

COMMITTEE REPORT

Date: 8 December 2022 **Ward:** Micklegate
Team: West Area **Parish:** Micklegate Planning Panel

Reference: 20/00314/FULM
Application at: 3 Toft Green York
For: Erection of new building comprising of ground floor music venue (sui generis) and offices (use class E) including external terrace and landscaping to rear at first floor level following demolition of existing buildings at 3-5 Toft Green
By: Toft Green Developments Ltd
Application Type: Major Full Application
Target Date: 26 September 2021
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site relates to an existing two storey former industrial building and ranges that occupy the full width of the plot and extend up to the rear of Micklegate House on the Micklegate frontage. The building adjoins no. 1 Toft Green, a two storey building to the north east and the rear yard providing car parking for 92 Micklegate which is occupied by the York Conservation Trust Ltd to the south western boundary.

1.2 The buildings are now vacant but previously were occupied by Fibbers music venue/nightclub, Black Orchid Gentlemen's Club and Whiskey Lounge and the Stein Bierkeller.

1.3 Planning permission is sought for the demolition of all buildings on site with the construction of an office building and music venue, with a first-floor roof terrace to the rear reaching the boundary with Micklegate House to the rear. Office accommodation will be provided over three floors. The proposal has been amended significantly since original submission to reduce its scale by 3.4 metres on the Toft Green frontage, the equivalent of a full storey in height, whilst at the same time re-providing a music venue in the ground floor area. Its scale to the rear in relation to Micklegate House has also been significantly reduced by removing the previously proposed double pile roof and foreshortening the rearward extension of the block directly facing on to Toft Green.

1.4 The building is unlisted but is located within the York Central Historic Core Conservation Area (YCHCCA): Character Area No. 21: Micklegate. There are a number of listed buildings in close proximity including the Grade I Micklegate House, positioned to the rear of the application site, and to either side, No's 86 and 92 Micklegate are both Grade II* listed. No. 1 Toft Green adjoins the application building is identified within the YCHCCA character area appraisal as a Building of Merit.

1.5 The site also lies within the Area of Archaeological Importance and specifically in an area which contains archaeological deposits of national importance including those relating to the Roman Colonia.

2.0 POLICY CONTEXT

National Planning Policy Framework

2.1 The revised National Planning Policy Framework was published on 21 July 2021 (NPPF) and its planning policies are material to the determination of planning applications.

Publication Draft City of York Local Plan 2018

2.2 The 2018 Draft Plan was submitted for examination on 25 May 2018. Phase 1 of the Hearings into the Local Plan was held in December 2019, Phase 2 was held in May 2022, Phase 3 in July 2022 and Phase 4 in September 2022. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

-The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

SS3	York City Centre
EC1	Provision of Employment Land
D1	Placemaking
D2	Landscape and Setting
D3	Cultural Provision
D4	Conservation Areas

D6	Archaeology
CC1	Renewable and Low Carbon Energy Generation and Storage
CC2	Sustainable Design and Construction of New Development
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV5	Sustainable Drainage

2.3 The evidence base underpinning the 2018 Draft Plan is a material consideration in the determination of planning applications. Of relevant to this application, the evidence base includes:

- Economic Strategy 2016-20 – Choosing a better story 2016
- Economic and Retail Growth Analysis and Visioning Work (June 2013)

Draft Development Control Local Plan (2005)

2.4 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations and can be afforded very little weight in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

CYGP1	Design
CYGP4	Sustainability
CYGP6	Contaminated Land
CYGP9	Landscaping
CYHE3	Conservation Areas
CYHE10	Archaeology
CYHE11	Trees and Landscape
CYT4	Cycle Parking Standards
CYS7	Evening Entertainment

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (Conservation)

3.1 The application site lies on land to the north of the grade I listed Micklegate House. At the north end of the site facing onto Toft Green is a two-storey building built across the width of the plot which would appear to be the much altered coach house and stable for Micklegate House.

3.2 The two-storey building that occupies 3-5 Toft Green is of traditional form of brick construction and dual pitched roof, much rebuilt and door and windows openings altered, but with brickwork consistent with 18th century brickwork visible externally in the gable. It appears consistent with the building illustrated in the 1852 OS, separated from the house by a large garden. The basic form and construction of the building is not too dissimilar to No. 1 Toft Green, also believed to be a coach house and stable of 18th century origin. Irrespective of the assertions in the applicant's heritage statement to the contrary, the building would appear to be that described in the sales particulars of 1815; the description included "a good Garden, Coachhouse, Stables for 11 Horses" (ibid, quoting York Cournat, 3 April 1815). In our opinion, there is no convincing evidence put forward for it being anything else.

3.3 Between the house and stable block further ranges were constructed from brick with dual pitched roofs, lengthways down the site, single storey behind the house, rising to two storeys at the coach house end. Internally there are cast iron columns and beams in the two-storey area. Map evidence suggest the buildings are late 19th century or very early 20th century, appearing on the 1909 OS, but not the 1892 edition.

3.4 The coach house and later infill development are not considered to be curtilage buildings as evidence presented by the applicants indicates that they were not in the same ownership at the relevant date, in this instance 1 July 1969.

3.5 The building is considered to contribute to the significance of the house as a Georgian merchant's town house constructed on a major historic thoroughfare, within the City walls. The plot development within the site contributes to the character of the conservation area, illustrating the historical development of the area from development of medieval plots in 18th century with large houses fronting Micklegate with large gardens terminating in some cases in service buildings facing Toft Green, and the gradual decline of the area as back land plots are taken over by light industry and workshops.

3.6 The demolition of the late 19th/early 20th century development of the garden area would result in a degree of harm to the character of the conservation area, removing evidence of the evolution of the site and the area in the late 19th century. It would have the potential to better reveal the significance of the house by reinstating the relationship of the house to its garden and coach house. However, any enhancement from the marginal increase in openness is outweighed by the substantial increase in bulk of the replacement four storey building; the additional bulk undermines the current and historic plot development, instead making the building at the back of the site the dominant building. The scale of the building would be a bold and unwelcome addition to the setting of both Micklegate House and its neighbours, and would be the dominant building in the street, considerably taller than its neighbours. In addition, the illustrative value of the original coach house/stable block would be lost. The substantial scale of the four storey building

results in substantial harm to the setting of the Grade I listed Micklegate House, and less than substantial harm to the setting of the neighbouring grade II* listed buildings, and less than substantial harm to the character of the conservation area.

3.7 The supporting documents suggest the impact of the development can be mitigated by the design. It is not clear how this overcomes the substantial additional bulk of the four-storey element of the building, which appears to have been driven by a consideration of the scale of the Hilton/Hamilton Hotel on the opposite side of Toft Green. Quite what relevance this has is unclear. The other side of Toft Green is in a distinctly different character area, Character Area 22, in which the coming of the railway age resulted in an entirely different plot form and a number of much larger buildings.

3.8 The design incorporates an arched design at ground floor level, intending to reference arches used in the designs of a John Carr coach house or stable blocks. However, irrespective of these being a feature of such buildings in the grounds of country houses, they are not typical of urban coach houses in York, and more importantly, not part of the language of the historic street scene. In addition, development in the street is predominantly characterised by a predominance of mass over void. The extensive use of glass on the upper floor and the glazed arch form of the lower floors do not preserve this characteristic of the street scene. Rather than mitigating the harm resulting from the development, the inclusion of arches and extensive glazing adds a further layer of harm to the character of the conservation area and the setting of the listed buildings.

Design, Conservation and Sustainable Development (Landscape Architect)

3.9 The front elevation of the proposed building appears to follow the line of the existing, which is continuous with the building line of the street. There is scope for external improvements along Toft Green, removing existing clutter and apply appropriate stone paving for a continuous finish. The strip in front of 3-5 is at the narrowest tapered end which offers negligible room for any additional intervention such as street trees. Slim, raised beds as shown in indicative views, although these are not necessary.

3.10 The proposal introduces an area of outdoor space presented as a roof garden or 'rear roof terrace' over a ground floor, single storey component of the proposed building and would be an improvement on the existing. It would introduce some sense of a garden, and some perceived separation between Micklegate House and the proposed building, plus a better outlook from Micklegate House. This would be a valuable outdoor space with a sunny aspect for occupants of the development.

3.11 It would be desirable to reinstate a garden at ground floor level immediately to the rear of Micklegate House; the redevelopment of the site presents an opportunity to realise this, which would be of huge benefit to the setting and context of the grade

I listed building (although not directly related as Micklegate House lies outside the application boundary).

3.12 The suggestion that the design of the roof garden would be a formal arrangement to suit the Georgian architecture is fine. It is a fairly limited space so a simple layout is best, but it should be one that packs horticultural interest and a food source for invertebrates and birds amongst a formal structure of low clipped hedges.

3.13 The introduction of a raised garden may result in issues of overlooking, which is for others to consider, but I do note that the proposed planting, including a hedge around the periphery of the roof garden, would prevent people standing close to the edge and peering down/across. Consideration may need to be given to light emanating from the roof lights and glazed roof access during hours of darkness, although probably no worse than a vertical window in respect of neighbouring properties. There may also be some low-level bollard or ground mounted lights for safety.

Design, Conservation and Sustainable Development (Archaeology)

3.14 The application site lies within the Central Area of Archaeological Importance specifically in an area which contains archaeological deposits of potential national importance including those relating to the Roman Colonia.

3.15 A Roman road leading into the fortress from the south runs somewhere through the block of buildings situated between Micklegate and Toft Green. It may run beneath 3-5 Toft Green. Roman archaeological evidence in the form of buildings, roads/lanes and industrial activity is well known in this area. Documentary evidence suggests that this block has been occupied since the medieval period with building of the Toft Green frontage from at least 1610.

3.16 Due to the nature of the site, it being covered in buildings which are in use, there has been no intrusive archaeological evaluation of the site. The implementation of a borehole survey or trenching at pre-determination stage was not possible. A ground penetration radar (GPR) was commissioned in lieu of intrusive evaluation at this stage. The survey was successful except in areas of raised wooden floor. However the results of the survey only recorded shallow structural remains and rubble from the past demolition of structures previously occupying the site. A possible culvert was also identified at c1.2m below floor level. These results have not contributed a great amount of information on the potential archaeological profile of the site.

3.17 A desk-based assessment for the proposed site has been produced by Yorkshire Archaeological Trust, which draws together information from previous archaeological interventions close to the site. There is an expected depth of c5m of archaeological deposits on this site. The study suggests that post-medieval

structures may be encountered along the frontage of Toft Green. Significant deposits of medieval and Roman date may also survive on this site from shallow depths of c0.3m below current ground level. Of particular significance is the potential to uncover evidence for the street layout of the Roman civil settlement and high-status Roman buildings.

3.18 In respect to the impact of the proposed development, the submitted drawings suggest that the current floor level will be lowered c0.6-2m beneath the extant Toft Green frontage building and the proposed rear garden. This may impact only upon the former factory foundations and garden soils in the centre and rear of the site, but there is a chance it may impinge into medieval or earlier deposits. Roman archaeology may be disturbed by pile caps and beams beneath this subterranean space.

3.19 Archaeological features and deposits relating to all periods may be revealed or disturbed through the development of the proposed scheme. Without a programme of intrusive archaeological evaluation, we are unable to ascertain what the impact may be. An archaeological evaluation will need to take place once the buildings are vacated/demolished. If archaeology of national importance is found to survive on the site, preservation in-situ will be expected and its design may need to be altered accordingly.

Design, Conservation and Sustainable Development (DCSD) (Ecology)

3.20 Raises no objection to the proposal subject to any permission being conditioned in respect of biodiversity net gain and nesting birds.

Public Protection Unit (PPU)

3.21 Noise - the proposed office building will be located close to existing commercial activities and new plant/equipment located externally may impact on the use of adjacent premises. As such a condition is recommended to ensure that any plant/machinery is subject to approval if installed within the development and is audible outside of the application site. It is accepted that the building has been designed to reduce break out noise and the provision is felt to be acceptable. A noise management plan which may be conditioned is recommended in respect of noise from comings and goings to the venue.

3.22 Construction Impacts - recommend working hours and a Construction Environmental Management Plan (CEMP) in order to minimise demolition and construction impacts (noise, vibration and dust) to neighbouring properties.

3.23 Land Contamination – the application is supported by a Phase 1 assessment by Surface (Ref: 51040 dated 13.12.2019). This report recommends an intrusive ground investigation, comprising soil sampling and gas monitoring is carried out.

This is acceptable and conditions are requested that a site investigation is conducted and appropriate remedial action undertaken to ensure that site is safe and suitable for its proposed use.

Economic Development Unit

3.24 The proposal is supported because it would bring forward high quality category A office accommodation in an accessible location which at present is deficient in the City Centre.

Lead Local Flood Authority (LLFA)

3.25 The Lead Local Flood Authority raise no objection in principle to the proposal but seek identification of a surface water outfall and an agreed discharge rate to the public surface water sewer .

Highways Network Management

3.26 Highway Network Management raise no objection to the proposal as amended on the basis that adequate cycle parking would be provided for the location together with a sustainable travel plan.

EXTERNAL

Historic England

3.27 Toft Green is a street of two halves; it has considerable historic value for the way it illustrates aspects of the development of this part of York overtime, including its changing social status and the arrival of the railways, to which can be attributed the dramatic contrast in scale between the two sides of the street. Buildings on the south side of the street are generally a domestic scale and part of a finer urban grain that incorporates narrow burgage plots which run through onto Micklegate, one of the city's finest streets, and one of the most distinctive streets in England.

3.28 They welcome the removal of the harmful, later modern accretions to the rear of the Micklegate House. However, this improvement would be negated by the erection of the proposed office block that would cause harm to the setting of the Grade I listed building.

3.29 Historic England consider that the starting point for designing new places should be with the historic character (conservation Areas) and setting of listed buildings to ensure that local distinctiveness lies at the heart of placemaking. The particular reference point to the parameter of the height of the new building with the Hampton by Hilton building opposite is questioned and it not considered appropriate

for the historic character of the site. Additionally, the design philosophy and approach to the railway arches is again questioned, it conflates two different building types and therefore diluted integrity of design.

3.30 The new building does not pay special attention or regard to this highly sensitive and complex historic environment and highly graded designated heritage asset that will be affected. We do not see any justification for the erection of a new building that would cause harm to the significance of the Conservation Area and setting of a Grade I listed building. The impact of the development in views from the nationally important scheduled and listed City Walls has not been established by the applicant.

3.31 Archaeology- the archaeological potential of the site should be considered high and we consider that a field evaluation is essential in this context to clearly establish the significance of the application and its archaeological potential, in line with paragraph 189 of the National Planning Policy Framework (NPPF).

3.32 Historic England objects to the application on heritage grounds; the replacement development in its current form would cause harm by way of its height, width, depth and architectural design and the scheme has failed to establish the full significance of the application site. The scheme would be harmful to both the character and appearance of the conservation area and the setting of the Grade I listed building, which is not supported by clear and convincing justification. The application does not meet the requirements of the NPPF, in particular paragraphs 8 c), 127, 130, 184, 189, 190, 192-196 and 200.

Council for British Archaeology (CBA)

3.33 The CBA strongly object to this application. The significance of the site has not been properly assessed; the impact of the proposed development on significance cannot be assessed and minimised as required by section 16 of the NPPF. We consider that the proposed development lacks the human scale that should be required of this part of the York Central Historic Core Conservation Area.

3.34 The CBA consider that No. 3 Toft Green should be considered as a curtilage building to Micklegate House (Grade I).

3.35 The proposals will result in a dominant new build that is at least one floor higher than existing and the adjacent Building of Merit, No. 2 Toft Green. It comprises design features (archways) that are out of keeping with the area.

3.36 There is insufficient assessment of nationally important sub-surface archaeology and that any destruction of, or damage to, sub-surface archaeology, whatever its period would constitute substantial harm.

Micklegate Planning Panel

3.37 Raise no objection to the proposal as revised.

Conservation Area Advisory Panel (CAAP)

3.38 Generally welcomed the proposed use of the site and the re-introduction of the garden, as it would enhance the setting of Micklegate House. Concerns were raised regarding the elevation treatment of the Toft Green elevation, which it had been explained had been derived from an interpretation of typical Georgian stables. There was a preference for what was considered to be a more honest contemporary treatment of the rear elevation. The panel felt that the quality and type of brickwork would be important.

York Civic Trust

3.39 No objection is raised to the development of the site, including demolition and replacement of the current buildings. Its proposed design is detrimental to the character of the area, further consideration should be given to the design, overall size and height.

3.40 The proposed building is considerably out of scale with the south side of Toft Green, which has retained its modest character. The applicant's consideration that 'grade A' level office space is deficit in York and the scale of the building can be justified by the reference to the Hudson House development on the opposite site of the street does not justify this larger size/mass. Any development should reflect the modest character of the south side of Toft Green with its lower-elevation height and character.

3.41 The aim to reflect the history of the site as largely been lost; there are two competing visions of the primary elevations facing Toft Green and the opposite, facing Micklegate House. The proposed arches are not of a design local to the area; they do not reflect the urban stables of Toft Green which were far humbler, single storey affairs. The Trust feels it would be beneficial if both elevations are in the same suit; either by making both primary elevations concretely 'modern' or having both more firmly recalling past history.

3.42 If all aligned structures follow suit with higher structures it can be reasoned the street could become another 'wind tunnel' as has regrettably happened to other streets in York.

3.43 The Trust supports the archaeological conditions outlined in the City of York's archaeological report.

3.44 Raise no objection to the proposal subject to any proposal being conditioned to secure delivery of a surface water drainage scheme.

4.0 REPRESENTATIONS

4.1 Six letters of objection and four letters of support have been received in respect of the scheme as originally submitted. In summary, the objections raise the following concerns;

- loss of privacy
- overshadowing (to house and garden)
- loss of views
- proposed rooftop garden - noise pollution; no capacity or restrictions identified and further harm could be caused if used as an 'event' space, safety issues and fire risk (smokers); no need identified and could set a precedent
- neighbouring buildings impacted by light pollution from office windows and garden
- overbearing, out of scale, out of character and unsympathetic in terms of its appearance compared with existing development in the Micklegate area, harmful effect upon the Conservation Area and nearby heritage assets
- fails to sufficiently demonstrate that there is a shortage of grade A office space and its need within the Micklegate area; significant office development under construction (Hudson House)
- fails to take into account the approved plans relating to Bathurst House
- lack of consideration given to No. 1 Toft Green in the application in site assessment nor its design
- unclear how historical wall partially surrounding/adjoining the site will be impacted
- lack of detail in the application in respect to materials, particularly bricks
- risk of contamination, site has a well-documented industrial past and there will be a risk of contamination; raises concern in relation to health and safety and responsible building practices
- proposed works will cause disruption and disturbance to residents nearby; no details as to how this will be mitigated and should be provided as part of the application, rather than conditional items
- insufficient details of the mechanical services (ventilation, heating and drainage) to fully consider the proposals
- concern that the proposed retention of a music venue will lead to a repeat of previous problems with anti-social behaviour in the locality

4.2 In support of the application, the following comments have been received;

- The office building will be of benefit to the neighbourhood; the nightclub and strip club caused noise, and anti-social behaviour problems
- Benefit to local businesses from new office to accommodation
- Good to see a slow but steady improvement to this part of Tanner Row and Micklegate, near the City Walls

4.3 In terms of the amended scheme six letters of objection have been received raising the following issues:

- The proposed scale and massing remain too large for the site.
- The proposal would continue to harm the setting of neighbouring heritage assets
- Lack of consideration for the amenity of the adjacent property
- Lack of consideration of the impact of mechanical and engineering services on neighbouring properties.
- Objection to the re-inclusion of a music venue which may become the focus of anti-social behaviour in the locality
- Objection to increased comings and goings and noise from the proposed music venue

Cllr Crawshaw

4.4 Objects on the grounds that this is a live music/nightclub venue and should be considered a cultural venue which is hugely important to the cultural vibrancy of the city. This application does not meet Local Plan Policy D3 which can be afforded increasing weight given to the stage of the Local Plan. The recent closure came about as a direct result of the pending planning application and its loss is already being felt. Disagrees with comments in the applicant's Planning Statement; any issue with the current operators are not material to the planning application and the application of Policy D3. There was a clear statement from Full Council in backing a motion pertaining to Live Music Venues and Nightclubs on 31 October 2019.

Cllr Kilbane

4.5 Agrees with the comments made by Cllr Crawshaw, and in addition, this application has caused anger amongst residents. The applicant should re-consider the application against Local Plan Policy D3, withdraw and re-submit.

5.0 APPRAISAL

5.1 KEY CONSIDERATIONS:

- Principle of development (Loss of cultural facilities/ Provision of office accommodation/ Impact on Local Centre)

- Heritage considerations (curtilage building, setting and impact to neighbouring listed buildings, impact upon the character and appearance of the conservation area)
- Design (inc landscaping)
- Archaeology
- Impact upon neighbouring residential amenity (overlooking, overshadowing, garden)
- Climate Change
- Drainage
- Construction Impacts

LEGISLATIVE BACKGROUND

5.2 The site is within the designated York Central Historic Core Conservation Area. The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas.

5.3 Adjacent to the application site is the Grade I Micklegate House. As such Sections 16 (2) and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.4 The NPPF sets out the government's planning policies for England and how these are expected to be applied. The planning system should contribute to the achievement of sustainable development. To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which, for this application, means granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance (including at footnote 7 – designated heritage assets) provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

5.5 The sections of the NPPF that are considered to be of relevance to this planning application include: 6 (Building a strong, competitive economy), 7 (Ensuring the vitality of town centres), 8 (Promoting healthy and safe communities), 9 (Promoting

sustainable transport), 12 (Achieving well-designed places), 11 (Making effective use of land), 14 (Meeting the challenge of climate change, flooding and coastal change), and 16 (Conserving and enhancing the historic environment).

ASSESSMENT

PRINCIPLE OF DEVELOPMENT

Loss of Cultural Facilities

5.6 The NPPF sets out that planning policies and decisions should seek to provide the social, recreational and cultural facilities and services the community needs. Specifically, paragraph 93 (c) seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

5.7 Arts and cultural facilities add value and support to community participation and is keen to protect these capacities to engender community cohesion and civic pride. This is reflected in draft policy D3 which states that development will be supported where they enable and promote the delivery of new cultural facilities and do not cause the loss of cultural venues or spaces that deliver facilities, activities, or services.

5.8 Recent history of the application building indicate that it was in use as a warehouse from 1979 until 1987 where it was converted to a nightclub. In about 2010 the buildings were sub-divided into a nightclub/music venue and German themed beer hall; a lap-dancing club opened in about 2014.

5.9 The proposal as amended envisages the re-introduction of a music venue operated by a nationally recognised venue operator within the ground floor area of the new building. It would cover some 266 square metres with the previous facility covering some 291 square metres subdivided into a bierkeller, lap dancing club, night club and music venue covering the same space. The new proposal envisages the use of space purely as a music venue with bands and live music performances managed on a formal basis without the operation of the site as a night club. The maximum capacity of the venue would be some 500 attendees. The previous mode of operation of the site gave rise to a degree of anti-social behaviour which is discussed further below. This is felt to be a positive benefit with the result that there would not be the loss of a cultural facility and an opportunity created to ensure better management of the site than in the previous situation. It is considered that the proposal would broadly comply with draft 2018 Local Plan policy D3.

Provision of Office Floorspace

5.10 Paragraph 81 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

5.11 The Council's publication draft local plan helps to deliver the city's economic ambitions by providing sufficient land to meet the level of growth. Draft policy EC1 plans for a range of employment uses on strategic sites, over 5ha. The level of office floorspace provision to be provided in this proposal is not considered to be at a strategic level, and therefore draft policy SS3 relating to uses within the city centre is more relevant. This policy identifies the city centre as a priority area for a range of employment uses, being fundamental to delivering the economic vision of the plan, and specifically office (B1a) being an acceptable development type in the city centre, in principle. Other considerations when considering city centre proposals include the conservation and enhancement of the existing historic character whilst encouraging contemporary high quality developments that add to the sense of place and create a prestigious and desirable location for thriving businesses

5.12 The Council's Economic Strategy 2016-2020 sets out that as a result of challenges with York's major sites and minimal new development has resulted in a shortage of office space in good locations. However, one of the key priorities in the Economic Strategy is the delivery of the Central Business District element of York Central, where a minimum of 100,000sqm of office (B1a) floorspace is expected to be provided (policy SS5 of the publication draft local plan (2018) and will help remedy current shortfalls of city centre grade A office accommodation. In addition, the Council's Economic and Retail Growth Analysis and Visioning Work (June 2013) identifies that there is a large proportion of Grade B stock in comparison to Grade A stock and there are opportunities to upgrade the city centre office provision as sector growth is established.

5.13 The proposed new building seeks to provide about 788 sqm of gross internal floorspace of office accommodation. The applicant advise that this office accommodation will be grade A office accommodation. The provision of office accommodation (Class E) is in accordance with draft 2018 Local Plan policy.

HERITAGE CONSIDERATIONS

Curtilage Building

5.14 The site lies within the York Central Historic Core Conservation Area Micklegate is one of the principal historic thoroughfares into the city with Toft Green forming a back lane to the rear. Along the southern side of Toft Green, the eastern-most end is characteristically of smaller scale development with a mix of 19th Century former industrial structures associated with the former railway nearby beyond Toft Green to the north, whereas the western end is characterised by 20th

century development of much larger scale. A consistent characteristic is that buildings lining the southern side of Toft Green are generally constructed from brick and characteristically present a predominance of mass over void in their public elevations.

5.15 Micklegate House which lies directly to the rear of the application site on within the Micklegate frontage is described in the Royal Commission inventory as the most important Georgian residence south west of the Ouse. It was built for John Bouchier of Beningbrough as his town house and completed in 1752. It is generally attributed to the York Neo Classical architect John Carr. It is listed Grade I as building of special architectural or historic interest, meaning that it is of the highest significance. Objectors contend that the application site comprises a curtilage building of Micklegate House and as such should benefit from the protection afforded by the Listing of the host property and in terms of the NPPF great weight should be afforded to its conservation (paragraph 199).

5.16 The application site has however been subject to very substantial alteration in relatively recent times. The ridge height has been substantially raised and the front wall rebuilt in timber panelling with brick above. To the rear there are also a series of brick structures with flat roofs associated with a historic warehouse use. The site by virtue of the pattern of property boundaries did formally comprise part of the curtilage of Micklegate House. 18th /Early 19th Century coach houses do however generally have a subservient form to the host dwelling and it is also located unusually close to the rear of the host building. Whilst elements of an earlier building associated with Micklegate House may be present, the building reads as being a later industrial type structure associated with the development of the railway with much of the special interest it would otherwise have had being compromised by its earlier conversion into a night club and venue. Furthermore when Micklegate House was Listed in 1969 the two buildings were in separate ownership and it is not felt that it should be treated for these reasons as a curtilage building to it.

Impact upon Setting of Neighbouring Listed Buildings

5.17 Section 66 of the 1990 Planning (Listed Building and Conservation Areas) Act imposes a statutory duty on the Council to " have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." As this is a statutory duty it must be given considerable importance and weight in determining the planning application. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The NPPF meanwhile in paragraph 199 indicates that when considering the impact of development upon a designated Heritage Asset then great weight should be afforded its conservation.

5.18 ASSET SIGNIFICANCE :- The built frontage of Micklegate to the south and south east of the site includes a number of Listed Buildings. Of greatest significance

is Micklegate House directly to the south which is Grade 1 Listed and within whose plot the application site formerly lay. Micklegate House comprises a characteristic Neo-Classical 18th Century town house used for entertaining guests at the time of the York "Season". The principal element of its setting comprises its street presence within Micklegate which provided the principal approach for the owner and guests. Activities taking place to the rear are subsidiary to that and would formally have incorporated such activities as a laundry, stables, brewhouse and coach house. Little if anything survives of the former arrangements to the rear with 19th Century development associated with the introduction of the railway together with later 20th Century development within Toft Green having substantially altered its character.

5.19 THE PROPOSAL: The proposal envisages the demolition of the existing building and the pitch roofed brick built later 19th Century extensions behind it. It would be replaced by a substantial two storey brick-built development of office suites with a music venue beneath continuing as a single storey structure beneath a roof garden to the rear boundary with Micklegate House

5.20 ASSESSMENT OF IMPACT: Paragraph 200 of the NPPF indicates that any harm to or loss of significance to a Heritage Asset should require clear and convincing justification. Paragraph 202 of the NPPF indicates that in cases of less than substantial harm to the significance of a designated heritage asset then harm should be weighed against the public benefits of the proposal including achieving the optimum viable use. Objectors have suggested that the proposed replacement building by virtue of its scale and proximity to the rear of Micklegate House would give rise to substantial harm to the setting of the Listed Building. In terms of substantial harm paragraph 201 indicates that consent should be refused unless it can be demonstrated that the substantial harm to achieve substantial public benefits that outweigh the harm.

5.21 It is felt that the modest increase in scale of the new building facing Toft Green would lead rather to less than substantial harm to the setting of Micklegate House. There would be some reduction in terms of views of the rear of the property from Toft Green however the scheme since submission has been substantially amended. The rearwards extension of the building facing Toft Green has been reduced by approximately 50% and the scale of the range facing Toft Green has been lowered by 3.4 metres or one full storey. The new building would be approximately 2 metres higher than the existing at both eaves and ridge level. The proposal would lead to the removal of the rear industrial extensions which have a dominant relationship with the principal building on the Toft Green frontage whilst at the same time crowding the rear of Micklegate House. The removal of the rear extensions would establish a more respectful relationship between the Toft Green frontage with the rear of Micklegate House behind with some improvements in legibility and some reinstatement of the visual hierarchy which previously applied.

5.22 In terms of public benefits arising from the proposal, the existing structure has been poorly maintained and its deteriorating condition is of itself harming the setting of the neighbouring building. Its internal layout and need for extensive refurbishment makes reasonable use of the existing building unlikely. The scheme would lead to the provision of Grade A office space which is in short supply within the City Centre and the surrounding areas. It would also lead to the re-provision of a music venue in a more appropriate form and with improved management of the site. On this basis, it is considered that those public benefits clearly outweigh the less than substantial harm that the proposal as amended would give rise to.

Impact on the Character and Appearance of the Central Historic Core Conservation Area

5.23 Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Preservation in this context means not harming the interest in the Conservation Area, as opposed to keeping it unchanged. As these sections impose a statutory duty, it must be given considerable importance and weight when carrying out the balancing exercise. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission.

5.24 ASSET SIGNIFICANCE :The Micklegate character area which the site forms part of results from three main phases of development:

- medieval burgage plots with a house fronting Micklegate, with stables or other outbuildings at the far end, which still defines the width of some frontages and the form of development behind;
- 17th and 18th century development where some plots were combined by wealthy merchants to build grand town houses at the high end of the street; and
- expansion of the city in 19th century, back gardens colonised by craft industries and workshops along Toft Green and Tanner Row.

5.25 The character of Toft Green is highly diverse with a mix of Modern office, residential and industrial development with a higher density and greater scale to the east and south west approaching Tanner Row and close to the junction with Micklegate itself. Generally the historic pattern of plot boundaries has been respected and the scale and massing and to a large extent the historic palette of materials have also been respected by the form of more modern development.

5.26 ASSESSMENT OF IMPACT: The application site was converted in the 1980s into a night club and venue with crude timber cladding on the street frontage. The site has been vacant since 2017 and has been subject to vandalism in the intervening period. Its current condition combined with the poor quality of the earlier

conversion work mean that it detracts from the character and appearance of the Conservation Area in the local area. The poor quality conversion work furthermore has resulted in a building which sits uneasily with the pattern of development surrounding with the extensive use of structural timber work. Objectors, notably Historic England feel that the proposed design in addition to continuing to be out of scale fails to properly reference the 19th Century industrial idioms of the buildings on the adjoining Toft Green frontage instead following the larger scale and more Modern idiom of the development to the north.

5.27 The scheme as amended in terms of the Toft Green frontage seeks to reflect the form and alignment of the existing albeit at a somewhat greater scale. The scheme has been amended to reduce its impact by reducing the scale of the development by 3.4 metres, the equivalent of a full storey taking it to only approximately 2 metres higher than the existing. This together with the reduction in the scale of the development to the rear by foreshortening its dimensions creates a more appropriate and respectful relationship with the street frontage in addition to the setting of the Listed Buildings to the rear. Specific concern has been expressed by objectors in respect of the relationship of the proposal with 1 Toft Green which is a curtilage building to Bathurst House a Grade II* Listed Building again on the Micklegate frontage. Concern has also been expressed in terms of the relationship of the site to the City Walls to the north west.

5.28 The initial scheme was over dominant and did erode its contribution to the character of the Conservation Area. The amended scheme is similarly much more respectful and restores the physical relationship within the built frontage. The pattern of alternating heights and roof forms is repeated. The relationship with the City Walls is very much an indirect one with no direct visual relationship because of the distance away to the building, its orientation and the intervening built form.

5.29 Paragraph 200 of the NPPF indicates that any harm or loss of significance to a Heritage Asset should require clear and convincing justification whilst at the same time paragraph 202 of the framework indicates that in cases of less than substantial harm any harm should be weighed against the public benefits including achieving the optimum viable use. It is felt that the proposal as amended would result in less than substantial harm to the character and appearance of the Conservation Area. As a consequence of its condition and internal layout there is no obvious optimum viable use for the existing building. It is felt that the proposal would result in a public benefit of providing a level of Category A office space in the City Centre which is in some short supply as well as leading to the retention of the music venue in a more appropriate form. At the same time removing a building which has become a detractor by virtue of its condition and the previous poor quality conversion, to the overall benefit to the character and appearance of the Conservation Area. It is therefore felt that the requirements of paragraph 202 are satisfied.

DESIGN

5.30 Central Government Planning Policy as outlined in paragraph 134 of the NPPF indicates that development that is not well designed should be refused especially where it fails to reflect local design policies and government guidance on design. The proposal envisages the construction of a pitched roof structure running parallel to Toft Green replicating the existing building line and the overall form of the existing albeit with a higher ridge line. A roof terrace would be provided to the rear above the proposed single storey venue which reflects the existing flat roof warehouse rear extension.

5.31 To the rear of the range fronting Toft Green would sit three parallel pitched roof ranges with gables finishing in a glazed wall with timber structural members facing the roof terrace which would provide external amenity space for users of the proposed office suites as well as providing a suitable space to secure the setting of Micklegate House on the main street frontage paralleling the existing arrangement. The site is located in a densely developed area in the City Centre. The proposal uses pitched roof forms which reflect the existing and are characteristic of the wider area. The palette of materials chosen reflects that characteristic of the wider area and previously approved schemes in respect of neighbouring new development.

5.32 The amendment to the scheme reducing the height of the development within the Toft Green frontage by 3.4 metres and a full storey together with the removal of the more bulky form of the rear extension of the office development creates a much more respectful and appropriate relationship in terms of the street frontage paralleling the pattern of development elsewhere along Toft Green which would only be slightly higher than the existing. Further opportunities avail themselves in terms of the treatment of the site frontage with hard landscaping along with the treatment of the roof terrace and the boundary with the surviving curtilage of Micklegate House. Such measures would assist in blending the new form of development in with its surroundings and deriving a deferential relationship with Micklegate House. Such measures could be conditioned as part of any permission.

ARCHAEOLOGY

5.33 The application site lies within the City Centre Area Archaeological Importance with significant possibilities for the survival of Roman deposits associated with the Roman Colonia along with later Medieval deposits. A detailed archaeological evaluation has been undertaken of the site which has demonstrated the presence of significant Medieval archaeology associated with activities taking place at the Micklegate frontage. No clear evidence of in situ Roman archaeology was found however its recorded presence within the wider area does not preclude its presence on site at a greater depth than explored. The archaeology identified by the evaluation is not identified as being of national importance triggering a presumption in favour of preservation in situ. The replacement structure is designed to have piled

foundations and the proposal is felt to be acceptable in archaeological terms subject to the detailed foundation design being conditioned as part of any permission.

IMPACT UPON NEIGHBOURING AMENITY

5.34 Central Government Planning Policy as outlined in paragraph 130(f) of the NPPF indicates that planning decisions should create places with a high standard of amenity for all existing and future users. At the same time Policy ENV2 of the Publication Draft Local Plan indicates that development proposals for uses likely to have an environmental impact upon the amenity of the surrounding area including residential amenity must be accompanied by evidence that the impacts have been evaluated and that the proposal would not result in the loss of any character or amenity.

5.35 Concerns have been expressed by objectors in respect of several possible environmental impacts arising from the proposal. These relate both to the physical form of the development, specifically the proposed rear roof terrace and the possibility of overlooking and also over-shadowing of neighbouring residential properties and the proposal to re-provide a music venue on the ground floor based upon experience of difficulties arising from the operation of the previous venues at the site.

5.36 Directly adjoining the site to the south west is a development of furnished holiday lets of recent construction. The adjoining wall is however designed to be entirely blank with the intervening area separated by car parking. To the north east lies the rear garden of 86 Micklegate approaching the rear of 1 Toft Green. Both properties are in a mixed use of residential with some offices. The existing development sweeps directly to the rear of the adjacent property Micklegate House and provides a degree of overshadowing of the adjacent garden as it stands. To form the roof terrace it is proposed to lower the very rear section by 2 metres which would lessen the existing element of overshadowing but which may give rise to a risk of overlooking and noise and light pollution particularly if it were to be used in association with the venue. Such impacts could however be controlled by conditioning any permission to ensure that the terrace is only used in conjunction with the office suites and opaque balustrade placed around the outer edges of the terrace.

5.37 Further concern has been expressed in respect of the proposal to re-provide a music venue as part of the proposal primarily from the operators of surrounding uses. The concerns arise as a result of significant issues of anti-social behaviour which arose during the latter years of the previous operation. The previous operation however was combined with a German themed Bier Keller and a lap dancing club as well as joint operation of the space as a night club which created a particular focus for noise and anti-social behaviour. Subject to Premises Licencing and building renovation, the previous uses could be re-commenced without planning permission.

5.38 The new venue would be specifically designed with the management of users and the control of noise in mind. There would be two points of access from the exterior to either side of the building allowing for separate points of access and exit for users to arrive and depart in a more controlled manner. The interior is designed on the basis of a central noise insulated space providing the performance area with circulation and service areas separating it from the exterior minimising potential for the occurrence of break out noise to the exterior. There would also be a relatively low ceiling which would serve to contain noise within the performance space. The previous site was poorly and unevenly insulated with the performance area in places exposed to the exterior walls. The Public Protection officer has commented that the development has been appropriately designed to deal with the potential issue of break out noise and feel that any issue of noise relating to comings and goings from the venue can appropriately be dealt with by condition to any permission. In order to counter the perceived risks of nuisance and anti-social behaviour the developer has engaged with a specific operator for the proposed venue with experience of other similar venues in other cities. Subject to a condition covering a management plan it is felt that the proposal is acceptable in amenity terms.

CLIMATE CHANGE

5.39 Policy CC1 of the York Publication Draft Local Plan indicates that new buildings must achieve a reasonable rate of carbon reduction of at least 28% unless it can be demonstrated as being unviable. This should be provided by means of the provision of renewable and low carbon technologies in the locality of the development or through the provision of energy efficiency measures. Proposals as to how this could be achieved together with viability issues should be set out in an energy statement. Policy CC2 of the Publication Draft Local Plan indicates that development proposals should be able to demonstrate high standards of sustainable design and construction being able to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency. New non-residential buildings should be able to demonstrate a BREEAM rating of excellent.

5.40 A detailed report has been submitted as part of the planning application indicating that a BREEAM rating of excellent was clearly achievable in respect of the proposal and demonstrating the steps required. The 2021 Building Regulations provide carbon reduction requirements that exceed the draft CC1/CC2 policy requirement when compared with the 2013 Regulations. For this reason it is not recommended that a condition be imposed securing compliance with policy CC1/CC2 in the respect.

5.41 A draft sustainable travel plan has been submitted demonstrating the measures which may be put in place to ensure that building users come and go primarily by non-car means. It is also recommended that any permission be conditioned to require strict adherence to its requirements.

DRAINAGE

5.42 The application site lies within Flood Zone 1 and therefore is at the lowest identified risk of flooding from riparian sources. The proposal will not result in any material increase in impermeable area and the existing site is subject to a connection to the public surface water sewer. Yorkshire Water the sewerage undertaker has indicated that a surface water discharge rate of 7.9 litres per second is achievable and acceptable from the site. Subject to the requirements of archaeology it is suggested that any permission could be conditioned to require the submission and prior approval of a detailed surface water drainage scheme and the proposal would be acceptable in drainage terms.

CONSTRUCTION IMPACTS

5.43 The application site is located within a densely developed area with access to an extent difficult in terms of construction. It is recommended that any planning permission be conditioned to require the submission and prior approval of a detailed Construction Environmental Management Plan (CEMP) that would additionally cover operating and delivery hours along with management of construction traffic and vehicle parking. A highway dilapidation survey should also be undertaken at the same time.

6.0 Conclusion

6.1 The site comprises a two-storey brick and timber faced structure with a substantial brick built extension to the rear largely reconstructed in the 20th Century. Planning permission is sought for its demolition and the construction of a part two storey building with further accommodation in a roof storey, as office suites and music venue and a terrace garden to the rear creating a separation with the Grade 1 Listed Micklegate House on the Micklegate frontage behind.

6.2 It is considered that the proposals as amended would result in less than substantial harm both to the setting of Micklegate House and to the character and appearance of the Central Historic Core Conservation Area. That harm would on balance be outweighed by the public benefit of the removal of the existing building which is in a deteriorating condition and forms a detractor in the Conservation Area. The supply of Grade A serviced offices within the City Centre together with the re-provision of a purpose built music venue provides public benefits which should be afforded significant weight. On balance it is considered that the proposal would not harm neighbouring amenity and that subject to conditions covering management of the music venue would be acceptable.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing Refs: 17049_105 - P3; 17049_110 - P3; 17049_111 - P3 ; 17049_112 - P3 ; 17049_114 - P3 ; 17049_130 - P3 ; 17049_131 - P3 ; 17049_132 - P3 ; 17049_133 - P3; 17049_134 - P3 ; 17049_140 - P1 ; 17049_141 - P1 ; 17049_142 - P1 ; 17049_150 - P3 ; 17049_151 - P3 ; 17049_152 - P3 ; 17049_153 - P3

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development beyond foundation level. The development shall be carried out using the approved materials.

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

Reason: So as to achieve a visually cohesive appearance.

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

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

5 No development shall take place until details of the proposed means of surface water drainage including any details of balancing and off-site works have been submitted to and approved in writing by the Local Planning Authority. The details

shall include the means of restricting surface water discharge to a maximum of 7.9 litres per second. Furthermore unless otherwise approved in writing there shall be no piped discharge of surface water from the development prior to the completion of the surface water drainage works.

The site shall be developed with separate systems of foul and surface water drainage on and off the site. The separate systems should extend to the points of discharge agreed.

Reason: To ensure that the site can be safely and efficiently drained.

6 LC1 Land contamination - Site investigation

7 LC2 Land contamination - remediation scheme

8 LC3 Land contamination - remedial works

9 LC4 Land contamination - unexpected contam

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

Reason: To protect the amenity of the locality

11 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

12 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

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

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

13 The roof terrace to the rear of the development hereby authorised shall be used solely by users of the office suites hereby authorised and not in conjunction with the retained music venue.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Policy ENV2 of the Publication Draft Local Plan

14 Prior to the development hereby authorised being commenced beyond foundation level details of a privacy screen to be erected at the outer boundaries of the roof terrace hereby authorised shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved prior to the terrace being first brought into use and maintained as such thereafter.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Policy ENV2 of the Publication Draft Local Plan

15 Prior to being first brought into use a detailed management plan including details of noise insulation, visitor management, operating hours and points of access and egress for the music venue hereby authorised shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in strict accordance with the approved details.

Reason: To secure the residential amenity of neighbouring properties and to secure compliance with Policy ENV2 of the Publication Draft Local Plan

16 The building shall not be occupied until the areas shown on the approved plans for parking of cycles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

17 Prior to the use hereby approved coming into use, a Full Travel Plan shall be submitted to and approved in writing by the LPA. The Travel Plan should be

developed and implemented in line with local and national guidelines and the submitted Interim Travel Plan dated 17th December 2021. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of the said Travel Plan as approved.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason:- To ensure that traffic flows from the site can be safely.

18 Within three months of the commencement of the development hereby authorised there shall be submitted to and approved in writing by the Local Planning Authority a detailed landscaping scheme for the roof garden which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants within the roof garden which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

19 All external lighting, other than that required for emergency or security purposes, shall be turned off by 23:00 on any day.

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

20 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of works. The plan should include, but not be limited to the recommendations set out in Bat Survey report provided by Wold Ecology Ltd (June 2020).

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

21 No demolition works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of

suitable habitat for active birds' nests immediately before the works and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

22 A programme of archaeological building recording , specifically a written description and light photographic recording of the standing building to Historic England Level of Recording 1 is required for this development.

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

a) No demolition can take place until the scheme of recording and reporting has been completed in accordance with Historic England and CYC Guidelines.

b) A copy of the report and digital images shall be deposited with City of York Historic Environment Record to allow public dissemination of the results within three months of completion.

Reason: The buildings on site are of archaeological interest and must be recorded prior to demolition, alteration or other loss of fabric.

23 A foundation design and statement of working methods which preserves 95% of the archaeological deposits for this site is required.

No development shall commence until a foundation design and statement of working methods(including a methodology for identifying and dealing with obstructions to piles) has been submitted to and approved in writing by the Local Planning Authority which ensures that no disturbance shall be made to archaeological deposits below 18000 metres AOD except for those agreed for the building foundation/lift shaft in order to preserve 95% of the most significant archaeological deposits covering the site.

Reason: The site lies within the Area of Archaeological Importance which contains significant archaeological deposits. The development must be designed to preserve 95% of the deposits within the building footprint.

24 A programme of post determination archaeological mitigation specifically an archaeological excavation and watching brief is required on this site.

The archaeological scheme comprises three phases of work. Each phase shall be completed and approved by the Local Planning Authority before the whole can be approved.

a) No ground works including grubbing up of foundations, GI works following demolition or new development shall commence until a Written Scheme of Investigation (WSI) for a watching brief and archaeological excavation has been submitted to and approved in writing by the Local Planning Authority. For land that is within the WSI no development shall take place other than in accordance with the agreed WSI. The WSI should comply with the standards set down by the Local Planning Authority and the Chartered Institute for Archaeologists.

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

c) A copy of the report and evidence of publication shall be deposited in the City of York Historic Environment Record (HER) to allow public dissemination of results within two months of completion.

Reason: The site lies within the Area of Archaeological Importance and the development may affect important archaeological deposits which must be recorded prior to destruction.

25 The development hereby approved shall achieve a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

26 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.

27 A detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be

submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The statement shall include at least the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- the routing for construction traffic that will be promoted;
- a scheme for signing the promoted construction traffic routing;
- where materials will be stored within the site.

Reason: To secure the Amenity of the Surrounding Area and to secure compliance with Policy T1 of the 2018 Publication Draft Local Plan

28 The development hereby permitted shall achieve a BREEAM rating of at least excellent.

A Post Construction Assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate submitted to the Local Planning Authority within 12 months of first use (unless otherwise agreed). Should the development fail to achieve a 'Excellent' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Excellent' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018

29 The building(s) shall not be demolished before a legally binding contract for the carrying out of the works of redevelopment of the site is made and evidence of the contract has been submitted to and approved in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the character and appearance of the Conservation Area.

30 The development shall not be occupied until the waste stores have been completed in accordance with the approved drawings. The stores shall be retained only for the storage of waste and recycling.

Reason: To ensure that waste materials arising from the site are properly stored and

made available for collection in the interests of the amenities of the area.

8.0 INFORMATIVES: Notes to Applicant

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

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

- i) Sought submission of a pre-determination archaeological evaluation
- ii) Sought amendment of the design to lessen the scale and massing
- iii) Sought amendment of the scheme to secure the retention of a music venue within the design

2. NESTING BIRDS:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Buildings, trees, and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Suitable nesting habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

3. WILDLIFE AND LIGHTING

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new roosting and nesting features are installed, on trees and 'green' linear features, such as hedgerows. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2018) Bats and artificial lighting in the UK guidance: <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229&focal=none>

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