



**Notice of a public meeting of
Corporate Services, Climate Change & Scrutiny Management
Committee (Calling In)**

- To:** Councillors Fenton (Chair), Rowley, Ayre, Baxter, Healey, Kelly, Merrett (Vice-Chair), D Myers, Steels-Walshaw, K Taylor, Waller, Widdowson and J Burton
- Date:** Monday, 4 December 2023
- Time:** 5.30 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 attached sheet for further guidance for Members]

2. Exclusion of Press and Public

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annex K to Annex B of Agenda Item 5 on the grounds that it

contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

3. 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 Executive. 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 Thursday 30 November 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.

4. Minutes (Pages 3 - 6)

To approve and sign the minutes of the meeting held on 2 October 2023.

5. Called-in Item: Castle Gateway Update (Pages 7 - 116) **Report and Next Steps - Executive Meeting** **16 November 2023**

This report sets out the reasons for the multiple call-in of the decision made by the Executive on 16 November 2023 in respect of Castle Gateway. The report also sets out the powers and role of the Corporate Services and Climate Change Scrutiny

Management Committee (Calling-In) in dealing with the call-in.

6. Urgent Business

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

Democracy Officer:

Jane Meller

Telephone: 01904 555209

E-mail: jane.meller@york.gov.uk

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
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

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.

City Of York Council

Committee Minutes

Meeting	Corporate Services, Climate Change & Scrutiny Management Committee (Calling In)
Date	2 October 2023
Present	Councillors Fenton (Chair), Rowley, Ayre, Baxter, Healey, Kelly, Merrett (Vice-Chair), D Myers, K Taylor, Widdowson, Crawshaw (Substitute for Cllr Steels-Walshaw) and Wann (Substitute for Cllr Waller)
Apologies	Councillors Steels-Walshaw and Waller
Officers Present	Ian Cunningham, Head of Business Intelligence Pauline Stuchfield, Director Customer & Communities Laura Williams, Assistant Director, Customer, Communities & Inclusion Dawn Steel, Head of Democratic and Scrutiny Services Frances Harrison, Head of Legal Services & Deputy Monitoring Officer

1. **Declarations of Interest (5.35 pm)**

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests.

None were declared.

2. **Public Participation (5.36 pm)**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn spoke in relation to the called in item and requested that the exact calculations, by Ward, be published. She also stated that she would like to see stronger spending in the deprived areas of each Ward.

3. Minutes (5.36 pm)

Resolved: That the minutes of the last meeting held on 27 June 2022 were approved as a correct record.

4. Called-In Item: Resolution "X" On Ward Funding From Finance & Performance Monitoring Report (5.39 pm)

Members considered a report which set out the reasons for the call-in of the decisions made by the Executive on 14 September 2023 in respect of the approved ward funding allocations set out in paragraphs 30 and 31 of the report to Executive, along with the Committee's remit and powers in relation to the call-in.

The relevant decision was contained in the extract from the relevant Decision Sheet at Annex A to the report. The original report to Executive was attached as Annex B, and the decision had been called in by Cllrs Hollyer, Hook and Smalley, the detailed reasons and alleged constitutional breach for which were contained in Annex C, as follows:

- *We believe the decision breaches Principles of Decision Making c) clarity of aims and desired outcomes, and j) consideration of relevant implications.*
- *The stated outcome is to target funding at more deprived wards, however an error in the funding formula means this does not happen. The Executive Report states that (at 31) "The decision reflects that a standard amount of the funding is still applied on a per councillor basis, but a proportion is allocated using the Indices of Multiple Deprivation, including a weighting which reflected the population of each ward."*
- *However this is not the case, as each calculation of the average score for each ward includes both a multiplication and a division by population - meaning the population element is ultimately removed.*
- *The population weighting only applies to the weighting of the individual LSOA scores within the ward - so the ward's score is weighted by population of the relevant LSOAs, but this is not then itself weighted when comparing the ward score to other wards and allocating the funding.*
- *The equation for each ward's allocation (e.g. With just two LSOAs) is:*

Ward IMD Score = (LSOA 1 Pop x LSOA 1 IMD) + (LSOA 2 Pop x LSOA 2 IMD)

LSOA 1 Pop + LSOA 2 Pop

The allocation of funding is then made using this equation:

$$\frac{\text{Ward Funding} = \text{Ward IMD Score} \times \text{Total Funding (£145,000)}}{\text{Total of Ward IMD Scores}}$$

- *This error means that larger wards are disadvantaged as their population is not taken into account compared to smaller wards.*
- *This means that there is little correlation between funding per resident and the ward's level of deprivation - negating the whole point of the changes.*

Councillor Hollyer represented the Calling-In Members and expanded on the reasons for the call-in and then responded to questions from Members. The Executive Member for Finance, Performance, Major Projects and Equalities and the Executive Member for Housing, Planning and Safer Communities then addressed the Committee and responded to questions. Next, the officers responsible for the calculation in question were invited to clarify the reasoning for the choice of calculation and to respond to questions. Finally, Cllr Hollyer summed up on behalf of the Calling-In Members, and the Executive Members summed up their position.

During the process outlined above, it was confirmed that:

- To avoid bias, and because the subject matter was technically complex, Executive Members had sought professional, technical advice from officers.
- A number of different formulas could have been used to calculate ward funding. The choice of formula was different from the one put forward by the Call-In Members but was not considered incorrect.
- The Executive Members were willing to review and, if appropriate, refine the formula, and agreed to publish the detailed calculations in future budget reports.
- Pre-decision scrutiny of any revised formula would be welcome prior to budget allocations being made.

Under the provisions of the council's constitution at the time the call-in was made, the following options were available:

- In the event of the majority of Members finding no breach, the call in request would be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
- In the event of the majority of Members finding a breach, the called in decision would be referred back in full for further consideration at the next appropriate meeting of the Executive.

Members were invited, individually, to state if they considered the core principles identified in the Call-In Request to have been breached or not.

At this point, Members also raised some concerns in practice about the revised Call-in process and were advised that should they wish to review any aspects, they should provide comments to the Monitoring Officer who would consider those comments and whether to report any appropriate amendments to Audit and Governance Committee in the light of operational experience.

With five Members finding there had been a breach and eight Members finding there had not been a breach, the Call-In fell and it was

Resolved:

- i. That the Call-In request be closed.
- ii. That the Chair and Vice-Chair of the Committee decide which scrutiny committee would be appropriate to receive the pre-decision scrutiny report on any revised funding formula.

Reason: to determine the outcome of the alleged breach in Executive decision making.

Cllr S Fenton, Chair

[The meeting started at 5.34 pm and finished at 7.14 pm].



**Corporate Services and Climate Change
Scrutiny Management Committee (Calling In)****4 December 2023**

Report of the Director of Governance

**Called-in Item: Castle Gateway – Executive meeting on 16 November
2023****Summary**

1. This report sets out the reasons for the multiple call-in of the decision made by the Executive on 16 November 2023 in respect of Castle Gateway. The report also sets out the powers and role of the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) in dealing with the call-in.

Background

2. An extract from the Decision Sheet published after the Executive meeting of 16 November is attached as Annex A to this report. This sets out the decisions taken on the called-in item. The original report to the Executive, together with its annexes, is attached at Annex B.
3. The decisions are subject to a multiple call in for review by the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) by Cllrs Ayre, Mason and Smalley, as well as Councillors Steward, Nicholls and Warters, in accordance with the Constitutional requirements, and on the basis of the detailed reasoning set out in Annex C attached.

Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Calling-in meeting, as appropriate, together with relevant Executive Member(s) and Officer(s).

Options

5. The Committee must follow the practice for dealing with called in business set out in the Scrutiny Procedure Rules in Appendix 5 of the Constitution. After debate and all contributions have been heard, the Chair will invite each Member of the Committee to state whether they consider the core principles identified in the Call In Request (Annex C) have been breached or not.
6. In the event of the majority of Members finding no breach, the call in request will be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
7. In the event of the majority of Members finding a breach, the called in decision will be referred back in full for further consideration at the next appropriate meeting of the Executive.

Analysis

8. Members need to consider any breach specifically identified in the Call In Request in relation to the original report to the Executive and the consequential decision made. As stated in the options identified above, the Chair will then guide the Committee on the constitutional requirements for handling the meeting and culminating in the Committee determining its position on any breaches.

Council Plan

9. There are no direct implications for this call-in in relation to the delivery of the Council Plan and its priorities for 2023-27.

Implications

10. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to handling the call in of the issue under consideration.

Risk Management

11. There are no risk management implications associated with the call in of this matter.

Recommendations

12. Members views are sought on the Call In Request and specific breaches identified in Annex C.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

Contact Details

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Director of Governance
Tel: 01904 555385

Report Approved Date: 23/11/23

Wards Affected: All

For further information please contact the author of the report

Annexes

Annex A – Extract from the Decision Sheet produced following the Executive Meeting on 16 November 2023, setting out the decisions made on the called-in item.

Annex B – Report of the Corporate Director of Place to the Executive on 16 November 2023.

Annex C – Call in Request forms from Councillors Ayre, Mason and Smalley, as well as Councillors Steward, Nicholls and Warters.

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Executive

Thursday, 16 November 2023

Decisions

Set out below is a summary of the decisions taken at the Executive meeting held on Thursday, 16 November 2023. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Services no later than 4pm on the Monday 20 November 2023.

If you have any queries about any matters referred to in this decision sheet please contact .

10. Castle Gateway Update

Resolved:

17- 21 Piccadilly

- i. Approved the granting of a further head lease to Spark York of the 17- 21 Piccadilly site for a further 2-year period from and including: 1st November 2024 until and including 31st October 2026;
- ii. Delegated to the Director of Housing, Economy, and Regeneration (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), authority to negotiate the terms of and the entry into of such further lease of the 17-21 Piccadilly site to Spark York.

Reason: To enable the current use to continue in the short term and provide a continued income to the Council, whilst allowing Spark York the opportunity to identify an alternative location in the city.

Castle Mills

- iii. Confirmed that further work on developing the Castle Mills site is paused and ask officers to investigate appropriate meanwhile use options in parallel with exploring longer term opportunities for the future delivery of 100% affordable housing on this Council owned site;
- iv. Delegated authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for said work in compliance with the Public Contract Regulations 2015 ('the Procurement Regs') and the Council's Contract Procedure Rules under Appendix 11 of the Council's Constitution ('Council's CPRs'), and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work.

Reason: To seek an active use for this City Centre site and to progress the Council's objective of 100% affordable housing being delivered on Council owned sites.

- v. Instructed Officers to progress work to secure delivery of the pedestrian/cycle bridge, sustainable travel links, subject to confirmation of funding with West Yorkshire Combined Authority ("WYCA"); updated delivery costings; and all necessary approvals, planning, highways, and bridge agreement.
- vi. Delegated authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary contractors and/or consultants required for said works in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any and all such contractual arrangements and/or legal documentation required for said works (including any and all planning agreements and/or highways agreements required; however for the sake

of clarity this delegation is not for any requirements of either the Local Planning and/or Highways Authority).

- vii. Delegated authority to the Director of Housing, Economy, and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance (and their delegated officers) to draft, negotiate, and conclude with WYCA any and all such contractual arrangements and/or legal documentation relating to the funding for the proposed works.

Reason: To maximise use of external funding, previously allocated by WYCA, to deliver city centre connectivity in accordance with the sustainable travel principles of the Local Transport Strategy, with delivery progressed in advance of development of the Castle Mills site, achieving the wider aims of the Castle Gateway masterplan.

St George's Field Car Park

Resolved:

- viii. Confirmed that the Council will not proceed with the building of a Multi-story car park (MSCP) on St George's Car Park and that officers are to develop proposals which balance: improved parking capacity; pedestrian and cycle connectivity; and coach drop off facilities within a surface level layout. This decision acknowledges that there will be an in-year revenue impact to the Council of up to £1m;
- ix. Delegated authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for said work in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work.

Reason: A MSCP does not represent value for money in terms of providing additional spaces, reconfiguring the surface level parking will provide improved facilities in accordance with the draft Local Transport Plan.

Castle & Eye of York

- x. Confirmed the re-purposing of the Castle car park to support the delivery of a revised Castle Gateway Masterplan, with retained Blue Badge parking; subject to an updated business case being brought back to Executive for full consideration, and where closure will only occur when a revised Scheme has been approved for delivery;
- xi. Delegated authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for the updated business case in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work. A further report to the Executive will be required once the business case has been concluded as it will have a budget impact.

Reason: To enable the Council plan objectives, and Castle Gateway masterplan benefits, to be delivered with parking capacity and city centre traffic reduction prioritised in accordance with the draft Local Transport Plan.

- xii. Confirmed the re-design of the Castle and Eye of York Scheme, with a specific emphasis on the retention of blue badge parking numbers, flexible green space with children's play provision and a keen focus on reducing capital and management costs and the submission of revisions to the planning application;

- xiii. Delegated authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary contractors and/or consultants required for said works in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any and all such contractual arrangements and/or legal documentation required for said works (including any and all planning agreements and/or highways / bridge agreements as required; however for the sake of clarity this delegation is not for any requirements of either the Local Planning and/or Highways Authority).

Reason: To enable the existing planning application to be revised with a simpler, more affordable Scheme reflecting the more inclusive ambitions of new Council Plan.

Coppergate Centre

- xiv. Approved the granting to Mahavir Properties Ltd. of a new headlease for a period of 250 years [from and including the date of grant of such lease] in return for Mahavir: (i) carrying out improvement works to the shopping centre; (ii) transferring to the Council unencumbered ownership of an agreed area of land to the rear of the Coppergate Centre); and (iii) settlement of rent reconciliations on the basis set out in the report (paras 76-77). Upon the grant of the new lease, the existing lease shall be surrendered;
- xv. Delegated to the Director of Housing, Economy, and Regeneration (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), authority to negotiate the terms of and the entry into of such surrender and replacement head lease of the Coppergate Centre site to Mahavir Properties Ltd. on the basis of the terms set out in this Report;
- xvi. Agreed to waive the requirements of Rules 11.1.3(iii) and 11.4 of the Council's CPRs in respect of any

proposed Leaseholder Development Agreement (“LDA”) at the Coppergate Centre site between the Council and Mahavir Properties Ltd., further to Rule 26.1 of the Council’s CPRs;

- xvii. Subject to paragraph 16 of this Report, agreed to delegated authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers), authority to negotiate the terms of and the entry into a LDA at the Coppergate Centre site with Mahavir Properties Ltd. on the basis of the terms set out in this Report, in compliance with the Procurement Regs and the Council’s CPRs.

Reason: To facilitate investment into the shopping centre and provide land to the Council which will aid the plans for Castle Car Park.



Decision Report: Castle Gateway Update Report and Next Steps

Subject of Report

Meeting:	Executive
Meeting date:	Executive 16/11/2023
Report of:	Neil Ferris – Corporate Director of Place
Portfolio of:	Cllr Lomas Executive Member for Finance, Performance, Major Projects, and Equalities

Decision Report: Castle Gateway Update Report and Next Step

Subject of Report

1. In April 2018, the Executive approved a masterplan for the “Castle Gateway” Scheme (the “**Scheme**”) to transform a large area of the city centre that had seen private sector regeneration proposals fail over a period of 3-decades. The context and detail of the Castle Gateway masterplan and its constituent projects (Castle & Eye of York, Castle Mills, St Georges Field car park, Piccadilly) is set out in the Background section of this Report at paragraph 26.
2. The purpose of this Report is to provide an update on the Castle Gateway masterplan and seek approval for the next steps, necessary to take forward individual projects:
 - 17-21 Piccadilly
 - Castle Mills
 - St George’s Field car park

- Castle car park and Eye of York
- Coppergate Centre

(Annex D illustrates the extent of the Castle Gateway area and the location of individual projects).

3. Since the original masterplan was approved in 2018, the individual Schemes have been progressed in accordance with previous Executive approvals (the previous reports are listed at the end of this report). However, the projects have been impacted by a number of macro-economic factors, including:
 - construction cost inflation driving increases in delivery costs
 - rising interest rates impacting borrowing costs
 - housing market uncertainty
4. There have also been two unsuccessful Levelling Up Funding (“LUF”) bids, which sought to fund the delivery of the public realm around Clifford’s Tower and the Eye of York. These factors have all impacted significantly on the business case for Phase 1 delivery approved in January 2020.
5. Following a review of the Scheme, this Report sets out recommendations for how the projects can be revised to deliver positive outcomes for the city, in accordance with both the original master plan principles, and the recently approved Council Plan and “Our City Centre” Vision. The projects can also be revised to ensure that they deliver against the three key city strategies (Climate Change, Economy, Health, and Wellbeing) that were approved in December 2022.
6. In respect of the Coppergate Centre, the existing head lease currently held by Mahavir Properties Ltd. expires on 14th June 2083. This Report asks Members to consider accepting a surrender of Mahavir’s current headlease and instead granting Mahavir a further head lease of the Coppergate Centre for a period of 250 years, from and including the date of such lease. The land on which the majority of the Centre is situated, is owned by the Council and is subject to an existing lease to Mahavir Properties Ltd., the owner of the Centre, who in turn leases them to the occupational tenants. The new lease would be granted by the Council to Mahavir Properties Ltd. in exchange for land being provided to the Council by Mahavir

Properties Ltd. and investment being made by Mahavir Properties Ltd. to refurbish the public realm of the centre, including the provision of new facilities within St Mary's Square at no capital cost, nor any maintenance liabilities to the Council.

7. The head lease of the 17-21 Piccadilly site currently held by Spark York from the Council expires on 31st October 2024. The Report also sets out the proposal to surrender the current lease to Spark York on the Council's 17-21 Piccadilly site, and the grant of a further lease to Spark York for a period of 2-years from and including 1st November 2023, to allow time for opportunities to be explored to allow this facility to re-locate elsewhere in the city.

Benefits and Challenges

8. **Annex C** provides an overview of the proposed approach, illustrating the Schemes anticipated impact on the Council Plan, their linkage to original master plan objectives and how they will contribute to the themes in the City Centre Vision.
9. Re-aligning the Castle Gateway masterplan with the new Council Plan and its Core Commitments will ensure that these key aspirations for the city are delivered.
10. Reviewing the Castle Gateway masterplan projects and setting out realistic options to progress their implementation, after a period of pause and uncertainty, will ensure that the regeneration of this important area of the city can now progress.
11. The delivery costs for some of the projects can be significantly reduced by changing the design, without compromising some of the overall fundamental principles.
12. The granting of a further headlease term at the Coppergate Centre to the Council's current tenant for an additional period will leverage capital expenditure and investment into the shopping centre, provide an enhanced public realm and new facilities, at no capital cost or maintenance liability to the Council. The surrender to the Council of Mahavir's lease (and of any subtenant's rights over) part of the service yard of land to the rear of the Coppergate Centre will also facilitate the proposals for re-purposing the Castle car park.
13. The headlease of the 17-21 Piccadilly site currently held by Spark York from the Council expires on 31st October 2024. The granting of

a further headlease of the site to Spark York (for a suggested period from 1st November until 31st October 2026) will provide greater security to this local business and allow continuity of operation for a vibrant city centre venue which is home to a multitude of small businesses, and part of the vibrant city centre offer to residents and visitors.

14. However, there are some challenges: whilst all previous survey and evidence base work will be utilised (where still valid) as the basis for project re-design work, amendments to project delivery scope will result in elements of this work on some of the Schemes being abortive. A review at this stage is less costly than making changes during delivery when contracts have been let. The value of all the background and previous design work to date will enable changes to be made quickly and abortive costs to be minimised.

15. Significant engagement and collaboration have been undertaken on the regeneration of the Castle Gateway throughout the project development from inception using the innovative 'My' technique. This was most significant in relation to developing the brief for the Castle and Eye of York area. There is a risk that revised proposals will not be seen as delivering against the expectation that has been built up. However, by realigning the Schemes with current Council priorities, where the underlining principles are not changed, this risk should reduce. Certainty around project delivery will build on the work undertaken to date and allow for momentum to be built up again as Schemes progress. The Council remain committed to consultation on the Castle Gateway project including engagement on the redesign of the Castle and EoY space to inform revisions to the planning application.

Policy Basis for Decision

16. This section sets out how the Castle Gateway contributes to the delivery of the commitments in the Council Plan (2023-27), 'Our City Centre' Vision and the Local Plan.

17. The Castle Gateway projects will contribute to the delivery of the four core 'EACH' commitments in the Council Plan 2023-27 – One City, for all by:
 - **Equalities and Human Rights** – by re-purposing the Castle car park and redesigning the proposals, blue

badge parking will be retained close to the city to aid accessibility, aligning to the emerging Local Transport Strategy's Policy Focus Area 1 - shaping a city centre that is accessible for all.

- **Affordability** – by investigating opportunities to increase the supply of affordable housing within the city centre in the longer term and creating a free amenity/play space for residents.
- **Climate & Environment** - by providing a new green space within the city centre, and enhancing/improving biodiversity, this will aid urban cooling for climate resilience. The public realm improvements will consider climate adaption features for example passive shading/cooling, rest areas, water refill stations. It will also provide sustainable transport modes.
- **Health** – by creating a free amenity and play space for families to encourage healthier lifestyles, coupled with improved connectivity and travel opportunities across the site. Improving walking and cycling routes will contribute to active travel and help improve air quality

18. Below are specific examples taken from the Council Plan to illustrate the above linkages:

- Pg 18 3.2 - develop family friendly foot streets to bring playful exploration to the city centre.
- Pg 26 5.2 Work with partners to develop the city centre.
- Pg 30 3.2 Co-design a plan for Our City Centre to make foot streets more welcoming and accessible.
- Pg 30 4.1 Improve streets, cycleways and footpaths for walkers and wheelers.
- Pg 32 2 Create more affordable housing.
- Pg 36 2.2 Make the most of our green and blue infrastructure to improve biodiversity, improve health and wellbeing and support nature recovery.

19. The Castle Gateway projects will also help deliver the 'Our City Centre' Vision, approved by Executive in October 2023, as set out below:

- **Theme 1 – Family friendly and affordable city centre**
 - The new public realm around Clifford's Tower will create valuable new play space in the city centre and create a space that can be used by people of all ages.
- **Theme 2 – An attractive, active and healthy city centre**
 - The creation of the new public realm space delivers investment in public space and squares.
 - Deliver active travel options for getting into and around the centre of York.
- **Theme 3 – A sustainable city fit for the future**
 - New green space will increase biodiversity in the city and improve climate resilience and reduce surface water run-off.
- **Theme 5 – Embracing our riversides**
 - The Castle and Eye of York designs will celebrate the cultural and environmental benefits of the River Foss, providing a new river edge and walkway linking to the new river park behind the museum.
- **Theme 6 – A safe city centre, which is welcoming and accessible to all**
 - Blue badge parking will be retained close to the city to aid accessibility.
 - Future affordable housing provision on Castle Mills and 17 – 21 Piccadilly will be explored.
 - The new public space at the Castle and Eye of York will provide open space and facilities for residents and will be specifically designed to improve accessibility. This supports the Health and Wellbeing strategy, "Creating an age friendly city for older adults."

- **Theme 7 – Thriving business and productive buildings**
 - Projects will explore and deliver temporary uses in empty buildings and spaces. Spark York is great example of this, and an extension of its lease forms part of this Report. Meanwhile opportunities on the Castle Mills site will be explored, whilst affordable housing options are considered.
- **Theme 8 – Celebrating heritage and making modern history**
 - The new public realm development in the Castle and Eye of York will enhance the setting of the heritage assets surrounding the spaces by; repurposing the car park, enhancing the Eye of York, and transforming the connectivity to this area.

20. In the Local Plan, which we expect to progress to adoption soon, **Policy SS5 – Castle Gateway** is allocated as an “Area of Opportunity.” It is identified as a major regeneration area of the city centre. The projects in the Castle Gateway masterplan are key to delivering this policy.

21. The projects also contribute to deliver of the three (3) 10-year City strategies approved in 2022:

- Economic Strategy (2022-2032).
- Health and Wellbeing Strategy (2022-2032).
- Climate Change Strategy (2022-2032).

Financial Strategy Implications

22. Significant project costs have been incurred to date in line with previous Executive decisions to progress the masterplan proposals for delivery. These break down across the Schemes as follows:

- **Castle and Eye of York** costs of c.£1,000,000 on: engagement work; site surveys; Scheme design in outline and detail; a planning application; project management, programme assurance and support.
 - **St Georges Field Car Park** costs of c.£1,000,000 on: site surveys including liaison with Yorkshire Water and the Environment Agency on flood protection, the detail design and planning application for a potential Multi-Storey Car Park (“**MSCP**”) project management, programme assurance and support; and subsequent options for surface layouts. Unfortunately, a significant component of these costs will have to be written off in year if the decision is confirmed not to proceed with the MSCP.
 - **Castle Mills** costs of c.£2,000,000 on: site surveys and preliminaries, detail design, planning approval, for Scheme and construction detail and technical design (which is at 75% completeness overall) project management, programme assurance and support. The bridge and pedestrian and cycle link design are complete to the stage needed to progress / reprocur a construction partner. Some of these costs may be abortive, but this will be determined at the point when a future Scheme is agreed.
23. These potentially abortive costs are not insignificant, but subject to the decisions of Executive can be treated separately:
- **Castle and Eye of York** – there is a proposed Scheme to go forward - much of the work that has been undertaken is still relevant and can be attributed to the new Scheme.
 - **St Georges Field** - terminating the Scheme to build a MSCP will mean that a significant component of the work undertaken to date will be classed as abortive and will need to be written off to the revenue account at the point the decision is made. However, a decision to proceed with the MSCP would have required borrowing of around £15,000,000, at a cost of c. £1,100,000 pa over a 40-year term to provide an additional 80-spaces and associated revenue. Accordingly, the decision not to proceed does save the Council from a significant ongoing financial commitment.

- **Castle Mills** - the design work to date, and specifically the 2020 planning approval has demonstrated the potential quantum of development that the site can accommodate. The site can therefore be considered as an asset where the costs incurred can potentially be offset by any future capital receipt from the site. Should the capital receipt be lower than the costs incurred, this would be a charge to revenue in the future. Should the Council not secure a capital receipt from the site the costs will be required to be written off to revenue.
24. The decision to confirm the re-purposing of Castle car park will have the impact of reducing car parking income by approximately £1,000,000 per year when parking is withdrawn. This creates a budget pressure, that will need to be managed in the context of the car parking income budget target for future years. However, where there is an over achievement of car parking income by c. £1,000,000 in the current 2023/24 year, there is the potential to address this when future budget setting takes place.

Recommendation and Reasons

25. The Executive is asked to:

17- 21 Piccadilly

- 1) Approve the granting of a further head lease to Spark York of the 17-21 Piccadilly site for a further 2-year period from and including: 1st November 2024 until and including 31st October 2026.
- 2) Delegate to the Director of Housing, Economy, and Regeneration (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), authority to negotiate the terms of and the entry into of such further lease of the 17-21 Piccadilly site to Spark York.

Reason: To enable the current use to continue in the short term and provide a continued income to the Council, whilst allowing Spark York the opportunity to identify an alternative location in the city.

Castle Mills

- 3) Confirm that further work on developing the Castle Mills site is paused and ask officers to investigate appropriate meanwhile use options in parallel with exploring longer term opportunities for the future delivery of 100% affordable housing on this Council owned site.
- 4) Delegate authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for said work in compliance with the Public Contract Regulations 2015 (**'the Procurement Regs'**) and the Council's Contract Procedure Rules under Appendix 11 of the Council's Constitution (**'Council's CPRs'**), and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work.

Reason: To seek an active use for this City Centre site and to progress the Council's objective of 100% affordable housing being delivered on Council owned sites.

- 5) Instruct Officers to progress work to secure delivery of the pedestrian/cycle bridge, sustainable travel links, subject to confirmation of funding with West Yorkshire Combined Authority ("**WYCA**"); updated delivery costings; and all necessary approvals, planning, highways, and bridge agreement.
- 6) Delegate authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary contractors and/or consultants required for said works in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any and all such contractual arrangements and/or legal documentation required for said works (including any and all planning agreements and/or highways agreements required; however for the sake of clarity this delegation is not for any requirements of either the Local Planning and/or Highways Authority).
- 7) Delegate authority to the Director of Housing, Economy, and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director

Governance (and their delegated officers) to draft, negotiate, and conclude with WYCA any and all such contractual arrangements and/or legal documentation relating to the funding for the proposed works.

Reason: To maximise use of external funding, previously allocated by WYCA, to deliver city centre connectivity in accordance with the sustainable travel principles of the Local Transport Strategy, with delivery progressed in advance of development of the Castle Mills site, achieving the wider aims of the Castle Gateway masterplan.

St George's Field Car Park

- 8) Confirm that the Council will not proceed with the building of a MSCP on St George's Car Park and that officers are to develop proposals which balance: improved parking capacity; pedestrian and cycle connectivity; and coach drop off facilities within a surface level layout. This decision acknowledges that there will be an in-year revenue impact to the Council of up to £1m.
- 9) Delegate authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for said work in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work.

Reason: A MSCP does not represent value for money in terms of providing additional spaces, reconfiguring the surface level parking will provide improved facilities in accordance with the draft Local Transport Plan.

Castle & Eye of York

- 10) Confirm the re-purposing of the Castle car park to support the delivery of a revised Castle Gateway Masterplan, with retained Blue Badge parking; subject to an updated business case being brought back to Executive for full consideration, and where closure will only occur when a revised Scheme has been approved for delivery.

- 11) Delegate authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary professional advice required for the updated business case in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any contractual arrangements and/or legal documentation required for said work. A further report to the Executive will be required once the business case has been concluded as it will have a budget impact.

Reason: To enable the Council plan objectives, and Castle Gateway masterplan benefits, to be delivered with parking capacity and city centre traffic reduction prioritised in accordance with the draft Local Transport Plan.

- 12) Confirm the re-design of the Castle and Eye of York Scheme, with a specific emphasis on the retention of blue badge parking numbers, flexible green space with children's play provision and a keen focus on reducing capital and management costs and the submission of revisions to the planning application.

- 13) Delegate authority to the Director of Housing, Economy and Regeneration and the Director of Environment, Transport and Planning (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers) to commission any necessary contractors and/or consultants required for said works in compliance with the Procurement Regs and the Council's CPRs, and to draft, negotiate, and conclude any and all such contractual arrangements and/or legal documentation required for said works (including any and all planning agreements and/or highways / bridge agreements as required; however for the sake of clarity this delegation is not for any requirements of either the Local Planning and/or Highways Authority).

Reason: To enable the existing planning application to be revised with a simpler, more affordable Scheme reflecting the more inclusive ambitions of new Council Plan.

Coppergate Centre

- 14) Approve the granting to Mahavir Properties Ltd. of a new headlease for a period of 250 years [from and including the date of grant of such lease] in return for Mahavir: (i) carrying out improvement works to the shopping centre; (ii) transferring to the Council unencumbered ownership of an agreed area of land to the rear of the Coppergate Centre); and (iii) settlement of rent reconciliations on the basis set out in the report (paras 76-77). Upon the grant of the new lease, the existing lease shall be surrendered.
- 15) Delegate to the Director of Housing, Economy, and Regeneration (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), authority to negotiate the terms of and the entry into of such surrender and replacement head lease of the Coppergate Centre site to Mahavir Properties Ltd. on the basis of the terms set out in this Report.
- 16) To waive the requirements of Rules 11.1.3(iii) and 11.4 of the Council's CPRs in respect of any proposed Leaseholder Development Agreement ("**LDA**") at the Coppergate Centre site between the Council and Mahavir Properties Ltd., further to Rule 26.1 of the Council's CPRs.
- 17) Subject to paragraph 16 of this Report, delegate authority to the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with both the Director Governance and the Chief Finance Officer (and their respective delegated officers), authority to negotiate the terms of and the entry into a LDA at the Coppergate Centre site with Mahavir Properties Ltd. on the basis of the terms set out in this Report, in compliance with the Procurement Regs and the Council's CPRs.

Reason: To facilitate investment into the shopping centre and provide land to the Council which will aid the plans for Castle Car Park.

Background

26. In April 2018, the Executive approved the Castle Gateway masterplan to transform a large area of the city centre that had seen private sector regeneration proposals fail over 3 decades. The extent of the Castle Gateway masterplan area is set out at **Annex D**.

27. The innovative My Castle Gateway engagement approach, saw the masterplan gaining widespread public and cross-party political support. The proposals focussed on the creation of new high quality public realm and event spaces, around Clifford's Tower and the Eye of York, significantly improving the setting of key heritage assets, and also improving pedestrian and cycle and routes throughout the area. To achieve this the masterplan proposed the consolidation of two large surface level car parks (Castle car park and St George's Field car park) in to a single modern multi storey car park MSCP outside of the inner-ring road and the development of the Castle Mills site with city centre living and commercial units.
28. The business case and delivery strategy for the first delivery phase of the masterplan was approved in January 2020. This phase included: a new bridge over the Foss creating new pedestrian and cycle routes, a riverside public park, and linking to; new apartments and commercial spaces at Castle Mills; a MSCP at St George's Field to replace Castle car park, which would then have become a high-quality public realm/events space – proposed for phase 2 delivery.
29. A number of delivery options were considered, and the Executive approved the Council taking the lead to deliver the projects, acting as developer for the whole of phase one. At that time (January 2020) the business case suggested that a commercial return from the sale of apartments could cover the majority of the costs of the MSCP facilitating the repurposing of Castle car park.
30. It is important to note that the commitment by the Council to invest in the Castle Gateway has already acted as a catalyst for private investment in the area. This is particularly apparent along Piccadilly, where a number of Schemes have been developed / delivered or are in construction. This includes new hotel Schemes and conversion of offices to residential.
31. This private sector investment has included agreed highway improvements being implemented on Piccadilly in line with the highway design agreed by Executive Member for Transport on 17 May 2022. As noted above this has facilitated implementation by developers where they are progressing their projects and includes; the creation of an additional "integrated", on carriageway bus stop in front of the Banana Warehouse site, review of additional public seating and parking provision aiming to maximise Blue Badge parking provision, and to provide a taxi rank and motorcycle parking if possible. The decision also required further work to assess the

feasibility of implementing an alternative cycle route through quieter streets or segregated cycling provision on Piccadilly. This work is being led by the Highways Team.

32. In terms of the Castle Gateway masterplan, as explained at paragraph 3 to this Report, a number of macro-economic factors have impacted significantly on the business case since decisions were taken in January 2020. The background and current context for each component part of project is set out below:

17-21 Piccadilly

33. 17-21 Piccadilly is the site of the former Reynard's Garage and is now the site of the hugely successful Spark York, a pop-up container development hosting many small, local, retail, food, and drink businesses. Spark have occupied the site since 2017. A plan showing the site extent is attached at **Annex E**.
34. In accordance with a decision made by Executive in March 2022, Registered Providers were approached to provide affordable housing on the site, and it was anticipated that the value of the site could provide £500,000 on a 999 year lease basis. However, despite soft market testing providing a reasonable response from Registered Providers, when formal expressions of interest were subsequently invited, only one expression of interest was made. Rising build costs and the relatively small / restricted site were cited as challenges deterring other bidders. Options to provide affordable housing provision on this site will continue to be explored.
35. Spark York has proven to be popular and continues to bring vibrancy and activity to Piccadilly. 17 out of 19 units are currently occupied and the others are under offer, particularly appealing to start-up businesses.
36. Pursuant to Spark:York's current lease, at present they pay a yearly rent comprising the aggregate of:
- (i) a "basic rent" of £25,000 per annum; and
 - (ii) an "additional rent" equal to such amount (if any) by which the "Maximum Rent" exceeds the "basic rent" in that 12-month period (with the "Maximum Rent" being the aggregate of: (a)

£13,333.33 and (b) 30% of Spark:York's profit generated from the site for that 12-month period)

37. In addition, there are art studios, co working space and meeting rooms. Spark advise that 21 of their previous occupiers have moved on as part of those businesses' growth. They also estimate that there is a £4m turnover from current businesses providing 65 jobs and attracting 400,000 visitors a year to the facility. They also advise that they provide free space to community groups to meet which has totalled 800 hours in the last year.
38. Given the success of Spark:York and the lack of interest by Registered Providers in the affordable housing proposition, it is proposed that the Council grant Spark:York a further headlease of the 17-21 site for 2-years from and including 1st November 2024 until and including 31st October 2026. This will provide further time to work with Spark to ascertain if an alternative venue within York could be suitable, such as York Central. Affordable Housing provision on this site will continue to be explored.
39. The precise provisions of the further lease would be negotiated by the Director of Housing, Economy and Regeneration (and their delegated officers) in consultation with the Director of Governance upon advice from officers in Legal Services and Property Services but would contain provisions obliging Spark:York to comply with all statutory controls which will necessitate them in applying for an extended planning consent for which their current use runs until September 2025. Landlord controls within the extended lease, governing noise and issues of potential disturbance would be commensurate with the current lease. This in recognition that, whilst the site is located in the vibrant city centre, that there is residential accommodation in close proximity.

Castle Mills

40. Castle Mills site at 84 Piccadilly is another Council owned site on Piccadilly Planning approval was secured in November 2020 for a Scheme comprising: 106 apartments with 20 affordable units and commercial units at ground floor; a bridge over the river Foss to provide pedestrian and cycle connectivity to St Georges Field and the Castle / Eye of York and highway improvements on Piccadilly. A ground level plan is attached at **Annex F**.

41. A delivery partner (Wates Construction Limited) was procured to provide a detail design and construction costs, work progressed from June 2021 to January 2022, but the contract was ultimately terminated in June 2022, without a finalised design or an agreed construction cost.
42. A significant amount of valuable technical design and further ground investigation and site survey work was completed. Designs for the Foss bridge and associated pedestrian cycle route are sufficiently progressed to facilitate a new procurement. However, in the absence of a material start on site the planning permission will lapse in December 2023 and this will need to be renewed if these elements are to be progressed.
43. Work to progress and the secure delivery of the pedestrian/cycle route and Foss bridge is a key decision to support sustainable travel principles, subject to:
 - confirmation of WYCA funding
 - updated delivery costings
 - securing all necessary approvals; planning, highways, and bridge agreement.
44. The risks associated with bringing the bridge and riverside pedestrian cycle route and park forward in isolation will be assessed as part of this process. The bridge and river park were classed as enablers when the Castle Mills planning application was considered due to the public benefits they deliver.
45. However, where there is a Council commitment to increasing the supply of affordable housing, with 100% affordable housing provision on Council owned sites, a decision is sought to pause work on the development of Castle Mills, and for officers to investigate appropriate meanwhile use options in parallel with exploring all opportunities for the delivery of an affordable housing Scheme on the site. A meanwhile use will prevent this site standing vacant.
46. It should also be noted that the viability of developing this site will be particularly challenging, as set out above, and where there are a range of known technical and ground condition challenges, and some costs relating to the previously agreed Scheme design may be

abortive if a different Scheme is delivered, and these will have to be set against the site value.

St George's Field Car Park

47. Planning permission was obtained on 12 January 2021, for a MSCP on the St George's Field Car Park, including a coach park cycle routes and improved public realm and riverside setting.
48. The MSCP was proposed as a solution to replace two surface level car parks serving the city (Castle Car Park and St George's Field car park). Consolidating the two surface level car parks in to the proposed MSCP reduced the parking capacity across the two locations from 594 spaces to 372 spaces (a loss of 222 spaces).
49. The site is constrained both in terms of restricting the height of the building requiring a floor to be removed, and also the ground constraints limiting the footprint of the building limit the capacity that can be achieved in the MSCP.
50. Due to the constrained capacity, coupled with the sewer diversion that is required, the cost of which has risen significantly and increasing construction costs, the MSCP is seen as not representing value for money; in terms of providing additional spaces.
51. An alternative has been considered for St George's Field car park to improve car parking capacity. Reconfiguring the car park with removal of the coach parking, instead facilitating space for three coach drop off bays could increase capacity at St George's Field from 267 spaces (plus 28 coach parking bays) to 297 spaces (with 3 coach drop of bays).
52. Reconfiguring the existing surface level car park parking will provide improved facilities in accordance with the draft Local Transport Plan.
53. Therefore, a decision not to proceed with the building of the MSCP on St Georges Car Park is included in the recommendation, along with instructing officers to develop a proposal for the St George's car park that seeks to balance improved parking capacity; pedestrian and

cycle connectivity; and coach drop off facilities within the surface level layout.

Castle and Eye of York

54. The heart of the Castle Gateway masterplan is the repurpose of the Castle car park and Eye of York. The Executive previously approved the design and submission of a planning application for a high spec public realm/event space, considering comments received during a public engagement undertaken in drawing up the in the Open Brief during 2019/20.
55. The planning application was submitted on 31st January 2022 (**Annex G** indicates the planning application red line boundary). This has been the subject of ongoing design input from the Castle Gateway Advisory Group and refinements through the My Castle Gateway public engagement project. The following three matters are yet to be resolved on the planning application – wider parking strategy including blue badge parking provision, Hostile Vehicle Measures and access arrangements for the Eye of York.
56. Two levelling up funding bids have been unsuccessful for delivering the project. York was in the lowest priority areas list in the governments levelling up fund process. So, there is a significant funding gap for the current project.
57. Considering the above and to realign this project with the new Council Plan a re-design of the Castle and Eye of York Scheme with specific emphasis on the retention of blue badge parking numbers; flexible green space with children's play provision and a keen focus on reducing capital and management costs is proposed. Consideration will be given in the design process to the new play space proposed within the Coppergate Centre to prevent duplication.
58. The re-purposing of Castle Car Park remains a pre-requisite for any regeneration Scheme for this key city space. The principle of the car park closure was previously approved by the Executive on 21st January 2020 when considering the Castle Gateway Phase one delivery strategy Report. Executive are recommended to confirm the re-purposing of the Castle car park to support the delivery of a revised Castle Gateway Masterplan, with retained Blue Badge parking; subject to an updated business case being brought back to the Executive for full consideration, and where closure will only occur

when a revised scheme has been approved for delivery. The updated business case will set out the overall implications for parking capacity and parking revenue.

59. Options are being explored to deliver a scheme, including a phased approach focusing on the car park and riverside. The Castle car park surface is not in good condition. In the short term some maintenance work will be required to keep the car park operational, however in the longer-term significant expenditure would be necessary to facilitate its ongoing operation. The re-purposing scheme will, however, bring significant benefits to the city: it will retain blue badge accessibility close to the city: provide a green space that will benefit families' health and wellbeing, and also increase connectivity and promote sustainable transport modes.
60. This part of the development supports the aims of the York Public Health physical activity strategy which champions inclusive spatial design, thus having a direct and positive impact on physical and mental wellbeing and improving sedentary behaviour in the population through free well designed play spaces, cycling routes and walking. The scheme supports an accessible city and directly impacts on the ambition of the York Health and Wellbeing strategy to create an accessible and age friendly city. The proposed scheme will help to increase footfall to the city centre and help draw footfall into this part of the city, boosting visitors to the attractions, and benefiting local businesses. It will also provide some biodiversity net gain through new planting and enhancing the riverside, resulting in an improved setting for the historic buildings that occupy this area.

Coppergate Centre

61. The Coppergate Shopping Centre (the "**Centre**") is a purpose-built, open-air Shopping Centre, which opened in 1984. The Centre has retail frontage and pedestrian access from Coppergate; Piccadilly; and Castlegate. To the southwest, the Centre is bounded by the River Foss and two visitor attractions in the form of the York Castle Museum and Clifford's Tower. The Centre is arranged around St Mary's Square with two open air malls, Coppergate Walk and Castlegate.
62. The two major anchor tenants in the Centre are Primark and Fenwick's. Primark opened in November 2016 and includes an

extension which was constructed by the head tenant on the site of 22 Piccadilly, which is owned freehold by Mahavir Property. There are 19 retail tenants together with kiosk units in the Square. The Jorvik Viking Centre visitor attraction is located beneath the Centre and uses two of the retail units for its admissions and gift shop facilities.

63. The footprint of the Centre is c.3.25 acres and is one of the largest real estate holdings in York's city centre. (See plan in **Annex H**)

Coppergate Existing Lease Basis

64. The majority of the land that the Centre sits upon is owned freehold by the Council and is subject to a long leasehold (Headlease) interest held by Mahavir Properties Ltd.. The buildings are owned by Mahavir Properties Ltd. and the head lease is a ground lease (the Council owning the land/ground that the buildings are situated upon). The Council hold a sublease back from Mahavir Properties Ltd. of the car park and toilets within the Coppergate Centre (for nil rent).
65. The term of the headlease granted from the Council is 99 years from 15th June 1984 (i.e., until 14th June 2083) (but with an option for either the landlord or the tenant to require the entry into of a further headlease on the same terms (excluding any further option to renew such further headlease) by serving written notice on the other party at any time between 15th June 2062 and 15th June 2082). Mahavir Properties Ltd.'s lease is a full repairing basis with no repair liability on the council, except for a contribution to the operational service charge through its use of the car park. The current headlease expires on 14th June 2083 but with an option for either the landlord or the tenant to 'extend' the lease by 26 years in the manner specified above. This lease is known as the "**Headlease**" as the head lessee has in turn, granted occupational leases to those occupiers trading in the Centre.
66. The Head Lease is subject to a yearly rent (which is payable to the Council in quarterly instalments) which is equal to the greater of:
- (i) £23,000 per annum;
 - (ii) Such sum as represents 16% of rents that the head lessee receives from the Centre's occupational tenants, less deductible costs which include bad debts, professional fees in rent reviews and lease renewals and for any empty units, rates, insurance, and service charge.

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The figure currently payable is c. £170,000 per annum.

67. In addition to the area of the shopping centre detailed above, Mahavir Properties Ltd. own the freehold of part of the Primark shop. The reason for this is that this area was formerly a non-council owned cinema, and it thus forms a separate property interest to the majority of the Centre which is held on the long leasehold basis described above.
68. The Council and Mahavir Properties Ltd.'s headlease predecessor, had been in negotiations over a potential lease restructure whereby the existing lease would be replaced by a modern longer term 250-year lease. No deal was ever done, as the previous head lessee were only willing to offer limited investment into the Centre, which is in need of such. The grant of a new replacement 250 head lease on more modern terms was seen as leverage to negotiate such investment. Mahavir purchased the head lease interest last year and discussions have moved positively with investment into the Centre now proposed in exchange for the granting of a longer-term lease.

Coppergate link to Masterplan

69. The Castle Gateway master plan identified the potential of the area at the rear of the Centre.. This area partly forms a service yard serving Fenwick's and the former Topshop unit, which backs on to the Castle Car Park and which is intended to be transformed, from the current surface car park into a public realm area, providing a place for people to gathering for variety activities.
70. Whilst the Council owns the freehold of this area, under the ground lease it has granted, it is subject to the head lease to Mahavir Properties Ltd. whom, in turn, have sublet to other occupational tenants. The Council thus has no control of this area. To bring this into the Council's "unencumbered" control requires the agreement of Mahavir Properties Ltd. the head tenant and the other occupational leasehold interests.

Coppergate - Proposed New Head Lease

71. In return for the grant of a new replacement headlease for a term of 250 years (from date on which such is granted) (whereby the existing 59 year lease with 26 year option to extend would be surrendered on grant of new lease) for nil monetary payment to the Council by Mahavir Properties Ltd., the Council has agreed the following points which shall form part of any new agreement granted.

A. **Land Surrender to the Council, forming part of service yard, for nil cost.**

72. The land surrender detailed above and by that outlined and hatched black on the plan (See **Annex I**) will not involve a payment by the Council to Mahavir or their subtenants of any monetary "surrender" premium. The Council's freehold interest will thus be released from any existing leases currently affecting it without any monetary cost to the Council except for any Stamp Duty Land Tax which may be payable by the Council to HM Revenue & Customs as a result of such surrender arrangement.

B. **Refurbishment**

73. Mahavir will commit to refurbish St Mary's Square which forms the main central public realm hub to the Coppergate Centre. Plans need to be finalised and planning permission obtained, but indicative proposals include the creation of new kiosks; seating areas; paving, signage, and lighting plus children's play area. (See indicative images in **Annex J**).

74. It is envisaged that this will create an enhanced customer experience for visitors and focal point for families with children, given the lack of such facilities in the city centre. The Castle/EoY redesign and these new facilities provided in the Coppergate centre will have regard to each other to ensure they compliment rather than compete. The estimated cost of this Scheme is c £1,300,000 and it is considered that this should encourage the demand and levels of rental achievable in the Centre's retail outlets, for which the Council receive 16% of rents. Under the terms of the new lease, the Council will continue to receive 16% of the sub-lease rents from occupational tenants payable to Mahavir Properties Ltd. by their subtenants as the head rent payable by Mahavir. An increase in demand for units raising rents would thus have a positive impact on the Council's financial position through its 16% share of rent, even though it would contribute nothing financially to the upfront investment.

75. The Council is not obliged to contribute any capital contribution towards any improvements under the current lease, however through not contributing this would naturally diminish the viability, (financial return) to the head lessee in carrying out any such improvement Scheme. Mahavir Properties Ltd. recognises that in lieu of the Council not contributing, this forms part of the deal for a longer lease. The Council will thus not contribute towards the capital investment and Mahavir Properties Ltd. will be responsible for the upkeep and maintenance of the area and its facilities.

C. Settlement of Rent Reconciliations

76. Mahavir Properties Ltd.'s predecessors had paid the Council £236,000 as an estimate of the rental share each year (given the level of rent had stayed relatively static for some years). At year end, a reconciliation process occurred.

77. A number of year's reconciliation statements are outstanding which includes for the Covid period, where there is a risk that the rental owed to the Council is less than has been paid. This matter is a point of legal debate and not accepted by the Council but as part of the deal Mahavir Properties Ltd. have agreed to draw a line under such a notion and hence no back rent would be paid through any previous reconciliation.

Coppergate - Documentation of the New Lease

78. The obligations of:

(i) The Council to:

(a) Accept a surrender from Mahavir Properties Ltd.'s existing headlease; and

(b) Grant new replacement 250-year lease upon completion by Mahavir Properties Ltd. of the agreed "improvement works" to St Mary's Square in accordance with an agreed deadline.

(ii) Mahavir Properties Ltd. to:

(a) use their reasonable endeavours to obtain planning permission (on terms satisfactory to Mahavir Properties Ltd. acting reasonably) for the proposed improvement works to St Mary's Square;

- (b) commence and complete such improvements works within a specified period subject to, and after, obtaining satisfactory planning permission;
- (c) surrender their current headlease of the agreed part of the 'service yard' (after obtaining surrenders from any subtenants who currently also have leases of/rights over such land) (for nil cash payment by the Council to Mahavir Properties Ltd.); and
- (d) surrender their current head lease of the remainder of the site of the Centre to the Council (for nil cash payment by the Council to) in return for the Council granting Mahavir Properties Ltd. new 250-year lease.

This would need to be documented within a detailed Leasehold Development Agreement ("**LDA**") The specification of the improvement works that Mahavir Properties Ltd. would be obliged to carry out (subject to obtaining planning permission) would need to be approved by the Council as landlord and this would form part of the LDA. Only once the agreed works had been implemented would the new lease be granted. The surrender back to the Council of the agreed part of the service yard would also form part of the pre requirements simultaneous with the grant of the new lease.

- 79. The lease back arrangement of the car park and toilets to the Council would remain commensurate with the existing lease, with the Council receiving all car park income.
- 80. A third-party valuation Report has been prepared by an external valuer (see confidential **Annex K**) who advises this deal represents good value to the Council.

Consultation Analysis

- 81. The Castle Gateway Masterplan was shaped through extensive stakeholder and public engagement on both the masterplan and subsequent sub-projects in the form of My Castle Gateway. Over 8,500 comments have been recorded to date.
- 82. The last intensive period of engagement related to the proposed new open space at Castle and the Eye of York. This ran from summer 2019 to February 2022 and included a programme of activities to inform a community open brief for the new public space, followed by

the team sharing the evolving design process through the RIBA concept design, concept proposals, and developed design stages. This provided a process of continuous conversation and feedback to inform the final design which was submitted for the Castle and Eye of York Planning application in February 2022, and full details are set out in the Statement of Community Involvement which accompanied the planning application.

83. The last MCG update blog on the regeneration of the Castle Gateway area was published in June 2022 to accompany the Council's Executive on 16 June 2022. Castle Gateway Advisory Group meetings with stakeholders took place in October 2022 and February 2023, and a further meeting is scheduled for November 2023.
84. The redesign of the space will draw on the wealth of engagement that already exists. One of the main themes of the open brief was "Gathering playfully" which will be key to informing the redesign. The Council remain committed to consultation on the Castle Gateway project, including engagement on the redesign of the Castle and Eye of York space to inform revisions to the planning application.

Options Analysis and Evidential Basis

85. There is an urgent need to confirm how the Castle Gateway projects are to progress following a period of pause, and there is a clear opportunity to re-align project aims and objectives to ensure that they deliver outcomes for the city in accordance with the recently approved Council Plan and Our City Centre Vision.
86. A period of uncertainty where the projects were impacted by a number of macro-economic factors including: construction cost inflation, driving increases in delivery costs; rising interest rates impacting borrowing costs and housing market uncertainty, have all impacted the 2020 business case. It is also the case that delivery funding was not secured through 2-bidding rounds to central government for Levelling up Funding.
87. Accordingly, **Option 1** – is to approve the recommendations in the Report which clearly set out the next steps for all the current Castle Gateway Projects.
88. Other options include:

- **Option 2** - pausing all Castle Gateway projects for now and follow a do nothing approach; or
- **Option 3** - to select only certain projects to continue forward in the short time, while further work is carried out.

89. A new lease at the Coppergate Centre could be withheld as there is no requirement for the Council to grant one. However, the benefits outlined above which have been negotiated as part of the deal with the new owners, would be very unlikely to be realised should a “Do Nothing” option be preferred.

Analysis

90. Option 1 offers a clear way forward in accordance with the recently approved Council Plan and Our City Centre Vision; also responding to the reality that there is significantly less funding available to deliver the Castle Gateway projects. The recommendations allow the regeneration of the area to progress, see the projects aligning to reflect the Council Plan and deliver the masterplan objectives at an affordable cost.

91. Unlocking the regeneration of the Castle Gateway has always presented significant challenges to overcome. The interdependences between Schemes were an integral part of the previously approved delivery model, however, given new Council Plan priorities, including 100% affordable housing on Council sites, and the changed economic circumstances, preclude profit to cross fund projects in the Castle Gateway. To enable regeneration of the area to continue, a new delivery approach is needed, which breaks the interdependencies between the Schemes and through careful redesigns, reduces capital costs to secure early delivery.

92. The regeneration of the area has been informed by extensive engagement and shaped by a strong stakeholder group, with the technical expertise of Council officers. There is strong support to see this area transformed and the key principles of improving the heritage setting of key buildings in York, improving connectivity, providing a free attractive space for residents and visitors, along with greening the city are still part of the vision and supported by the engagement.

93. All other options involve further delay to decision making and additional costs being incurred in undertaking further work on the individual projects where this may not offer significant additional information or certainty to inform future decision making.

Organisational Impact and Implications

- **Financial**, contact: *Chief Finance Officer*.

The key Financial Implications are included within the Strategic Financial Implications. The most significant implication is the need to write off the abortive costs relating to the decision to cease development on the St George's Field site. A detailed analysis of payments made on the scheme will be undertaken to ensure those costs that we incurred designing the multi-storey car park and taking the scheme to planning are written back to revenue. This is anticipated to be up to £1m and will be accounted for at year end. This charge will impact the council's outturn position and update of which is reported elsewhere on the agenda. Whilst the decision provides a short-term negative impact on the council's finances it saves the council from future significant financial liabilities.

There is £4.6m of West Yorkshire Transport Funding towards the transport improvements of the scheme including bridge and associated pedestrian and cycle improvement works. In addition there is £4.4m of Council borrowing approved to fund the aspirations detailed in the report.

- **Human Resources (HR)**, contact: *Head of HR*.

There are no resource implications identified at the current time. Dependent upon the decisions that are made there may be staffing implications in future years which would be managed in accordance with Councils policies.

- **Legal**, contact: *Head of Legal Services*).

Contract & Procurement Law Implications:

Any external professional advice, consultant and/or design services required for any work relating to Castle Mills, St George's Field car park and/or Castle/Eye of York must be procurement in line with the Council's statutory obligations under the Procurement Regs and the

Council's CPRs, with advice and input from the Council's Legal Services and Commercial Procurement teams.

Theoretically, any LDA between the Council and Mahavir Properties Ltd. may also be subject to the Procurement Regs and the Council's CPRs as a "public works contract" and therefore may need to be subject to a formal procurement. Further advice from Legal Services and Commercial Procurement should be sought in due course.

"Public works contracts" are defined as public contracts which have as their objective any of the following:

- the execution, or both the design and execution, of works related to one of the activities listed in Sch. 2 of the Procurement Regs;
- the execution, or both the design and execution, of a work; or
- the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

A **"work"** is defined as *"the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function"*, e.g., an asset such as a building or road.

Normally any contract "for the acquisition or rental, by whatever financial means, of land, existing buildings or immovable property, or which concern interests in or rights over any of them" is exempt from the Procurement Regs. If the works are incidental to the main object of the contract, namely the land transaction, it is unlikely to constitute a public works contract; in other words where the scope and value of the works are insignificant to the total size and value of the land transaction, they may be considered incidental.

However, this may become more difficult to prove if:

- the works are valued over the relevant procurement threshold (i.e., worth over £5,336,937 (inc. VAT));
- the works are extensive in terms of scope;

- the work(s) must correspond to the Council's specified requirements and the Council exercises a "decisive influence" on the type or design of the work;
- the works are to proceed irrespective of the land transaction;
- the Council becomes the owner of all of part of the works;
- the Council holds a legal right over the use of the works, for example so that they are made available to the public; and
- the Council will enjoy economic advantages from the future use or transfer of the work, for example where it made a financial contribution to the works or assumed some of the project risks.

Based on the estimates and limited information provided to Legal Services at the time of writing this report, the estimated value of the works under the proposed LDA are currently c. £1,300,000. If this remains to be the case, then even though in Legal Services' view it is highly likely the LDA will meet the other requirements above for a public works contract, this will technically take the LDA completely outside of the Public Procurement Regime under Part 2 of the Procurement Regs.

In addition, given that the leaseholder/developer, Mahavir Properties Ltd. currently have a c. 100 years remaining on their lease at the property, one could potentially argue this would mean (even if Part 2 of the Procurement Regs were to apply for whatever reason) that the Council may be able to justify use of the negotiated procedure without prior publication under Reg 32(2)(b)(ii) of the Procurement Regs due to competition is absent for technical reasons (so long as we can still show that no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement).

If the Procurement Regs were to apply, then there is the potential risk of challenge that there are insufficient technical reasons justifying the use of the negotiated procedure without publication of a notice in accordance with the Procurement Regs, and that the Council is seeking to circumvent the application of the procurement

rules. However, due to the reasons set out within this Report, this risk is considered to be low.

Furthermore, if the Procurement Regs were to apply, the risk of challenge against relying upon Reg 32(2)(b)(ii) could be mitigated by the publication of a Contract Award Notice on Find a Tender immediately after the decision to award the LDA has been taken and then waiting a minimum of 30-days prior to contract signature to see if any challenges are made as such challenges must be brought within 30-days of the date that an aggrieved party knew or ought to have known that a breach had occurred. It is advised that this step is taken.

Regulation 84 of the Procurement Regs is a measure which requires a full record to be kept of the stages of the procurement process. Therefore, where Reg 32(2)(b)(ii) is relied upon, a record needs to be kept of the circumstances which justify the use of the negotiated procedure without prior publication. This is also necessary so to fulfil requirements under Crown Commercial Services Public Procurement Note 1/20, which states that a written record which satisfies the test should be kept and contracting authorities should continue to achieve value for money and use good commercial judgement during any direct award.

Notwithstanding any of the above relating to the Procurement Regs, even if the LDA sits outside of the Public Procurement Regime the direct award of any LDA to Mahavir Properties Ltd. without any kind of procurement exercise beforehand will still require a waiver of Rules 11.1.3(iii) and 11.4 of the Council's CPRs. This can either be:

- via an Executive Decision further to Rules 8.11 and 26.1 of the Council's CPRs; or
- via a waiver request under Rule 26.2.1 and 26.2.6 of the Council's CPRs.

Notwithstanding any of the above relating to the Procurement Regs and the Council's CPRs, further advice from Legal Services will still be necessary on the drafting and conclusion of any proposed LDA, and if the circumstances subsequently change so that the Procurement Regs do in fact apply to LDA, then advice will be needed from both from Commercial Procurement and Legal Services on any relevant tender documentation and process to ensure that such an agreement is set up properly in compliance with the Public Procurement Regime.

Any additional grant funding arrangements, or amendments to existing arrangements, with WYCA or any other funders will need to be reviewed and vetted by Legal Services to that the funding terms and conditions are acceptable and to ensure compliance with the Subsidy Control Act 2022.

Property Law Implications:

It is understood that the sites of the Coppergate Centre and 17-21 Piccadilly are both held by the Council as General Fund assets (rather than Housing Revenue Account/HRA assets)

The Council has the following statutory powers:

- Pursuant to Section 123 of the Local Government Act 1972, to dispose of any General Fund/non-HRA land held by the Council (including granting a lease of it). Although Section 123 requires that the consent of the Secretary of State for Housing, Communities and Local Government be obtained for a disposal at a consideration (price) less than best reasonably obtained, such consent is automatically given for the disposal of General Fund/non-HRA land by a General Consent Order where both of the following conditions are satisfied:
 - the Council considers that the disposal will contribute to the promotion or improvement of the economic, environmental, or social well-being of its area; and
 - the difference/shortfall between the consideration/monetary receipt obtained and best consideration amount does not exceed c. £2,000,000.
- Pursuant to Section 120 of the Local Government Act 1972, to acquire land for the purposes of any of the Council's functions or for the purpose of the benefit, improvement, or development of the Council's area.

As the proposed LDA recommended to be negotiated and entered into the Council and Mahavir Properties Ltd. would contain provisions obliging Mahavir Properties Ltd.to:

- (i) Use their reasonable endeavours to obtain planning permission (on terms satisfactory to Mahavir Properties Ltd. acting reasonably) for the proposed improvement works to St Mary's Square;
- (ii) Commence and complete such improvements works within a specified period subject to, and after, obtaining satisfactory planning permission;

As the Council would be obtaining (upon completion of the proposed improvement works by Mahavir Properties Ltd.:

- (i) a surrender of Mahavir Properties Ltd.'s existing headlease of (and also of any subleases/subtenant rights over) agreed part of the service; and
- (ii) a surrender of Mahavir Properties Ltd.'s existing headlease of the remainder of the site of the Coppergate Centre in return for granting Mahavir Properties Ltd. new 250-year headlease of the Coppergate Centre),

these proposed surrenders would be acquisitions of land by the Council. Therefore, the amount/value of any 'consideration' or deemed consideration (whether monetary or non-monetary in nature) paid/given by the Council in return for obtaining such surrenders may attract Stamp Duty Land Tax ("**SDLT**") and result in the Council becoming liable to pay SDLT to HM Revenue & Customs ("**HMRC**"). However, the grant of any lease by a landlord to the same tenant in return for that tenant having surrendered their previous lease from that landlord is not classed as "chargeable consideration" for obtaining a surrender of the previous lease and so the Council should not be liable to pay any SDLT to HMRC.

- ***Procurement***

Any proposed works or services will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Public Contract Regulations 2015. All tenders will need to be conducted in an open, fair, and transparent way to capture the key principles of procurement and to achieve all required outcomes of the project. Procurement will recommend market engagement events to seek advice on market conditions to allow the council to create attractive,

realistic and deliverable procurements. Further advice regarding the procurement routes, strategies and markets must be sought from the Commercial Procurement team.

- ***Health and Wellbeing***, contact: *Director of Public Health*.

The matters discussed in the report broadly reflect the Health and Wellbeing strategies for the city. There is a perceived positive impact on health and wellbeing, however a desk top Health Impact Assessment if not already completed should be factored into the project planning and undertaken in due course to highlight and analyse the health impacts and where required offer mitigation within the projects going forward.

Each scheme of works has green areas and play space access outlined, and, in the detail of the design, we would hope the strategic health and wellbeing ambitions for the council are reflected: Reduction of smoking and working towards a smoke free city, reduction in the consumption of alcohol. Well-lit and accessible play spaces which are available for all to use, including women and girls and older adults.

- ***Environment and Climate action***

Exploration of longer-term opportunities for the future delivery of 100% affordable housing at Castle Mills should not compromise on the sustainability of new developments, which should aim to be operationally net zero carbon and minimise embodied carbon associated with construction.

The proposal for St George's Field Car Park will avoid embodied carbon emissions from a new MSCP construction. Any future development will need to consider contributions towards reducing carbon emissions associated with the city's transport system.

The updated business case for a revised Castle Gateway Masterplan should include a Carbon Impact Assessment for proposed options, in line with the objectives of the Local Transport Plan and Climate Change Strategy

The proposals set out within this Report are in line with the Council's Plans. York's Climate Change Strategy identifies that 28% of emissions are from transport and that we should be seeking to reduce overall travel miles and increase uptake of active travel and public transport. It also fits with the transport objectives of the Local Transport Strategy approved at Executive in October in that the proposals support an inclusive, accessible, affordable city, support delivery of the Climate Change Strategy, support delivery of the Economic Development Strategy, improve health and wellbeing through healthy place shaping, improve the local environment by reducing air pollution and noise and protect the city's heritage and enhance public spaces.

- ***Affordability,***

These proposals secure ongoing security for small, diverse and vibrant businesses in Spark as well as exploring opportunities for more affordable housing in the city. The improvements to the public realm will provide free spaces for all ages to enjoy.

- ***Equalities and Human Rights,***

The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

A high-level Equalities Impact Assessment has been carried out and is annexed to this report at **Annex A**.

There are no equalities implications identified in respect of the matters discussed in this report. However, an Equalities Impact Assessment will be carried out for each project in due course and the process of consulting on the recommendations in this report will

identify any equalities implications on a case-by-case basis, and these will be addressed in future reports.

- ***Data Protection and Privacy***

Data protection impact assessments (“DPIAs”) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK GDPR. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines. DPIAs helps us to assess and demonstrate how we comply with all of our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve. As there is no personal data, special categories of personal data or criminal offence data being processed to inform the Castle Gateway Update Report, there is no requirement to complete a DPIA. This is evidenced by completion of DPIA screening questions. (see Annex B – Data protection implication form).

- ***Economy***

York city centre is home to around a quarter of York’s businesses and is a key attractor of inward investment and business growth. Castle Gateway and the Eye of York, including the Castle and St Georges Field car parks, are important entry points and facilitate our vibrant city centre economy. The measures set out in this report support the delivery of the York Economic Strategy 2022-2032 and the involvement of the York Economic Partnership in shaping future delivery of the Our City Centre Vision will ensure continued close alignment with city and business priorities.

- ***Communications***

Significant work has been done to support the project to date, including on the ‘my castle gateway’ process and in explaining the project and its ambitions. Further communications support will be required to provide an update on the project to all of our stakeholders, outline next steps and support any future engagement work, should this be necessary.

- **Property** – Head of Property – Property implications are included within the main body of the report.

Risks and Mitigations

94. The principal risks associated with the Castle Gateway project at this stage are reputational and non-delivery. This is why re-evaluating the projects as proposed in this report is necessary, so that the regeneration of this area can progress and is not further stalled.
95. There is a risk that having engaged extensively and raised expectations amongst the public, the change of approach will not fully deliver initial expectations. However, the bigger risk to the city is not to change the delivery approach and see the regeneration of the area continue to stall. The key principles remain and are embedded in the over-arching delivery aims for delivery which should mitigate this risk.

Wards Impacted

All wards

Contact details:

For further information please contact the authors of this Decision Report.

Author

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Report approved:	Yes
Date:	07/11/23

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Report approved:	Yes
Date:	06/11/23

Background papers

Report to the Executive, 'York's Southern Gateway,' October 2015
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=>

Report to the Executive, 'York Castle Gateway,' January 2017
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=9309>

Report to the Executive, 'The Castle Gateway Masterplan,' April 2018
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=10197&Ver=4>

Report to the Executive, 'Castle Gateway phase one delivery strategy,' January 2020
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=11115&Ver=4>

Report to the Executive, 'Update on Castle Gateway and Business Case Review,' October 2020
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=12297&Ver=4>

Report to the Executive 'Castle Gateway Update' June 2022
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MId=13287&Ver=4>

Annexes

Annex A - Summary EIA

Annex B - Data Protection Implications Form

Further Annexes – as below -

Annex C - Overview of proposed approach

Annex D - Extent of Castle Gateway Masterplan Area Plan

Annex E – 17 - 19 Piccadilly location plan

Annex F - Castle Mills site plan with Foss Bridge / ped / cycle link

Annex G - Castle / Eye of York planning app red line
Annex H – Extent of Coppergate Centre
Annex I - Land surrender plan rear of Coppergate
Annex J - Coppergate proposed improvements.

Confidential Annex

Annex K – Coppergate Centre Valuation Advice

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Annex A

City of York Council Equalities Impact Assessment

Who is submitting the proposal?

Directorate:	Place		
Service Area:	City Development		
Name of the proposal :	Castle Gateway		
Lead officer:	Kathryn Daly – Head of City Development		
Date assessment completed:	Update to previous EIA – Feb 21		
Names of those who contributed to the assessment :			
Name	Job title	Organisation	Area of expertise
Sally Cawthorn	Regeneration Officer	City Of York Council	Regeneration
David Warburton	Head of Regeneration	City Of York Council	Regeneration

Step 1 – Aims and intended outcomes

1.1	What is the purpose of the proposal? Please explain your proposal in Plain English avoiding acronyms and jargon.
	<p>In April 2018, the Executive approved a masterplan for the 'Castle Gateway' to transform a large area of the city centre that had seen private sector regeneration proposals fail over a period of 3 decades. Since the original Masterplan was approved in 2018, the individual schemes have been progressed as approved by Executive. However, the projects have been impacted by a number macro economic factors, all of which have impacted significantly on the phase 1 business case approved in January 2020.</p> <p>The new administration is committing to the Castle Gateway Masterplan and agreeing the next steps to move forward, following a period of pause. The key projects are: 17 -21 Piccadilly, Castle Mills, St George's Field car park, Castle car park and Eye of York, Coppergate Centre. The timing of this review presents an opportunity to consider how the projects can now deliver positive outcomes for the city in accordance with the original master plan principles and the recently approved Council Plan and 'Our City Centre' Vision. As well as considering more cost effective delivery.</p> <p>This change to projects, will require additional work to revise and further design the schemes. This EIA is an overarching document for the Castle Gateway projects, and as work progresses each project will have a sub EIA linked back to this one.</p> <p>This overarching EIA:</p> <ul style="list-style-type: none">• provides an overall summary of the different projects being considered• provides commitment to identifying stakeholders and how we will engage with them.• Summarises stakeholder engagement & co-production, and how this has shaped the proposals.• summarises the scope the separate EIAs to follow.

1.2	Are there any external considerations? (Legislation/government directive/codes of practice etc.)
	<p>Relevant legislation includes:</p> <ul style="list-style-type: none"> • Equality Act 2010, which aims to protect people from discrimination in the workplace and in wider society. The Act includes a Public Sector Equality Duty, which requires public bodies to consider how their decisions and policies affect people with protected characteristics. The public body also should have evidence to show how it has done this It also requires that public bodies have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The Equality Act 2010 covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. • Human Rights Act –sets out the fundamental rights and freedoms that everyone is entitled to. In making a decision the council must consider carefully the balance to be struck between individual rights and the wider public interest and whilst it is acknowledged that there could be interference with a Convention right, the decision must be reasonably justified as it is a proportionate means of achieving a legitimate aim. • The Blue Badge scheme: rights and responsibilities in England (www.gov.uk/government/publications/the-blue-badgescheme-rights-and-responsibilities-in-england) • Protect Duty consultation documents (www.gov.uk/government/consultations/protect-duty) • Hostile Vehicle Mitigation guidance (www.gov.uk/government/publications/crowded-places-guidance/hostile-vehiclemitigation-hvm#vehicle-as-a-weapon-vaw) <p>Planning Acts/Guidance</p> <p>The planning process will also necessarily consider the design of public space in the context of the above</p>

1.3	Who are the stakeholders and what are their interests?
	A bespoke, 'My Castle Gateway' engagement was undertaken, delivering a comprehensive approach to public consultation and engagement from the earliest stages of the project. With over 8500 comments now received, logged and taken into account.
	<p>The 'My Castle Gateway' approach was a long term bold and innovative public engagement initiative, it has reached a diverse audience through a wide range of participatory approaches including social media (Facebook, twitter, Instagram, and YouTube channels), events, walks, talks and debates. Further detail can be found online on the 'My Castle Gateway' website and social media channels. 'My Castle Gateway' has been an ongoing and open conversation which has ensured that the public has been involved from the very early stages of visioning and master planning and will continue to be involved through the delivery stages of the project and beyond.</p> <p>An advisory group of principal land holders and custodians for this area of the city has also provided advice and critical challenge to the Gateway proposal proposals. This stakeholder group will continue to be involved through a dedicated Task and Finish group of the Economic Partnership focussed on delivery of the 'Our City Centre' Vision.</p> <p>In addition, officers have regularly engaged with other key stakeholders with an interest in the area and internally with Members and council officers.</p> <p>Police – designing out crime/HVM</p>
1.4	What results/outcomes do we want to achieve and for whom? This section should explain what outcomes you want to achieve for service users, staff and/or the wider community. Demonstrate how the proposal links to the Council Plan (2019- 2023) and other corporate strategies and plans.
	<p>Delivery of the Castle Gateway master plan will contribute to the delivery of key commitments in: the Council Plan (2023-27); 'Our City Centre' Vision; and the three 10-year strategies approved in 2022, Economic Strategy (2022-2032), Health and Wellbeing Strategy (2022-2032) and Climate Change Strategy (2022-2032).</p> <p>The Castle Gateway projects will:</p> <ul style="list-style-type: none"> • Re-purpose and redesign the Castle car park as a green space with children play space and retain blue badge parking close to the city to aid accessibility.

	<ul style="list-style-type: none"> • The green space will enhance/improve biodiversity, therefore contributing to deliver a sustainable city to help deliver climate improvements in the city centre. • Create a free amenity and play space for families to encourage healthier lifestyles coupled with improved connectivity and travel opportunities across the site. Helping to improve health and wellbeing. • Investigate opportunities to increase the supply of affordable housing within the city centre in the longer term. • Explore the opportunities of affordable housing within the area on two key sites in the Castle Gateway – 17 – 21 Piccadilly and Castle Mills • Extend the lease for Spark: York on 17 -21 Piccadilly whilst an alternative site is found, and affordable housing options are explored. Preventing the site remain vacant. Meanwhile uses will also be explored on the Castle Mills site. • Continue to seek to deliver the bridge over the river Foss and the river park at the back of the museum, increasing connectivity and sustainable transport options in the city. • Explore options to improve the surface level car park at St George’s rather than build a multi storey car park. • Provide better pedestrian and cycle routes throughout the area. <p>The projects therefore have a broad scope that will help to deliver benefits for residents and businesses with respect to: equalities and accessibility; physical health and wellbeing, sustainable transport, and climate change. Helping to create a more sustainable city.</p>
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Step 2 – Gathering the information and feedback

2.1	What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.	
	Source of data/supporting evidence	Reason for using
	Public consultation	Regeneration Team Insight:

Whilst at this stage of the project no dedicated consultation on the impact of the Castle Gateway masterplan on equality rights and human rights has been undertaken, the Regeneration Team has carried out extensive public engagement on the key sites within the masterplan through My Castle Gateway approach and on creating a Vision for the city centre through My City Centre. This, coupled with insight from wider CYC engagement on city centre access as outlined below, provides a detailed starting point, where the comprehensive insight can be further explored as each project is reviewed/ progresses.

Through the Planning process, the **Design & Access Statement** for each planning application will explain the design approach and how access provision has been considered, including how all users will have equal and convenient access including access to, and movement around the site.

The re-design of the **Castle and Eye of York** scheme requested by this Executive report includes a brief to reflect the more inclusive ambitions of the new Council Plan. The review will focus on the retention of blue badge parking numbers, as well as flexible green space with children's play provision, and reducing capital and management costs. The project team will work with stakeholders to shape the proposals as they develop.

1. **My Castle Gateway** – engagement with residents and stakeholders throughout the masterplan process and proposals for each key site. Further details can be accessed via the My Castle Gateway website [here](#), and detailed Statements of Community Involvement were submitted for

previous planning applications and can be seen via the planning portal for the [St Georges Field & Castle Mills](#), and [Castle and Eye of York](#).

My Castle Gateway New Public Spaces Open Brief, May 2020 - [Movement](#)

Acknowledges that The Castle Gateway is not just about gathering and spending time in the area itself, it is also about movement to and through to areas beyond.

“Cycles as mobility aid... secure cycle parking... “

“People who are blind or partially-sighted are using textured and high contrast designs in the public spaces to navigate to and through the area”

2. **My City Centre Vision** – engagement with residents, businesses and special interest groups in 2021 to develop a vision for what the city centre could look like in the future. The vision was endorsed by Executive in November 2021, and an updated Our City Centre vision was endorsed by Executive in October 2023 to reflect the new Council Plan and 10 year strategies. Our City Centre Vision Theme 6 is *“A safe city centre which is welcoming and accessible to all”*, which includes *“improving accessibility for disabled people through a wide range of measures.”*

Wider Council Insight:

1. **Consultation on principles of reinstating blue badge access** – September 2023, nearly 3000 respondents gave feedback on principles including: returning to previous access before the emergency Covid measures were implemented; different access arrangements during city centre events; recognising security risks, finding solutions and longer term solutions.

2. **Reverse The Ban Petition** – was submitted to the council in October 2022 with 2,734 signatories campaigning for better “*access to York city centre for people with a Blue Badge, including access to the footstreets and sufficient parking spaces, designed in a way that addresses legitimate security concerns*”.
3. **City Centre Access Project** - the extent of the footstreet area has been subject to ongoing discussions for a number of years as part of the City Centre Access project in response to the threat of terrorism as outlined in the report, and particularly the use of hostile vehicles as a potential mode of attack. This had led to the approval of a first phase of hostile vehicle mitigation measures for the existing permanent footstreet area, but with potential future phases to expand the area of protection
4. **Temporary Covid measures** – When the temporary Covid measures were introduced, the Council engaged with approx. 450 individuals as well as advocacy groups representing thousands of people with disabilities and/or reduced mobility across the city. An open community brief detailed the main themes and challenges which these changes sought to address, and the summary of conversations with the city’s businesses and representative groups. The principles of the footstreets extension was broadly supported by a majority of respondents to the citywide survey, which was also reflected in the support from residents identifying themselves as disabled. There are tangible benefits for many, in particular blind and partially sighted people, children, and older people. However, the desire from many for footstreets and spaces to be vehicle free is in contrast to Blue Badge holders’ request for vehicular access to the pedestrianised area. These objections were articulated in a

petition signed by 1,093 people, including 501 York residents, calling for the reversal of the changes.

- 5. Additional consultation undertaken for the November 2021 Decision to permanently remove blue badge access** – A consultation took place to review available Blue Badge Parking on the outskirts of the city centre in April 2021. This took the form of an online questionnaire and two online workshops on 22 April 2021, one during the working day and one in the evening, to allow those working in disability organisations and professional advocates to attend, while also offering an out of office hours opportunity for those who may want to take part but are at work or unavailable during the day. This consultation was promoted through the media, on social media (tagging disability organisations), and to the following organisations: Alan Bott Charity, York Disability Rights Forum, York Human Rights City, York Programme for UN International Day of People with Disabilities, Jorvik Deaf Connections, Lollipop, York People First, MS Society, Older Citizens Advocacy York, Wilberforce Trust, Healthwatch York, My Sight York, York Carers Centre, York Carers Forum, York Parent Carer Forum, Age UK York, Converge (York St John), Mind, York Advocacy (Mind), Learning Disability Self Advocates Forum, York Self Advocacy Forum, York Inspirational Kids, York Access and Mobility Club Facebook Group, York Older People's Assembly, York Dementia Action Alliance, CVS, York Wheels, Dial and Ride, Shopmobility, Inclusive Engagement, Individuals from CCA Exercise, Labour Women's Officer, York Cycle Campaign, Get Cycling, Sight Loss Council, York Accessibility Action, Action on Hearing Loss, British Deaf Association, York Disability Week, York ME Community, Blueberry Academy, and York Alheimers.

	<p>The engagement followed an open conversation approach, both online and offline, including direct conversations with individuals and advocacy groups. This allowed detailed discussions to take place with those who wished to engage in depth, and captured general views through an online survey, which was distributed to nearby residents, city centre businesses, and paper based questionnaires distributed across the city as requested. In total there were 540 survey responses completed, of the completed surveys 270 were completed by residents who are Blue Badge holders, 65 by residents who are not Blue Badge holders, 69 by carers of a Blue Badge holder, 7 from businesses (including taxi drivers) and 129 skipped the question.</p> <p>6. Statutory consultation for the November 2021 Decision - The statutory consultation for the amendment of the TROs was advertised on 9th July 2021, with an original end date of 6th August 2021, which was extended until 13th August 2021. 206 representations were received on the proposal to remove Blue Badge access exemptions, 5 in support and 201 against the proposal and detailed in the November 2021 report.</p>
<p>Research reports</p>	<p>For the August 2019 Executive report, approving the permanent changes to the Traffic Regulation Order to deliver the Phase 1 Hostile Vehicle Mitigation proposals in the city centre, an independent review of Blue Badge Parking Access was commissioned from Parking Perspectives a consultancy specialising in parking.</p>

	<p>Disabled Motoring UK, a charity and advocacy group for disabled people, were commissioned to produce an independent review of York’s disabled access offer in 2020. (Annex 5 Nov 2021 Exec report)</p> <p>Martin Higgitt Associates produced an independent York City Centre Active Travel Study, October 2021 (Annex 6 Nov 2021 Exec report)</p> <p>Strategic Review City Centre Access and Council Car Parking – approved by Executive November 2021, including a strategy for access to and through the city centre footstreets and an Access Action Plan to implement improvements to access that were developed through public and stakeholder engagement (ref. open brief).</p>
--	---

Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.		
Gaps in data or knowledge	Action to deal with this		
The projects will require re-design and further work to develop them and to realign them with the Council's priorities. The impact of the changes will need to be considered.	Use previous engagement/consultation work and data to inform this work Re-engage to test concepts and ideas with stakeholders identified		
Costs/Funding?	Phased approach Value engineering Soft v Hard landscaping balance		
Policy changes	Keep under review		

Step 4 – Analysing the impacts or effects

4.1	Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments? Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.		
Equality Groups and Human Rights.	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	<i>New and improved public spaces will accommodate a diverse range of uses and activities for people of different ages from young people to older residents.</i>	Positive	H

Disability	<i>The proposals will deliver modern standards, accessibility and legibility in the public realm, streetscape, and new buildings. Redesigning and retaining blue badge spaces in the Castle Car Park will allow this level of access to be retained</i>	Positive	H
Gender	<i>No impact identified</i>	Neutral	
Gender Reassignment	<i>No impact identified</i>	Neutral	
Marriage and civil partnership	<i>No impact identified</i>	Neutral	
Pregnancy and maternity	<i>No impact identified</i>	Neutral	
Race	<i>No impact identified</i>	Neutral	
Religion and belief	<i>A circular path around the Motte has been designed with input from the Liberal Jewish Community to enable people to participate in a walk to as an act of memorial for lives lost in the 1190 massacre. It will have a dedicated space to reflect and remember this and other historic events.</i>	Positive	M
Sexual orientation	<i>No impact identified</i>	Neutral	
Other Socio-economic groups including :	<i>Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?</i>		
Carer	<i>No impact identified</i>	Neutral	

Low income groups	<p><i>New and improved public spaces will accommodate a range of uses, activities and events which can be accessed and enjoyed at low or no cost to residents and visitors.</i></p> <p><i>Improved access to the city through route improvements and improved access to facilities could have a positive impact on low income groups with limited mobility. Improving access to leisure and employment opportunities in the city centre</i></p> <p><i>Improved access to affordable housing could be provided for those on lower incomes</i></p>	Positive	H
Veterans, Armed Forces Community	<i>No impact identified</i>	Neutral	
Other			
Impact on human rights:			
List any human rights impacted.			

Use the following guidance to inform your responses:

Indicate:

- Where you think that the proposal could have a POSITIVE impact on any of the equality groups like promoting equality and equal opportunities or improving relations within equality groups
- Where you think that the proposal could have a NEGATIVE impact on any of the equality groups, i.e. it could disadvantage them
- Where you think that this proposal has a NEUTRAL effect on any of the equality groups listed below i.e. it has no effect currently on equality groups.

It is important to remember that a proposal may be highly relevant to one aspect of equality and not relevant to another.

<p>High impact (The proposal or process is very equality relevant)</p>	<p>There is significant potential for or evidence of adverse impact The proposal is institution wide or public facing The proposal has consequences for or affects significant numbers of people The proposal has the potential to make a significant contribution to promoting equality and the exercise of human rights.</p>
<p>Medium impact (The proposal or process is somewhat equality relevant)</p>	<p>There is some evidence to suggest potential for or evidence of adverse impact The proposal is institution wide or across services, but mainly internal The proposal has consequences for or affects some people The proposal has the potential to make a contribution to promoting equality and the exercise of human rights</p>
<p>Low impact (The proposal or process might be equality relevant)</p>	<p>There is little evidence to suggest that the proposal could result in adverse impact The proposal operates in a limited way The proposal has consequences for or affects few people The proposal may have the potential to contribute to promoting equality and the exercise of human rights</p>

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?

Step 6 – Recommendations and conclusions of the assessment

6.1	Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:
- No major change to the proposal – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.	

- **Adjust the proposal** – the EIA identifies potential problems or missed opportunities. This involves taking steps to remove any barriers, to better advance quality or to foster good relations.
- **Continue with the proposal** (despite the potential for adverse impact) – you should clearly set out the justifications for doing this and how you believe the decision is compatible with our obligations under the duty
- **Stop and remove the proposal** – if there are adverse effects that are not justified and cannot be mitigated, you should consider stopping the proposal altogether. If a proposal leads to unlawful discrimination it should be removed or changed.

Important: If there are any adverse impacts you cannot mitigate, please provide a compelling reason in the justification column.

Option selected	Conclusions/justification
No Major change to the proposal	This EIA is an overarching EIA for the Castle Gateway Masterplan projects. It demonstrates that continued consultation will form a key part of the development and testing of the individual projects to address unlawful discrimination or adverse impact. Opportunities to advance equality and foster good relations will continuing and be monitored and reviewed. This will be reported back via the individual project EIA's ahead of delivery

Step 7 – Summary of agreed actions resulting from the assessment

7.1 What action, by whom, will be undertaken as a result of the impact assessment.			
Impact/issue	Action to be taken	Person responsible	Timescale
Redesign/progression of realigned projects	Continue consultation to assess discrimination and impact	CYC Regeneration Team	Ongoing
Sub EIA's for project	Produce sub EIA's for the key projects	CYC Regeneration Team	As the projects progress

Step 8 - Monitor, review and improve

8. 1	How will the impact of your proposal be monitored and improved upon going forward? Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded?
	As the projects progress, the impact of the proposals will be monitored through <ul style="list-style-type: none">• continued engagement and consultation with those identified in the EIA• Continuous review of the impact of the proposals, changes to government guidance, and compliance with equalities and guidance

ANNEX B

Annex B – Data Protection Implications

As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a DPIA for this report.

This is evidenced by completion of DPIA screening questions AD-01220.

If approved, any next steps in the individual projects, that involve the collection or processing of personal information, will need to carry a data protection impact assessment.

DPIA Screening Questions

The below screening questions should be used to find out if a DPIA is necessary. If you answer “Yes” to any of the questions below, it is an indication that a DPIA is required so please contact information.governance@york.gov.uk for advice and support on completing a DPIA

Please send your completed form to information.governance@york.gov.uk

Title/Reference	Castle Gateway	
Brief description	The purpose of this report is to provide an update on the Castle Gateway masterplan and seek approval for the next steps, necessary to take forward individual projects	
Screening completed by		
Name	David Warburton/James Bailey	
Job Title	Head of Regeneration	
Department	Place	
Email	david.warburton@york.gov.uk	
Review date	25.10.2023	
Screening Questions – please answer the below questions for how you are planning to or already do use, personal identifiable information eg personal data, special categories of personal data or criminal offence and conviction data		Yes or No
1	Use systematic and extensive profiling or automated decision-making to make significant decisions about people.	N
2	Process special category data or criminal offence data on a large scale.	N
3	Systematically monitor a publicly accessible place on a large scale.	N
4	Use new technologies, innovative technological or organisational solutions.	N
5	Use profiling, automated decision-making or special category data to help make decisions on someone’s access to a service, opportunity or benefit.	N

6	Carry out profiling on a large scale including evaluation or scoring	N
7	Process biometric or genetic data.	N
8	Combine, compare or match data from multiple sources.	N
9	Process personal data without providing a privacy notice directly to the individual and/or other processing involving preventing data subjects from exercising a right or using a service or contract.	N
10	Process personal data in a way which involves tracking individuals' online or offline location or behaviour or other systematic monitoring	N
11	Process children's personal data for profiling or automated decision-making or for marketing purposes, or offer online services directly to them.	N
12	Process personal data which could result in a risk of physical harm in the event of a security breach.	N

ANNEX C

Castle Gateway - Overview of Proposed Approach (November 2023)

Project	Original masterplan objectives (2018)	Original Approach (as per previous Executive decisions)	Proposed Approach (2023)	Council Plan Commitments (2023-2027) Anticipated Impact of Proposed Approach (subject to final business case decisions)				Our City Centre Vision (2021, updated 2023)
				<u>Equalities & Human Rights</u>	<u>Affordability</u>	<u>Climate & Environment</u>	<u>Health</u>	
Castle & Eye of York	<p>Castle and Eye of York heart of the masterplan</p> <p>Enhance the setting of Nationally significant historic assets</p> <p>Create a new multifunctional public realm and events space in the city centre for residents and visitors</p> <p>Enhanced cultural and heritage offer, including event space – building on the City’s USP</p>	<p>Hard landscaped multi-purpose events space, estimated delivery cost c. £15m (subject to full design/costings)</p>	<p>Accessible, sustainable, flexible amenity space which includes free children’s play facilities and enables active use of the space to encourage footfall.</p> <p>A keen focus on reducing capital and management costs compared to original masterplan approach.</p>	✓	✓	✓	✓	<p>Theme 1 – Family friendly and affordable city centre New public realm will create valuable city centre play space and a space that can be used by all ages.</p> <p>Theme 2 – An attractive, active and healthy city centre Deliver investment in new public realm space.</p> <p>Theme 3 – A sustainable city for the future New green space will increase biodiversity in the city, improve climate resilience and reduce surface water run-off.</p> <p>Theme 8 – Celebrating heritage and making modern history New public realm will enhance the setting of surrounding heritage assets.</p>
	<p>Reduce vehicle journeys inside inner ring road</p>	<p>Closure of Castle Car Park.</p> <p>Reduction/relocation of</p>	<p>Repurposing of Castle Car Park to support the delivery of a revised Castle Gateway</p>	✓				<p>Theme 6 – A safe city centre which is welcoming and accessible to all Blue badge</p>

Castle Gateway - Overview of Proposed Approach (November 2023)

Project	Original masterplan objectives (2018)	Original Approach (as per previous Executive decisions)	Proposed Approach (2023)	Council Plan Commitments (2023-2027) Anticipated Impact of Proposed Approach (subject to final business case decisions)				Our City Centre Vision (2021, updated 2023)
				<u>Equalities & Human Rights</u>	<u>Affordability</u>	<u>Climate & Environment</u>	<u>Health</u>	
		disabled parking provision further away from city centre.	<p>Masterplan, to include retention of disabled parking provision at the site</p> <p>Incorporates improved signage and linkages between the city centre and the Castle & Eye of York facilities to encourage footfall.</p>					<p>parking will be retained close to the city to aid accessibility.</p> <p>The new public space will provide open space and facilities for residents and will be specifically designed to improve accessibility.</p>
	Focus on sustainable transport and connectivity - pedestrian and cycle routes	<p>New river edge and walkway linkages to new riverside park behind museum</p> <p>Wider connectivity to city</p>	<p>New river edge and walkway linkages to new riverside park behind museum</p> <p>Wider connectivity to city</p>			✓	✓	<p>Theme 5 – Embracing our riversides The design will celebrate the cultural and environmental benefits of the River Foss, providing a new river edge and walkway linking to the new river park behind the museum.</p>
Castle Mills	Focus on sustainable transport and connectivity - pedestrian and cycle routes	New pedestrian/cycleway bridge and improved sustainable transport links	<p>New pedestrian/cycleway bridge and improved sustainable transport links, to maximise use of secured external funding and deliver sustainable, city centre connectivity</p>			✓	✓	<p>Theme 2 – An attractive, active and healthy city centre Deliver active travel options for getting into and around the centre of York.</p>

Castle Gateway - Overview of Proposed Approach (November 2023)

Project	Original masterplan objectives (2018)	Original Approach (as per previous Executive decisions)	Proposed Approach (2023)	Council Plan Commitments (2023-2027) Anticipated Impact of Proposed Approach (subject to final business case decisions)				Our City Centre Vision (2021, updated 2023)
				<u>Equalities & Human Rights</u>	<u>Affordability</u>	<u>Climate & Environment</u>	<u>Health</u>	
	Provide new city centre homes, including affordable homes	Provision of 106 apartments including 20 affordable units, plus commercial space at ground level	Investigate appropriate meanwhile use options in parallel with exploring longer term opportunities for the future delivery of 100% affordable housing on this Council owned site		✓			<p>Theme 6 – A safe city centre which is welcoming and accessible to all Explore affordable housing provision on Castle Mills.</p> <p>Theme 7 – Thriving business and productive buildings Explore meanwhile use opportunities c Castle Mills site, whilst affordable housing options are considered.</p>
St Georges Field	Reduce vehicle journeys inside inner ring road	New build Multi Storey Car Park (MSCP) at an estimated cost of £15m. Net reduction in overall car parking provision from closure of Castle Car Park = 222	<p>Not to proceed with the building of a MSCP on St George’s Car Park, to ensure value for money and alignment with the draft Local Transport Plan. Net reduction in car parking provision from repurposing of Castle Car Park is estimated at 290 spaces but this will be subject to detail design.</p> <p>Reconfigured design for the surface level space, balancing the provision of pedestrian and</p>		✓	✓		<p>Theme 2 – An attractive, active and healthy city centre Include active travel options for getting into and around the centre of York.</p> <p>A new signalised pedestrian and cyclist crossing is being installed on the inner ring road section of Tower Street, adjacent to St George's Field as part of the Active Travel Programme, (construction 30 Oct - 24 Nov 2023). The crossing will link</p>

Castle Gateway - Overview of Proposed Approach (November 2023)

Project	Original masterplan objectives (2018)	Original Approach (as per previous Executive decisions)	Proposed Approach (2023)	Council Plan Commitments (2023-2027) Anticipated Impact of Proposed Approach (subject to final business case decisions)				Our City Centre Vision (2021, updated 2023)
				<u>Equalities & Human Rights</u>	<u>Affordability</u>	<u>Climate & Environment</u>	<u>Health</u>	
			cycle connectivity , coach drop off facilities and improved standards					cyclist and pedestrian access from the St George's Field riverside path to the north side of the Inner Ring Road at York Castle Museum.
17-21 Piccadilly	Act as a catalyst to regenerate this rundown part of the city Provide new city centre homes, including affordable homes	Short term lease to Spark York Investigate opportunities for disposal for affordable housing purpose	Further 2-year lease to Spark York enabling the current use (and associated economic impact) to continue at the site in the short term, providing a continued income to the Council , whilst allowing the opportunity for Spark York to identify an alternative location in the City Medium term – affordable housing		✓			Theme 6 – A safe city centre, which is welcoming and accessible to all Future affordable housing provision on 17 – 21 Piccadilly will be explored. Theme 7 – Thriving business and productive buildings Explore and deliver temporary uses in empty buildings and spaces, e.g. Spark York.
Coppergate		No improvements proposed	New 250 year head lease on Coppergate Centre to enable c. £1.3m investment in/around St Marys Square (proposals subject to planning approvals but will potentially include new play area, removal of ad-hoc food	✓			✓	Theme 2 – An attractive, active and healthy city centre Delivers investment in public space through refurbishment and new facilities within St Mary's Square (at no cost to Council).

Castle Gateway - Overview of Proposed Approach (November 2023)

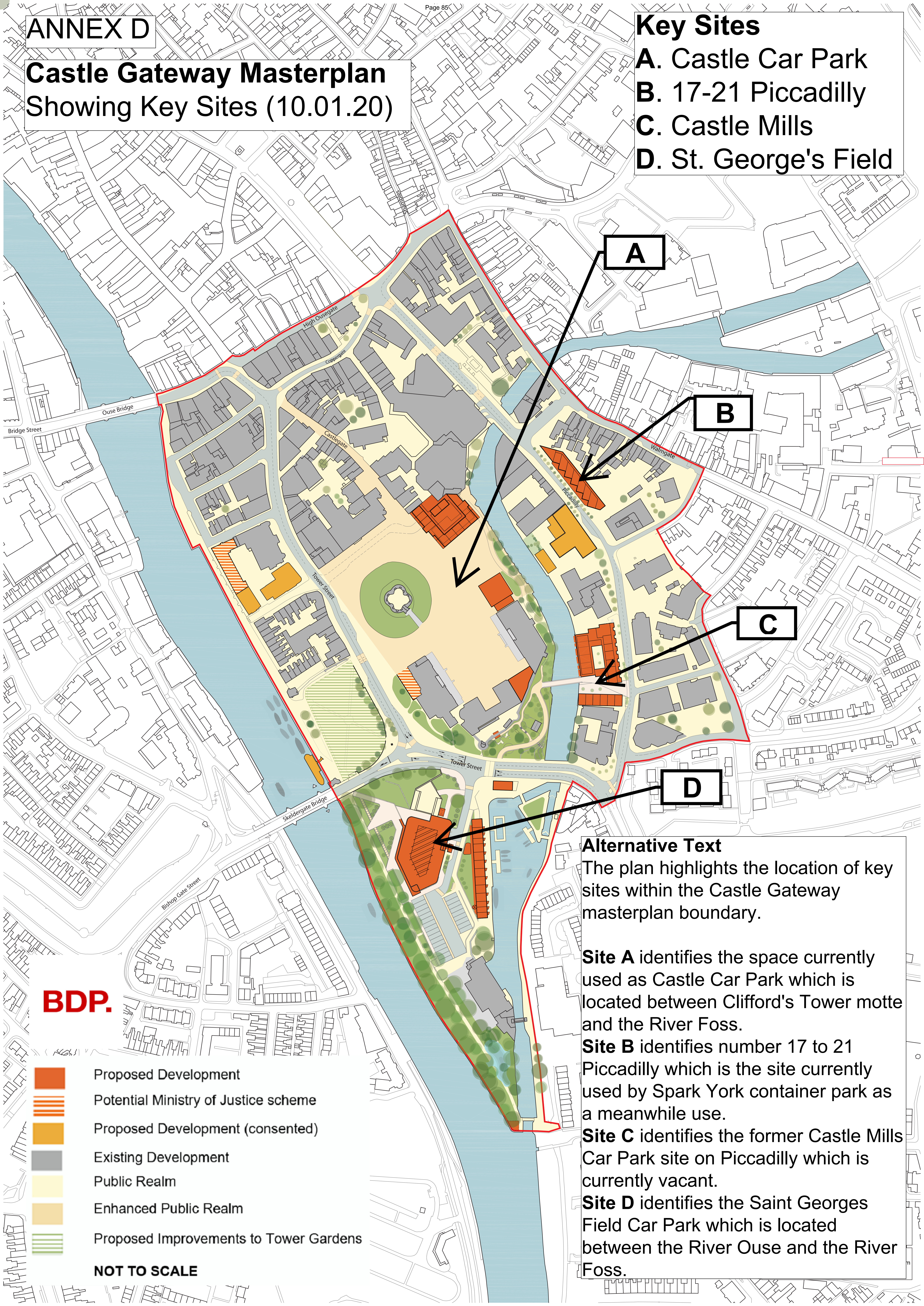
Project	Original masterplan objectives (2018)	Original Approach (as per previous Executive decisions)	Proposed Approach (2023)	Council Plan Commitments (2023-2027) Anticipated Impact of Proposed Approach (subject to final business case decisions)				Our City Centre Vision (2021, updated 2023)
				<u>Equalities & Human Rights</u>	<u>Affordability</u>	<u>Climate & Environment</u>	<u>Health</u>	
			stalls, new seating areas and kiosks, improvements to paving, seating and lighting, removal of glass canopy) and release of land at rear of Coppergate to support Castle & Eye of York proposals (including retention of blue badge parking)					

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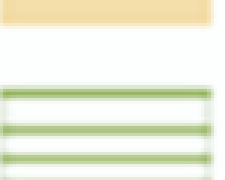
ANNEX D

Castle Gateway Masterplan Showing Key Sites (10.01.20)

- ### Key Sites
- A. Castle Car Park
 - B. 17-21 Piccadilly
 - C. Castle Mills
 - D. St. George's Field



BDP.

-  Proposed Development
-  Potential Ministry of Justice scheme
-  Proposed Development (consented)
-  Existing Development
-  Public Realm
-  Enhanced Public Realm
-  Proposed Improvements to Tower Gardens

NOT TO SCALE

Alternative Text

The plan highlights the location of key sites within the Castle Gateway masterplan boundary.

Site A identifies the space currently used as Castle Car Park which is located between Clifford's Tower motte and the River Foss.

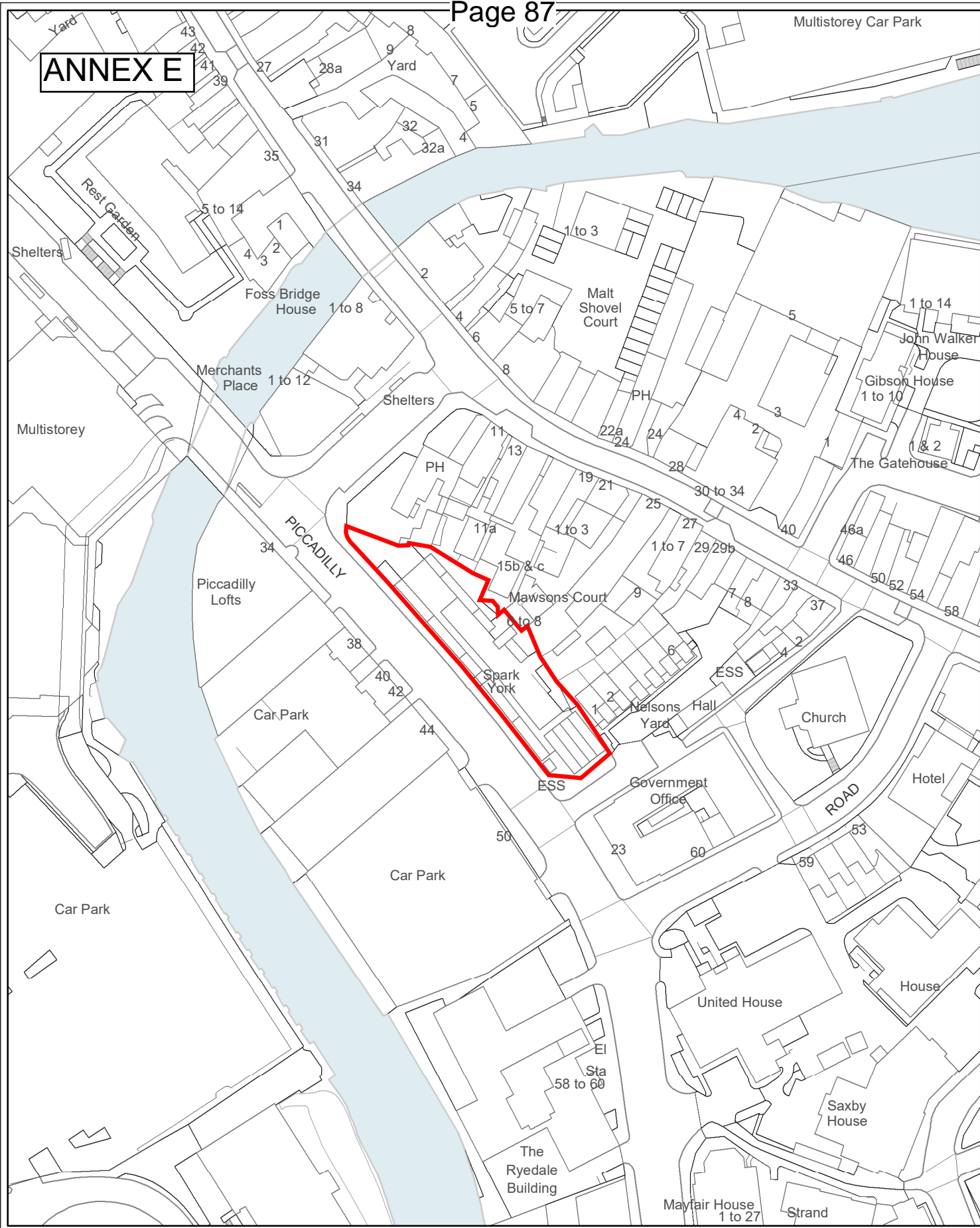
Site B identifies number 17 to 21 Piccadilly which is the site currently used by Spark York container park as a meanwhile use.

Site C identifies the former Castle Mills Car Park site on Piccadilly which is currently vacant.

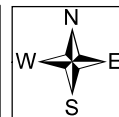
Site D identifies the Saint Georges Field Car Park which is located between the River Ouse and the River Foss.

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ANNEX E



17 - 21 Piccadilly, York.



SCALE 1:1,250

DRAWN BY: KLM

DATE: 03/02/2020

Originating Group:

Asset & Property Management

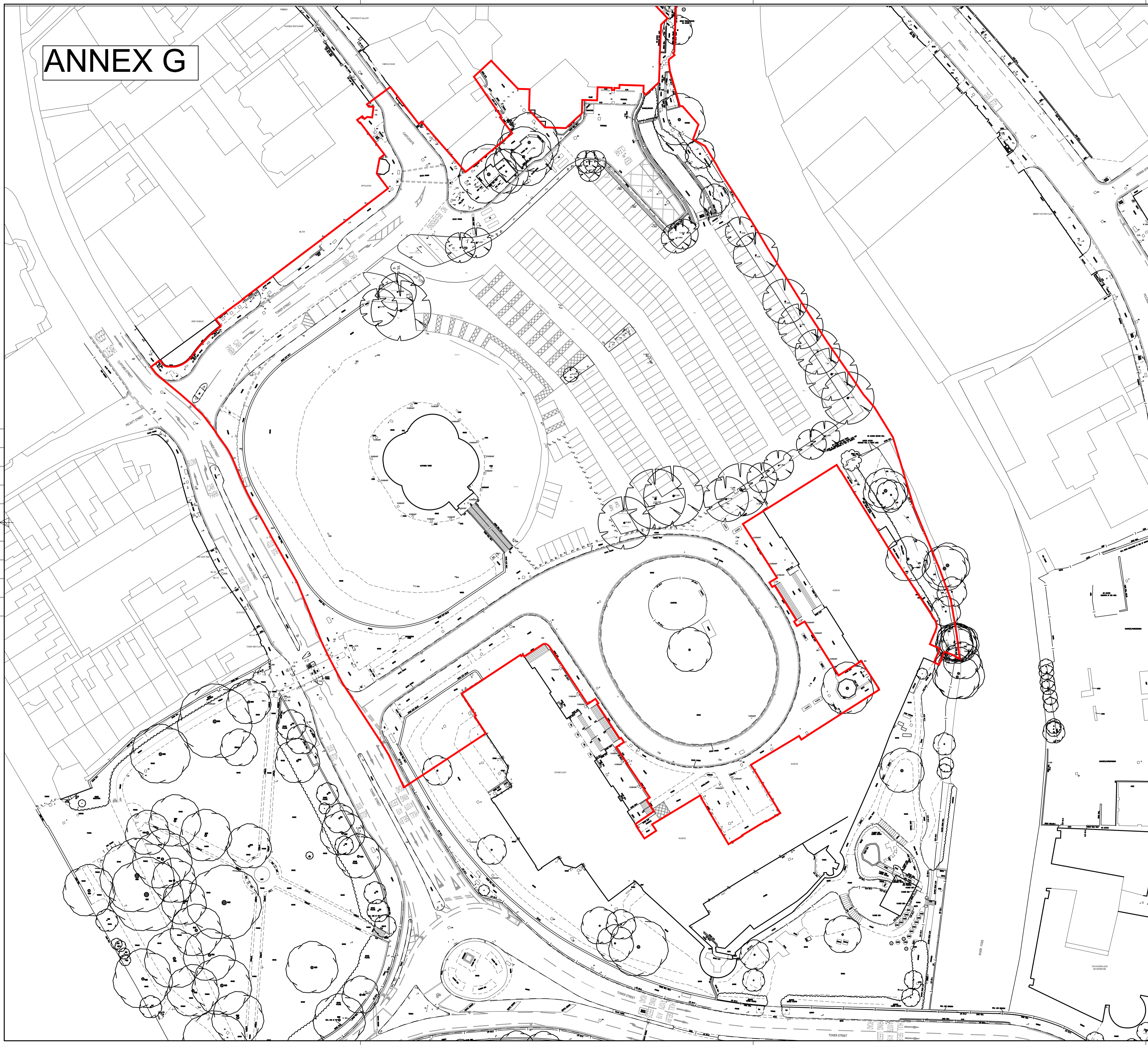
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Asset & Property Management

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ANNEX G

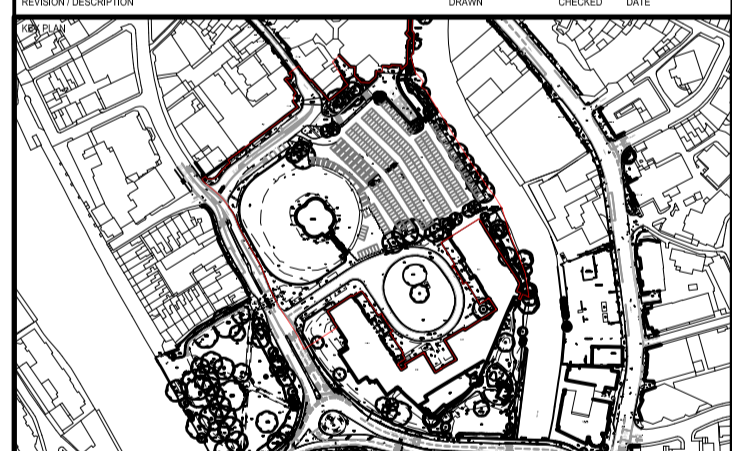


KEY:
 SITE BOUNDARY

BUILDING DESIGN PARTNERSHIP SHALL HAVE NO RESPONSIBILITY FOR ANY USE MADE OF THIS DOCUMENT OTHER THAN FOR THAT WHICH IT WAS PREPARED AND ISSUED.
 ALL DIMENSIONS SHOULD BE CHECKED ON SITE.
 DO NOT SCALE FROM THIS DRAWING.
 ANY DRAWING ERRORS OR DIVERGENCES SHOULD BE BROUGHT TO THE ATTENTION OF BUILDING DESIGN PARTNERSHIP AT THE ADDRESS SHOWN BELOW.

NOTES

P01 - REVISED PLANNING SUBMISSION SC MC 24.05.22



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 www.bdp.com

EYE OF YORK PUBLIC REALM

PROJECT NUMBER	P2008535	SCALE	@ A1
DRAWING TITLE	SITE PLAN	SCALE	1:500
DATE	MAY '22	PROJECT NUMBER	P01

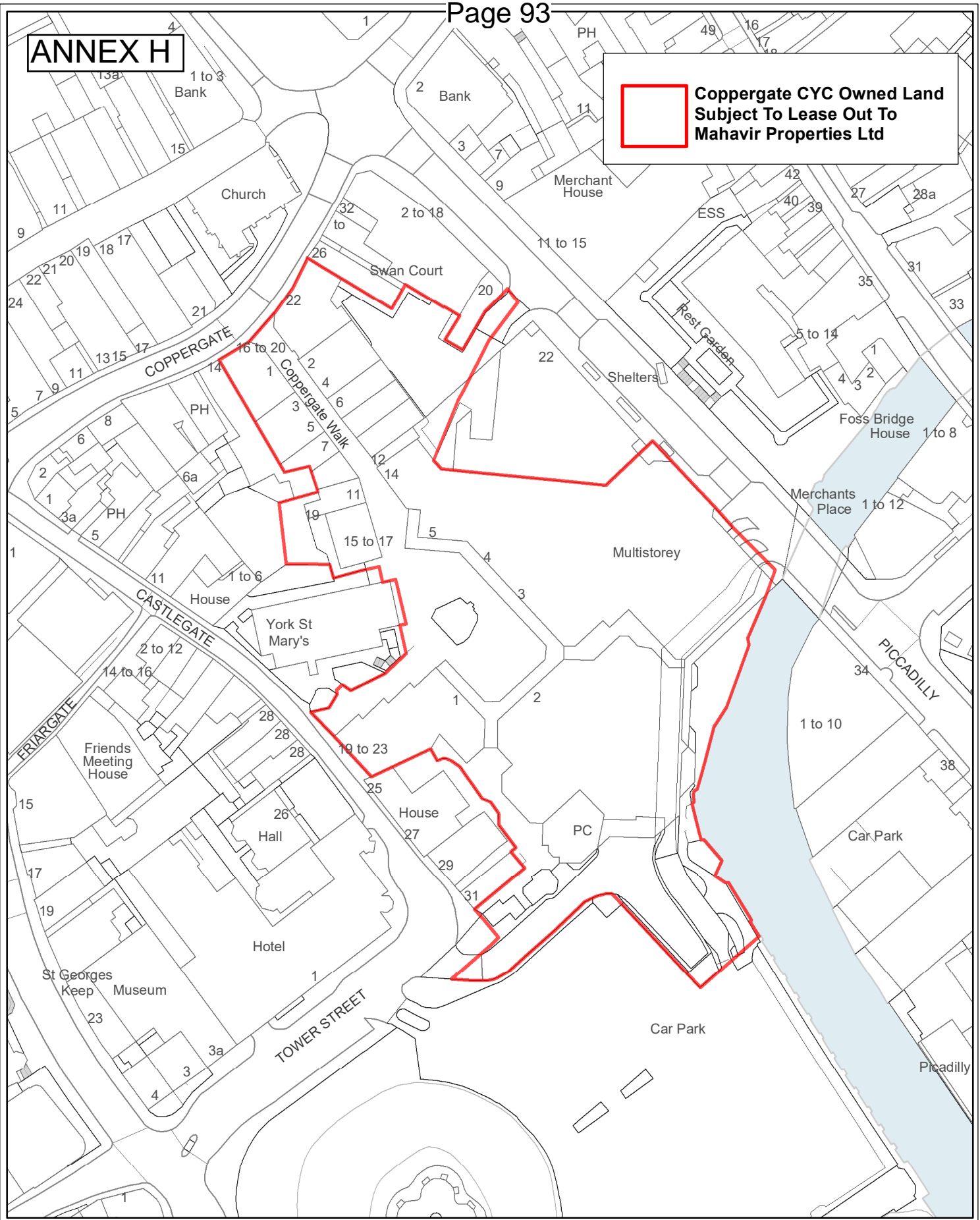
FOR PLANNING

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ANNEX H

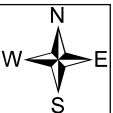


**Coppergate CYC Owned Land
Subject To Lease Out To
Mahavir Properties Ltd**



**Asset & Property
Management**

Coppergate Centre Land Leased Out To Mahavir Properties LTD



SCALE 1:1,250

DRAWN BY: KLM

DATE: 21/09/2022

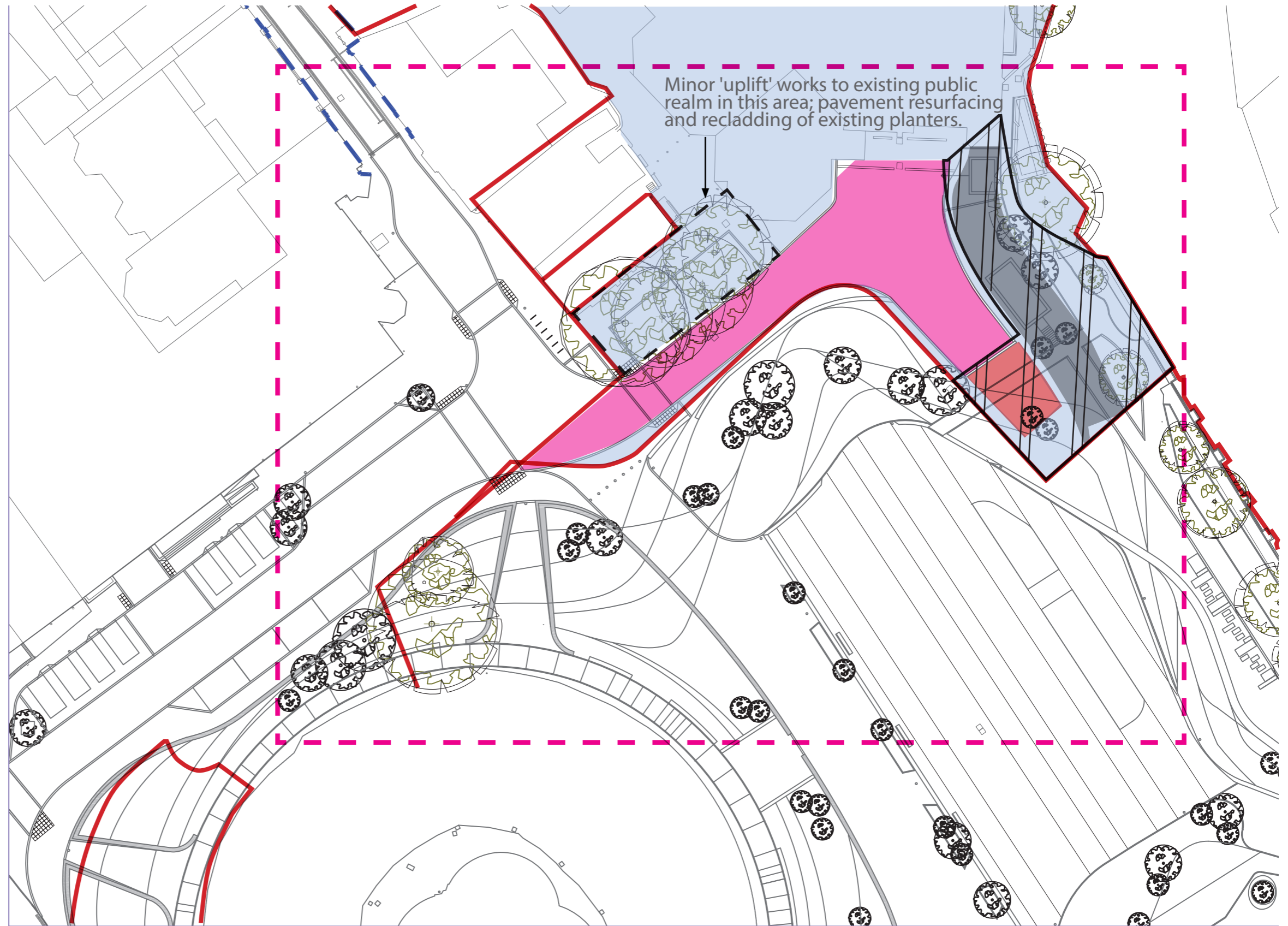
Originating Group:

Asset & Property Management

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Coppergate Boundary Plan



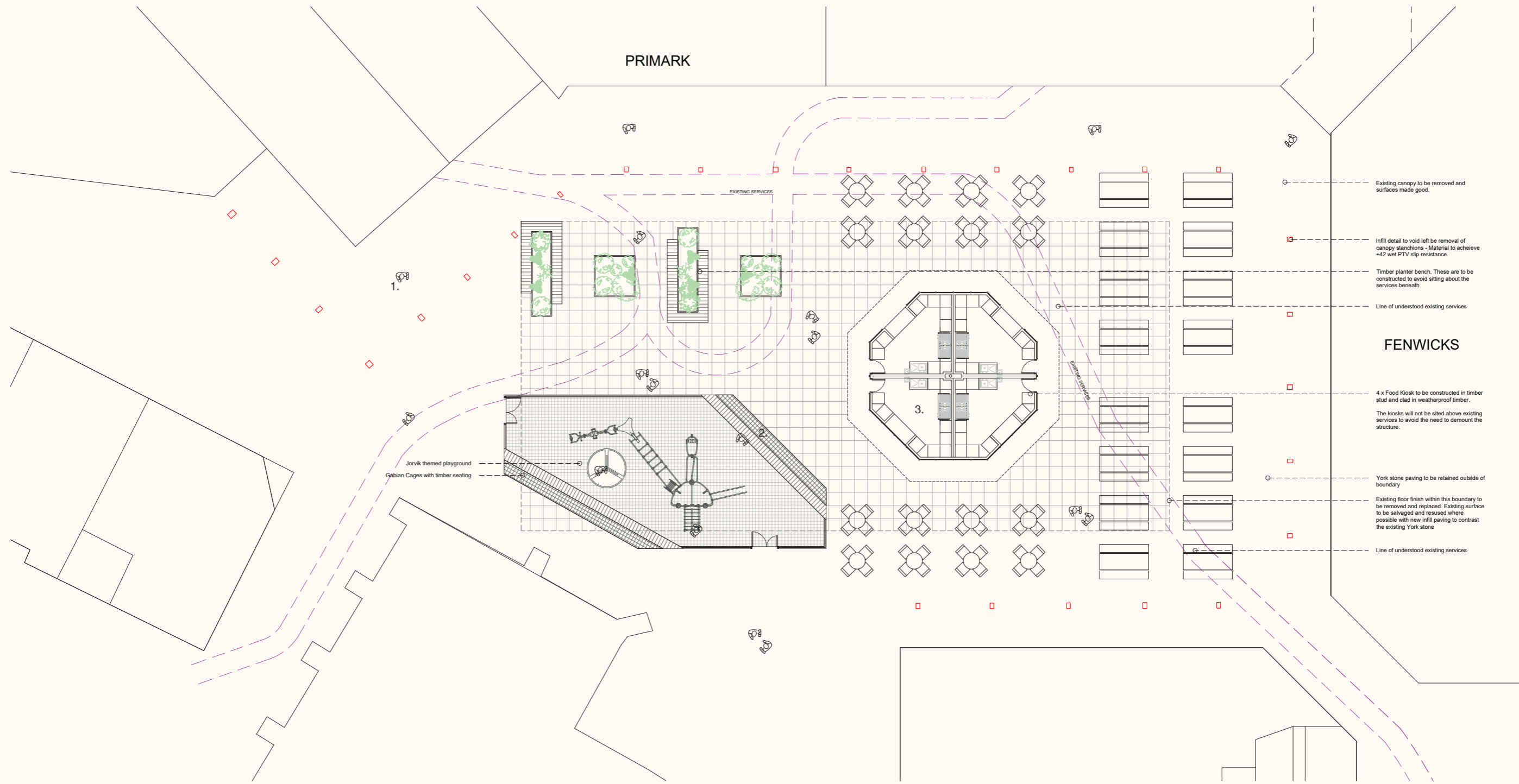
- Key
- Coppergate boundary
 - Proposed extent of service yard
 - Infill of access ramp
 - Extent of service yard for removal
 - Extent of works within Coppergate Boundary

LP00900_SK220922_COPPERGATE BOUNDARY OVERLAY
SCALE 1:500@A3

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Appendix
Indicative Proposals
Coppergate Centre

SITE PLAN



- Existing canopy to be removed and surfaces made good.
- Infill detail to void left be removal of canopy stanchions - Material to achieve +42 wet PTV slip resistance.
- Timber planter bench. These are to be constructed to avoid sitting about the services beneath
- Line of understood existing services
- FENWICKS**
- 4 x Food Kiosk to be constructed in timber stud and clad in weatherproof timber. The kiosks will not be sited above existing services to avoid the need to demolish the structure.
- York stone paving to be retained outside of boundary
- Existing floor finish within this boundary to be removed and replaced. Existing surface to be salvaged and reused where possible with new infill paving to contrast the existing York stone
- Line of understood existing services

Phase 1

Removal of existing canopy and make good paving where necessary.

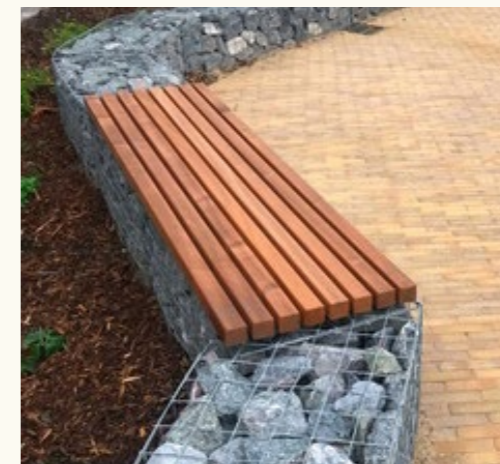
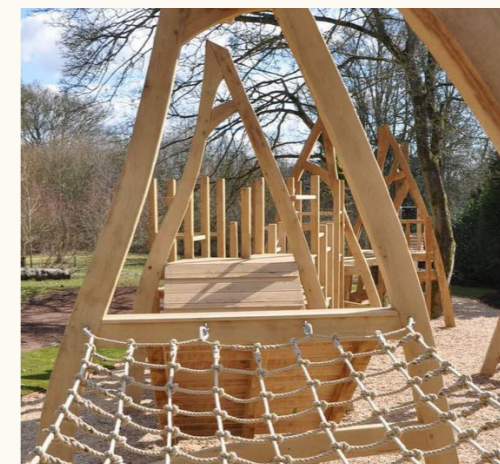
Phase 2

Removal of internal resin floor finish.

Phase 3

Install new floor finish and new insertions i.e. Kiosks, Playground, Planters, Furniture & Lighting

PRECEDENT IMAGES



PUBLIC SQUARE VISUAL



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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Annex C (i)**Call-in Request Form**

This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published (*not including the day of publication*).

Decision taker:	Executive
Date of publication of decision:	Decided 16 th November, published 17 th November (I assume)
Title of Decision Called in:	Castle Gateway update report and next steps
Date Decision Called in:	19 November

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision contrary to the policy framework?	
2.	Decision contrary to or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution.	X
If reason 4, please tick which specific element of Article 7 the decision maker has not followed, did he or she not:		
(a)	Meaningfully consider all alternatives and, where reasonably possible, consider the views of the public.	X
(b)	Understand and keep to the legal requirements regulating their power to make decisions.	
(c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	X
(d)	Act wholly for proper purpose and/or in the interests of the public.	
(e)	Keep to the rules relating to local government finance.	

Annex C (i)

(f)	Follow procedures correctly and be fair.	
(g)	Make sure they are properly authorised to make the decisions.	
(i)	Take appropriate professional advice from Officers.	

Detailed Reason(s) for Call-in.

We wish to call-in the decisions on Castle Gateway for the following reasons:

Poor project progress highlights the need for cross party working rather than swings dependent on who is in power. Labour has a mandate, but just a one seat majority. Consensus, backed by tangible and sound financial business cases is needed, not hopes. There are big lessons which look unlearnt from the likes of the Community Stadium and Guildhall.

Specifically:

1. Spark was only to be a short lease and if the extension goes through will have been in for essentially a decade, paying well below market rent without sufficient positive overall good to justify this. Serious consideration should be given to other site uses, including a sale. The site is one location in the Piccadilly area, it is not pivotal. If the lease is extended there is no clear plan for after, it is simply a delay.
2. There is insufficient detail to show clear benefit on the return to the council from a generous lease extension to Mahavir Properties (Coppergate Centre).
3. The magnitude of the direction change on St George's Field Multi Story Car Park has too little analysis given the associated write-offs and impact it would have.
4. The reduction in city centre car parking is unacceptable and will be a real issue for businesses, The reduced car usage hoped for in the Local Transport Plan remains a hope./
5. If city centre parking is cut as proposed there is inadequate planning for the resulting revenue drop.
6. Report, round estimate, figures (e.g. Castle and Eye of York c. £1 million, St George's MSCP c. £2 million and Castle Mills c. £1 million) provide insufficient depth for members to analyse, never mind time being money and officer time not being tangibly considered.

Castle Gateway area needs development but the report shows little sign of historically poor progress changing, merely further cost. The following is needed:

1. A realistic assessment of what is key to the project, rather than various sites joined together, as well as consideration of the appropriate public/private sector division.
2. Cross party discussion and agreement on the future to truly achieve for York.
3. True, business quality, scrutiny of spend by councillors.

Annex C (i)

	Name (please print)	Signature (<i>please note that signatures will not be published with the agenda. Electronic signature will be accepted</i>)	Date
1.	Mike Nicholls	M. Nicholls	20/11/20
2.	Chris Steward	C. Steward	20/11/20
3.	Mark Warters	M. Warters	20/11/20

For office use only:

Received on behalf of the Monitoring Officer by: Democratic Services

Name: Dawn Steel Date: 19/11/23 Time: 17:55

Validation Check (if necessary):

Monitoring Officer / Chief Operating Officer

Valid: YES

Reason: *In accordance with constitutional requirements.*Completed by: *[Signature]*Date: *23/11/23* Time: *15:15*

Annex C (ii)

Call-in Request Form

This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published (*not including the day of publication*).

Decision taker:	Executive
Date of publication of decision:	17 November 2023
Title of Decision Called in:	Castle Gateway Update: - Castle Mills - St George's Field Car Park - Castle & Eye of York
Date Decision Called in:	20 November 2023

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision contrary to the policy framework?	
2.	Decision contrary to or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution.	X
If reason 4, please tick which specific element of Article 7 the decision maker has not followed, did he or she not:		
(a)	Meaningfully consider all alternatives and, where reasonably possible, consider the views of the public.	
(b)	Understand and keep to the legal requirements regulating their power to make decisions.	
(c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	X
(d)	Act wholly for proper purpose and/or in the	

	interests of the public.	
(e)	Keep to the rules relating to local government finance.	
(f)	Follow procedures correctly and be fair.	
(g)	Make sure they are properly authorised to make the decisions.	
(i)	Take appropriate professional advice from Officers.	

Detailed Reason(s) for Call-in.

- In relation to Castle Mills, due regard has not been given to the potential impact of developing the bridge and riverside route separately from the wider development including the proposed public park. Planning permission in this sensitive area relied heavily on enabling benefits, and insufficient consideration has been given to the risk that securing future development of the site may be more problematic as a result of components of the development having been de-coupled.
- Insufficient consideration has also been given to the risk that failure to progress the site will lead to planning permission lapsing, potentially incurring significant additional costs through the applicability of new building regulations.
- In relation to car parking at Castle and St George's Field, the decision signals that a 50% reduction is to be made to localised parking provision. This decision is not supported by a wider parking review as agreed by Executive to inform any future car park closures. No assessment of risk is evident such as the possibility of private operators making up a reduction in CYC provision, no assessment is made of the likely positive or negative economic impacts and there is no evidence of consultation with businesses.
- There is no assessment of the impact to the council of a loss of parking income on top of the potential abortive costs associated with the decision, and no mitigation strategy is evident.
- There is no assessment of the impact on the future of the Piccadilly multi-storey car park of the December 2019 council motion to restrict all non-essential private motor vehicle journeys within the city walls
- There is no identified funding stream for the proposed development of the Castle car park site in the absence of enabling development.
- In general, there is a lack of clarity around the extent to which due regard has been given to financial considerations – including the potential impact on the Housing Revenue Account - when making these decisions, as relevant financial information has largely been hidden from public view.

	Name (please print)	Signature (please note that signatures will not be published with the agenda. Electronic signature will be accepted)	Date
1.	Nigel Ayre	Nigel Ayre	20/11/23
2.	Ashley Mason	Ashley Mason	20/11/23
3.	Darryl Smalley	Darryl Smalley	20/11/23

For office use only:

Received on behalf of the Monitoring Officer by: Dawn Steel

Name: DAWN STEEL Date: 20/11/23 Time:

Validation Check (if necessary):

Monitoring Officer / ~~Chief Operating Officer~~

Valid: YES

Reason: In accordance with constitutional requirements

Completed by: 

Date: 23/11/23 Time: 15:15

