cell. The proposals include demountable defences in the same position and to be deployed in the same conditions as existing emergency response plans.

5.13 In terms of flood storage, the construction of the new 20m section of flood wall and the raising of the access ramp in the car park will lead to a minimal amount of flood storage area. The EA do not regard this as material in terms of effect on flood risk and this position is accepted by the Council.

The sequential test

5.14 The Sequential Test is passed for each aspect of the scheme. The defence works are location specific due to their intended purpose and therefore must take place in areas at risk of flooding. The construction compound would be a temporary structure only and practically needs to be in close proximity to the planned works and in an area where it would have the least environmental effect. The car park area is appropriate in this respect. The entire car park is in flood zone 3, therefore the exact location within the car park would not materially affect flood risk. Mitigation measures would be put into place to ensure the compound is not in use during times of flood.

IMPACT ON HERITAGE ASSETS

5.15 As set out in paragraph's 1.3 and 1.4, the proposals are located in close proximity to a number of heritage assets and located within two Conservation Areas.

5.16 In accordance with Section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local 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 same Act requires the Local Planning Authority to have special 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 duties mean that such harm should be afforded considerable importance and weight when carrying out the balancing exercise.

5.17 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater weight should be. Where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal.

5.18 Both areas (St George's Field car park and Tower Street) are highly sensitive and significant given their location within Conservation Areas and proximity to such heritage assets as Cliffords Tower, the Crown Court and the Castle Museum which together form part of an ensemble of buildings, spaces and sub-surface deposits which represent one of the most important heritage sites in the country. Skeldergate Bridge is grade II listed. The archaeology preserved below the surface of St George's car park includes a Knights Templar Chapel and Mill complex. This significance contributes to the characteristic of the conservation area, the historic setting of the city as an area and the individual assets within it.

5.19 The NPPF continues by advising that local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to sustain and enhance their significance. 2018 Draft Local Plan Policy D4 reflects legislation and national planning guidance and advises that harm to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

New wall to tie in to the Skeldergate Bridge abutment wall and strengthening of the abutment wall

5.20 It is proposed to build a new section of wall, approximately 20 metres in length to connect the edge of Tower Street to the corner of the existing flood wall to tie into the Grade II listed Skeldergate Bridge abutment walls. The wall would be constructed of a concrete core clad with brickwork and coping to match that of the pumping station. The wall would attach to the abutment wall via three dowels that would be drilled into the masonry joints.

5.21 The scheme also involves the strengthening of a section of the abutment walls that runs along the north edge of the car park. The proposed works involve coring the wall vertically and inserting steel helibars, before covering the holes with a stone plug.

5.22 Officers are supportive of the proposals to tie the new wall in to the abutment wall and the wall strengthening works by the method proposed. It is acknowledged that **t**here would be some minor loss of original fabric and the potential of a low degree of loss of aesthetic value. However, this would diminish over time with the development of patina and natural soiling of the stone and alternative methods such as external augmentation would result in considerably more harm. The potential benefits to result from the new section of wall and the wall strengthening are considered to outweigh the less than substantial harm which would result from this work.

Raising and strengthening of existing walls attached to the pumping station

5.23 The works to raise and strengthen existing walls attached to the pumping station comprise the removal of the existing brickwork, the buttressing of the walls and an increase in their height by approximately 400mm. The walls would be clad in brick to match existing. The walls would be seen in the context of the existing building and walls within the car park and would be considered to have a minimal visual impact causing no harm to the character and appearance of the Conservation Area.

Alterations to access ramp to the car park

5.24 The access ramp to the car park from Tower Street would be increased in height by a maximum of 0.65m (at its highest point) as the current ramp height falls short of the target flood defence height of 10.85m AOD. The height would be raised over a length of 50m so the ramp gradient would not steepen with the increase in height. The increased height of the ramp would be mostly screened from nearby heritage assets by the pumping station and would match the existing in terms of materials. These works therefore would be considered to have a neutral impact on the character and appearance of the Conservation Area.

Tower Street demountable temporary flood barrier

5.25 It is proposed to install framework on each side of Tower Street and to strengthen the existing abutment walls of Skeldergate Bridge to allow the deployment of a demountable flood relief barrier across Tower Street. This is to prevent water from the Ouse flowing across Tower Street and entering the Foss Basin. The demountable flood defence would extend across Tower Street from the Skeldergate Bridge abutment walls to the embankment leading up to the Grade 1 listed Crown Court for a length of 30 metres.

5.26 The demountable defences would attach to the abutment walls via a support post that would be sealed to the wall via a rubber-wall connection during a flood event. The rubber seal would not permanently impact the abutment wall and would be removed once the demountable defence is not required. The east-most support post would be permanently attached to a new purpose-built retaining wall. This wall would be set to the rear of the pavement in front of the embankment leading up to the Crown Court, within the scheduled area of York Castle. A small amount of excavation of the embankment would be required to enable the construction of the retaining wall which would measure 6m in length and be clad in stone.

5.27 A stoplog would also be required at the entrance to Tower Park from Tower Street. This would result in a permanent change to the listed Skeldergate Bridge through the addition of two steel posts into the abutment at the top of the stairs that lead down to Tower Park into which the flood defence beams would be slotted.

5.28 The construction of the proposed stone clad retaining wall to the embankment and infilling behind to raise the level of the land would result in considerable change to the setting of the historic structures and the character of the area and would result in harm to the historic environment. The rubber-wall connection for fixing the temporary barriers to the bridge abutment walls and the wall strengthening works through some minor loss of original fabric and the potential of a low degree of loss of aesthetic value, would also result in a degree of harm. The stoplog would result in a permanent change to the Skeldergate Bridge, impacting on the evidential and aesthetic value of the abutment walls and therefore would also cause harm to heritage assets. The impact would be lessened by drilling into mortar joints and sympathetic positioning.

5.29 The degree of harm to result from the proposed works is considered low and would be regarded as “less than substantial”. Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship, would be secured by condition. There is a clear public benefit deriving from the scheme which is considered to outweigh the harm identified. The proposals therefore are in accordance with local and national planning policies including paragraph 205 of the NPPF and 2018 Draft Local Plan Policy D4.

ARCHAEOLOGY

5.30 Paragraph 209 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. 2018 Draft Plan Policies D6 and D7 reflect national planning guidance and require an understanding of the archaeology affected to avoid substantial harm (preserve 95% of deposits) or where there would be harm, undertake adequate mitigation.

5.31 The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. Archaeological impacts for work on Tower St relate to the installation of support posts, the lowering of the footpath, construction of retaining wall and a seepage trench (within the York Castle scheduled area). This trench would be filled with a clay material to prevent seepage around the demountable flood defence during a flood event and would be 7 m in length by 0.8 m wide. At St George's Field Car Park, impacts relate to the strengthening of the existing and the creation of new flood walls.

5.32 Most of the intrusive works required for this scheme are shallow and are not expected to disturb significant archaeological features or deposits. The deeper works relate to the creation of the seepage trench to depths of 9m AOD (2m below ground level) and for the construction of the new wall within St George's Field car park. Scheduled monument consent (SMC) will be required for elements of this scheme within York Castle area. To mitigate against the impact on remaining archaeology, there will be a requirement for an archaeological watching brief.

5.33 The evaluation carried out to date and the watching brief are in accordance with Paragraph 205 of the NPPF which requires developers to record and advance understanding of the significance of any heritage assets to be lost in a manner proportionate to their importance and the impact. The proposal will cause harm to locally significant archaeological resources. This harm is considered less than substantial, outweighed by the clear public benefit deriving from the scheme and would be mitigated by the programme of post determination archaeological mitigation. The proposals therefore are in accordance with local and national planning policies including paragraph 205 of the NPPF and 2018 Draft Local Plan Policies D6 and D7.

ACCESSIBILITY / HIGHWAY IMPACTS

5.34 Paragraph 96 and paragraph 135 (f) of the NPPF seeks to ensure planning decisions achieve healthy and inclusive places which are safe and accessible by all. This is supported by Policy DP3 of the Draft Local Plan (2018) which seeks to ensure new development provides accessible facilities and services in a planned manner which complements and integrates with existing facilities.

5.35 The current gradient of the access into the car park from Tower Street is an average of 1 in 10 (1:10), although it does have steeper sections. The existing and proposed ramp, the designed with a constant gradient of 1:10 is not in accordance with the gradients recommended by Inclusive Mobility for people using a wheelchair or mobility aid.

5.36 S.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 this 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. Protected characteristics included disability, sex, age and pregnancy and maternity. 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.

5.37 The EA have provided justification (as reported in the previous committee report and again in the deferral submission summary document appended to the report) why they consider they have complied with the Equality Act and why a ramp with a gradient suitable for people using a wheelchair or mobility aid is not part of the scheme. In summary the ramp is improved in its gradient compared to the existing (steeper sections are removed) and there is an acceptable compliant alternative route. Public funding for the Foss Basin Project is allocated for the provision of improved flood protection. While York FAS is open to providing additional benefits within our schemes where possible, this cannot be at the detriment of flood protection or the economic viability of the flood scheme itself.

5.38 In making its recommendation, Officers have given due regard to the aims of the Act. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

5.39 To create an even surface for the installation of the barrier, the pedestrian footway would be lowered and road resurfaced. Removable guardrails would be installed along the edge of the footway to prevent pedestrians crossing and would only be removed during the installation of the barrier. Additional information has been submitted demonstrating that the dropped kerbs are of a sufficient width to enable pedestrians and wheelchair users to cross Tower Street immediately south of the flood barriers when they are in place. The detail of these works would be conditioned.

ECOLOGY / IMPACT ON TREES

5.40 The NPPF states decisions should contribute to and enhance the natural and local environment by minimising the impacts on and providing net gains for biodiversity. Part (iv) of Policy GI2 (Biodiversity and Access to Nature) of the Draft Plan 2018 states that where appropriate, any development should result in net gain to, and help to improve, biodiversity. Policy D2 (Landscape and Setting) of the Draft Plan 2018 states that proposals will be encouraged and supported where they conserve and enhance landscape quality and character.

5.41 To enable the flood defence works, two individual trees would be removed together with pruning works to 11No. trees. Subject to the adherence to the arboricultural method statement, the risk of harm to the remaining trees is deemed acceptable. The applicant advises that 5no. replacement trees would be planted for each one removed. The scheme would provide biodiversity enhancements post construction through the provision of a more diverse seed mix, planting native bulbs and/or pollinator friendly shrubs in the existing verges and on the area of new turf, which would also be agreed via a condition.

6.0 CONCLUSION

6.1 In principle the proposals are consistent with the environmental objective within the NPPF of adapting to climate change and given that the proposed flood defences will increase protection for an urban area, there are consequential economic and social benefits. The scheme is in accordance with flood risk policy in the NPPF, in section 14. Objections are on the grounds that the EA project does not fully protect Cell B15. The NPPF test in this respect is not whether the scheme is comprehensive (it has to be assessed on its own merits); it is whether consequently there is any increased flood risk elsewhere. The scheme is fundamentally a change in the type of flood defence in Tower Street (deployment of demountable barriers opposed to sandbags) the EA and the Council's Flood Risk Management Team are satisfied there is no increase in flood risk elsewhere. Flood risk is not grounds to oppose the application.

6.2 Only a low level of harm to designated heritage assets has been identified as a consequence of the works to tie the new wall to the grade II listed bridge abutment walls, the strengthening of the abutment walls the rubber-wall connection for fixing the temporary barriers to the bridge abutment walls, the stoplog at the entrance to Tower Park and through the new purpose-built retaining wall and associated infilling within the scheduled area of York Castle. Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship and the requirement for an archaeological watching brief, would be secured by condition. The public benefit in improving the flood resilience of this area out-weights the harm even when giving considerable importance and weight to the harm to heritage assets, in accordance with the statutory duties.

6.3 Other matters, such as replacement tree planting and the provision of biodiversity enhancements post construction, would be agreed via a condition.

6.4 In making this recommendation, Officers have had due regard to the aims of the Equality Act 2010 and whilst noting that the proposed works provide no sufficient betterment to the gradient of the access ramp, it is not considered that this outweighs the material planning considerations.

6.5 In respect of conditions, since the previous committee report conditions are varied as follows –

- Condition 2 refers to the revised plans issued July 2024.
- Condition 11 is omitted. This was a compliance condition that required the scheme to be in accordance with the flood risk assessment. It was requested by the EA and the reason given was - To ensure the structural integrity of the proposed flood defences thereby reducing the risk of flooding. The condition is therefore not necessary as the approved plans serve this purpose.
- Condition 13 required the means of deployment, operation, management, repair and maintenance of the flood defence works to be subject to local planning authority approval. This is deleted; it is considered not necessary. This is a strategic matter and responsibility of the EA and the City of York Council; it has not and is not a matter for the planning department to administer.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

ENV0002071C-JBAB-00-3_FBT-DR-C-01001 P03 -Site Location Plan

ENV0002071C-JBAB-00-3_FB-DR-C-01002 C01 - GA St Georges Field
ENV0002071C-JBAB-00-3_FB-DR-C-01022 C01 - GA Tower Street (s278 plans)
ENV0002071C-JBAB-00-3_FBT-DR-C-01002 C01 -GA Tower Street
ENV0002071C-JBAB-00-3_FB-DR-C-01034 C01 - GA Access ramp
ENV0002071C-JBAB-00-3_FBT-DR-C-01010 C01 - Tower Street flood wall
ENV0002071C-JBAB-00-3_FB-DR-C-01109 C01 - New wall in car park
ENV0002071C_JBAB-00-3_FBT-DR-C-01007 Rev P02 - Foss Basin Tower Street Wall Strengthening Details
ENV0002071C_JBAB-00-3_FBT-DR-C-01107 Rev P02 - Foss Basin Wall Raising - Existing & Proposed Wall Elevations
ENV0002071C_JBAB-00-3_FBT-DR-C-01003 Rev P02 - Foss Basin Tower Street Cross Sections North West Facing
ENV0002071C_JBAB-00-3_FBT-DR-C-01004 Rev P02 - Foss Basin Tower Street Cross Sections South East Facing
ENV0002071C_JBAB-00-3_FBT-DR-C-01005 Rev P02- Foss Basin Tower Street Cross Sections Southwest & Northeast Facing
ENV0002071C_JBAB-00-3_FBT-DR-C-01006 Rev P02 - Foss Basin Tower Street Stop Log Details.

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

3 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief is required on this site.

A) No ground disturbing work within the Scheduled area or for the construction of the wall within St George's Field Car Park shall take place until a written scheme of investigation (WSI) for a watching brief 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.

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 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: This condition is imposed in accordance with Section 16 of NPPF. The site lies within an Area of Archaeological Importance and the development may affect important archaeological deposits which must be recorded prior to destruction.

4 A detailed method statement for the works to strengthen the Skeldergate Bridge abutment walls shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of these works and shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of safeguarding the fabric and appearance of the listed bridge.

5 Large scale drawings of the proposed retaining wall, to include the coping and "Rubberwall" connection, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of this element of the scheme and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the character and appearance of the Conservation Area.

6 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, to include the mortar and stone, 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: In the interests of safeguarding the character and appearance of the Conservation Area and the listed Skeldergate Bridge.

7 Sample panels of the brickwork to be used for the new flood wall within St Georges Field Car Park and for the new retaining wall (Tower Street) 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. The panels 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.

8 Before the commencement of development (including demolition, excavations, and building operations et al), a finalised Arboricultural Method Statement (AMS) in accordance with the content of the Arboricultural Impact Assessment submitted with the application, and a scheme of arboricultural supervision regarding protection measures for existing trees shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. 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. A qualified arboriculturalist shall carry out regular inspections during the development, especially during site preparation and excavations. Before works start on site, the name and address of the appointed arboricultural consultant shall be supplied to the local authority.

Reason: To ensure every effort and reasonable duty of care is exercised during the development process to protect existing trees that are considered to have a significant public amenity value.

9 Within three months of commencement of development a scheme of tree planting shall be submitted to and approved in writing by the Local Planning Authority. Any trees that are felled as part of the approved development shall be replaced on a ratio of five new trees for every one felled. The landscape scheme shall include the species, stock size, and locations of trees. The scheme shall be implemented within a period of six months of the substantial completion of the development. Any trees which within a period of five years from the completion of the planting 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: So that the Local Planning Authority may be satisfied with the variety, suitability and positioning of species to mitigate the loss of trees resulting from the development.

10 No development shall take place (including ground works, demolition works and vegetation removal) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The development shall be carried put in accordance with the approved CEMP: Biodiversity.

The CEMP: Biodiversity shall include (but not be limited to) the following:
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) Details of pollution prevention measures to avoid harm and potential mortality to fish species from pollution
e) Details of biosecurity measures to stop the spread of waterborne diseases and Invasive Non-Native Species,
f) Use of directional lighting during construction and operation, which will not shine upon bat roosts, and forage and commuting routes.
g) The location and timing of sensitive works to avoid harm to biodiversity features.
h) Programme of pre-commencement checking surveys, such as Otters and nesting birds.
i) Responsible persons and lines of communication.
j) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
k) 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.

11 No construction works on the site shall commence until measures to protect

the public sewer/s infrastructure that is laid within the site boundary have been implemented in full accordance with details that shall have been first submitted to and approved in writing by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that the public sewer/s will be protected from backflow of water from the river and access to the system 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

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: the use of conditions.

2. HIGHWAYS

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). The works will need to include sufficient facilities at crossing points for persons with reduced mobility.

For further information please contact: (01904) 551550 - streetworks@york.gov.uk

Contact details:
Case Officer: Development Management Team
Tel No: 01904 551553