

## COMMITTEE REPORT

**Date:** 11 September 2025      **Ward:** Guildhall  
**Team:** East Area                      **Parish:** Guildhall Planning Panel

**Reference:** 24/01077/FULM  
**Application at:** Turnbull Mazda 17 - 27 Layerthorpe York YO31 7UZ  
**For:** Demolition of existing car showroom (sui generis) and erection of a purpose-built student accommodation (sui generis) with up to 220 units and associated landscaping and parking.  
**By:** Danehurst Developments Limited  
**Application Type:** Major Full Application  
**Target Date:** 1 February 2025  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 The application site lies between Layerthorpe and the River Foss, just outside of the inner ring road. The property contains a car vehicle showroom and associated hard-standing for the display or motor vehicles. The buildings to the north are single storey shed type structures containing various commercial uses. The land to the south previously contained a hire car business but the site is now cleared and vacant. The building on Layerthorpe opposite is 4 storey and contains a recently completed hotel.

1.2 The site is almost all in Flood Zone 3. A small corner on the east side of the site is outside of Flood Zones 2 and 3. It is also in the designated City Centre Area of Archaeological Importance. The site is not allocated in the Local Plan. The site within the city centre as shown on the Local Plan policies maps.

1.3 The scheme is for purpose build student accommodation (PBSA). The proposed building is set back between approx. 3.5m to 5.5m from Layerthorpe and would have an access road on its north-eastern side. On the River Foss (north-west) side the building is setback approx. 6m to 7m from the river.

1.4 The building itself would generally be set almost 1m lower than street level; communal areas have higher floor to ceiling heights than bedrooms/studios but their lower ground level means they would be at higher risk of flooding. The building

would be 4-storey at the façade facing Layerthorpe rising up to sheer 5-storey on the block facing the river.

1.5 The scheme would provide -

- 220 student bedrooms.
- 94 cluster flats and 114 studios (12 accessible studios 5.5% provision)
- Amenity space comprising gym, cinema, common room, study room, gaming room and laundrette.
- 6 car parking spaces (including 4 disabled spaces).
- 159 cycle parking spaces (72% provision)

## **2.0 POLICY CONTEXT**

2.1 The NPPF in paragraph 48 states “that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”. The development plan is the Local Plan which was adopted in 2025. There is no made Neighbourhood Plan relating to this application site.

2.2 The most relevant Local Plan policies are as follows -

- DP2 Sustainable development
- DP3 Sustainable Communities
- SS1 Delivering Sustainable Growth for York
- SS3 York City Centre
- EC2 Loss of employment land
- H3 Balancing the housing market
- H7 Student housing
- D1 Placemaking
- D2 Landscape and setting
- D4 Conservation areas
- D5 Listed Buildings
- CC2 Sustainable design and construction of new development
- GI2 Biodiversity and access to nature
- GI6 New Open Space Provision
- ENV4 Flood risk
- ENV5 Drainage
- T1 Sustainable access

## National Planning Policy Framework (NPPF)

2.3 The NPPF is a material consideration in planning decisions. It sets out the government's planning policies for England and how these are expected to be applied. It outlines that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways (paragraph 8). The relevant sections of the NPPF include -

- Section 2 (achieving sustainable development)
- Section 5 (delivering a sufficient supply of homes)
- Section 6 (building a strong competitive economy)
- Section 8 (promoting healthy and safe communities)
- Section 12 (well-designed and beautiful places)
- Section 16 (conserving and enhancing the historic environment)

2.4 The scheme potentially effects the setting of listed buildings and the Central Historic Core Conservation Area (CHCCA). The Planning (Listed Buildings and Conservation Areas) Act 1990 requires 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.
- In the exercise of planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

## Other relevant national guidance

- National Design Guide – planning practice guidance for beautiful, enduring and successful places (2021)
- Department for Transport (DfT) – Gear Change – a bold vision for cycling and walking (July 2020)
- DfT - Local Transport Note – Cycle Infrastructure Design (LTN1/20)

## 3.0 CONSULTATIONS

### INTERNAL

#### Affordable Housing Officer

3.1 Advise of policy H7: Off campus purpose-built student housing requirements i.e. the requirement for an off-site financial contribution towards affordable housing. Based on a scheme with 234 bedrooms (officer note - comments were provided before the submission of revised plans which reduced the amount of proposed development) the contribution would be £1,272,115.65.

#### Design & Conservation – Archaeology

Recommend conditions.

3.2 A desk-based assessment has been submitted. The applicant has requested that, given the difficulties of site access due to ongoing commercial use, evaluation take place as a planning condition. While not encouraged, this will allow a more detailed, staged evaluation to take place. Given the likely nature, survival and impacts to deposits on the site officers agree, in this instance, this approach can be taken.

3.3 A borehole survey and tier 1 hydrological model will take place across the whole site once cleared. The results of this will inform the locations of trial trenches to be excavated in stage 2 of the evaluation. The evaluation is conditioned on the understanding that the degree of mitigation cannot be fully outlined at this stage. Therefore, a suite of archaeological conditions should be applied – some as a precautionary measure given the uncertain archaeological make-up of the site.

#### Design & Conservation – Ecology

Object

3.4 Object to the design of the scheme because it lacks soft landscaping with biodiversity value adjacent the riverside. In this respect the scheme is considered contrary to Local Plan policy SS3: York City Centre in terms of enhancing the setting of the rivers and GI2: Biodiversity and access to nature in respect of maintaining and enhancing the setting of rivers in respect of their biodiversity.

3.5 In respect of statutory BNG (Biodiversity Net Gain) more information was requested as to how this would be achieved, given that 10% net gain is a

requirement across all habitat elements covered in the metric (area based, linear/hedgerow and watercourse/river). The further information was required (and whether the biodiversity hierarchy is being followed) because the applicants river condition report recommends several measures such as reduction in encroachment on the riparian zone and off-site compensation. In response a revised BNG report was issued file dated 24 December. It shows a 0% change in watercourses on-site - the statutory 10% BNG allows development to provide gains off-site, which would be the solution in this instance.

### Design & Conservation – Landscape

Comment on revised scheme dated 31.1.2025 – maintain reservations. The combination of the scale of the building with the overall lack of open space continues to be a concern.

3.6 Layerthorpe frontage - The existing backdrop of trees provides a nuanced value to the existing street scene. The proposed mass of the building appears to have a dominating (overpowering) presence. There is a decent depth of shrubbery on the Layerthorpe frontage but there would be no significant vertical softening provided by trees (presumed restricted due to existing utilities). Shrubby would not reflect the scale of the building. Street trees would provide a larger more vertical scale, as well as provide connection with the existing treed street scene associated with the river corridor and the emerging character of the neighbourhood.

3.7 River Foss setting – there would be a high degree of change - loss of views of trees, the margin between the building and river is too narrow to replace sizeable trees within the view, given the scale of the building. Although the river is canalised, the Foss is an obvious major feature of views along Foss bank. Re-development of these parcels of land present an opportunity to improve the setting and relationship with the river. Illustrative views of the scheme provided illustrates the dominance of the building within the evolving softer character of the river Foss corridor. This is compounded by the boundary treatment (brick wall and pillars) which appears very heavy and somewhat hostile.

3.8 The distance between the River Foss and the building elevation has been increased slightly and stepped back (in the revised plans) – allowing space for two more trees, and a wider footpath; and it has been pulled away from the southern boundary. The increased margin between the building and river is too narrow to add sizeable trees to correspond with the proposed scale of the building.

### Design & Conservation – City Architect

3.9 Officers raised concerns over the design. The recommendation is for a building averaging 4-storey. Appropriate height is primarily considered as good townscape design rather than the direct effect on Heritage Assets.

3.10 Officers have concerns over building heights as this is a sensitive site compared to other Layerthorpe locations - it is closest to the city walls, and directly on a river corridor. The link five floor component (between Layerthorpe and riverside facing elevations) would add to general oppressiveness and would set an undesirable precedent for less sensitive sites in the area being even taller in future through cumulative impacts.

3.11 In response to initial scheme it was requested the building be setback further from the river. A green river walkway is recommended – this has been enabled at other plots which have been subject to redevelopment and remaining plots look prime for redevelopment.

3.12 Support principle of a side access which allows the soft landscaping to the front of the building.

3.13 Architectural detailing - The overall design effect is attractively composed and proportioned and is supported in this case.

#### Flood Risk Management Team

3.14 The drainage scheme (Concept Drainage Strategy – Re: FAH-ZZ-00-DR-D-0010 Revision P3) with surface water connection to the River Foss at a restricted rate of 6.1 litres per second (l/sec) with appropriate attenuation up to and including the 1 in 100-year event with 45% climate change allowed for is agreed.

3.15 Flood risk – a warning and evacuation plan would be required. Advised there should be no sleeping or habitable rooms below a level of 10.92 AOD. The scheme still appears to have accommodation below this level. Loss of flood water storage - it is agreed a floodable void will create an additional 435m<sup>3</sup> of flood storage. We require site specific details to include a means of access for cleaning and how the void will fill and empty by gravity and a maintenance plan to ensure the volume is always available. We also require site specific details of the new riverside wall which must include gaps to allow the void to flood and recede by gravity. These items can be sought by condition if planning permission is granted.

3.16 Other consents – officers advise consent will also be required from the Environment Agency and the Foss Navigation Authority (due to the proximity of development to the river).

## Highway Network Management

### Objections

3.17 No improvements to pedestrian or cycling routes along Layerthorpe (officer note – the applicant did undertake a pre-application inquiry and was advised to explore options for improving active travel along Layerthorpe, including improvements to the footpath and cycle lane).

3.18 The access width is narrow; vehicles may not be able to pass each other. There is also limited space to manoeuvre in the vehicle area for servicing and car parking. Vehicles may alternatively choose to stop on Layerthorpe irrespective of parking restrictions.

3.19 The aisle widths between opposing two-tier cycle parking racks is still insufficient in one of the main cycle stores.

### Public Protection

No objection.

3.20 Noise – an assessment will be required to confirm plant and machinery proposed at the site does not harm residential amenity.

3.21 Land contamination – standard conditions recommended.

3.22 Construction management – condition recommended.

### Sport and Active Leisure

3.23 Requested contributions for off-site sport and amenity space.

### EXTERNAL

#### Active Travel England

3.24 No comment.

#### Canal and river trust

3.25 No objection – advise not required to be consulted on the scheme.

#### Environment Agency

3.26 The EA asked for evidence the scheme would not have any impact on the structural integrity of the riverside retaining wall.

#### Guildhall Planning Panel

Object.

3.27 The building is too large, too high and inappropriate for this site. The mass of this building needs to be broken down into smaller elements and the landscaping is minimal. Question whether there is need for student accommodation.

#### Internal Drainage Board

3.28 No comment – no assets affected.

#### Heath & Safety Executive

3.29 No comment – not a statutory consultee for this scheme.

#### Historic England

Consider harm would be caused to the significance of York Minster and the County House; a modest level of less than substantial harm.

3.30 Views of the York Minster from Layerthorpe contribute to its significance as one of the main places from where the full eastern end and width of the structure can be seen. This allows the dominance of York Minster over the city to be appreciated and understood. Views of both York Minster and the County House from Layerthorpe provide a tantalising indication of the ‘tremendous architectural variety’ of the city which is noted as one of the six principal characteristics of York in the York Central Historic Core Conservation Area Appraisal (p.5) along with ‘landmark monuments’.

3.31 The proposed development would significantly obscure views of York Minster. The applicant’s visual assessment (TVA (p.26)) acknowledges that there would be a ‘high degree of change’, reduction in the visibility of York Minster from this part of Layerthorpe and that this would be a negative change to the view.

3.32 The proposed development would also obscure views of the full rear elevation of the Grade II listed County House. The bulk, height and massing of the proposed development on its northern edge addressing the River Foss, would also challenge the current landmark dominance of the County House towards the river. This would detract from the appreciation of the landmark status of the listed building.

Consideration should also be given to the cumulative impact of a structure of this bulk, massing and height, with the site on the opposite side of Layerthorpe, and the result in a significant increase in built form in the area and a significant change of character which also has the potential to detract from the settings of York Minster and the County House. A possible solution would have been to encourage the developer to consider alternative building layouts that allow views through to York



Minster from Layerthorpe, as well as breaking the building down into a series of smaller elements. This would also help to better maintain the characterful skyline of the city.

3.33 Archaeology – defer to and support recommendations provided by the Council's Archaeologist in risk of mitigation.

North Yorkshire Police

No objection.

3.34 This proposal accords with the core principles and design objectives set out in the National Planning Policy Framework in respect of developments creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

Yorkshire Water

3.35 No objection and endorse the proposed approach to draining surface water to the watercourse (this follows the sustainable drainage hierarchy).

York Civic Trust

Support revised scheme

Advice on original scheme

3.36 Unable to support the application in its current form. The less than substantial harm arising from adverse impact on key views across the site would need to be offset by public gains. The Trust considers the public realm and amenity space on the River Foss aspect of the building holds potential to make such an offset successful but is currently compromised by existing design issues.

- Preference is for the riverside block to be 4 storey. The massing is at its greatest in the connecting spine aspect. It represents an over development of the site, especially as will be seen while the building is flanked by 1-2 storey buildings (although it might be anticipated that the massing here will be of a lesser issue should/when large-scale development follows at the neighbouring sites.) The scale of the massing can be mitigated by breaking-up the 'blockiest' parts, so that the spine's roofline is less uniform.
- Along the riverside suggested an approach to detailing that better follows a warehouse vernacular (whereby windows due to their proportions and detailing has a less exaggerated vertical emphasis).

- There is little social space for residents to use - with few of the benches being close by and a lack of lawned areas to congregate.
- The size of the massing of the building leads to 45% of the proposed communal courtyard areas will receive less than 2 hours of sunlight (using the standard of on 1st March), thereby falling short of Building Research Establishment's targets (BRE Report 209, 2nd Edn., 2022).

#### Advice on revised scheme (19.8.2025)

3.37 Revisions address the concerns raised in our original response, particularly the riverside public realm and amenity space and riverside façade. Support the scheme and welcomes its contribution to the redevelopment of Layerthorpe, transforming a currently poor-quality townscape into one of greater architectural and public value.

3.38 The following suggestions are offered to help strengthen the scheme further -

- Reduce the 2m high riverside railings and brick piers to present a more open feel for users of the walkway.
- To mitigate the visual impact of the five-storey aspects of the building, particularly on the riverside, consider use of a lighter brick colour or alternative material for the uppermost storey - perhaps a cream, sandy, or light grey brick.

## 4.0 REPRESENTATIONS

4.1 Twelve contributions have been received. Comment as follows -

- Lack of benefit to local community. Loss of commercial space and replacement with high cost residential.
- Building too high and detrimental to local skyline. Too imposing on Layerthorpe.
- Accommodation unsuitable for students – too many studio units. Loss of employment land. The university therefore objected to the scheme.
- Support from other PBSA developers. There is a lack of student accommodation in York and the scheme is high quality.
- Land use suitable for the location which is undergoing change.
- Increased flood resilience due to the provision of green roofs on the building opposed to tarmac.
- Job creation during construction.

## 5.0 APPRAISAL

### 5.1 Key Issues

- Principle of proposed use
- Accommodation mix
- Flood risk and drainage
- Design and conservation
- Archaeology
- Ecology
- Sustainable design and construction
- Land contamination
- Accommodation mix
- Affordable housing
- Residential amenity
- Highway network management

#### **Principle of proposed use**

5.2 The applicant's planning statement includes their submission as part of the Local Plan examination. This sets out their objections to pertinent policies EC2 in respect of loss of employment land, and H7 off-campus Purpose Build Student Accommodation (in respect of affordable housing contributions being unjustified and nominations agreements being unreasonable).

#### Loss of employment land

5.3 Local Plan policy EC2: 'Loss of Employment Land' states "when considering proposals which involve the loss of land and/or buildings which are either identified, currently used or were last used for employment uses, the council will expect developers to provide a statement to the satisfaction of the Council demonstrating that:

- i. the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- ii. the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period".

5.4 The accompanying explanation to the policy states: “When considering the loss of employment land and/or buildings the Council will expect the applicant to provide evidence proportionate to the size of the site of effective marketing the site/premises for employment uses for a reasonable period and in most cases not less than 18 months. Where an applicant is seeking to prove a site is no longer appropriate for employment use because of business operations, and/or condition, the council will expect the applicant to provide an objective assessment of the shortcomings of the land/premises that demonstrates why it is no longer appropriate for employment use. This includes all employment generating uses, not just office or industrial uses”. It goes on to state “It is particularly important that Grade 1 offices in the city centre, York Central and other high access locations are protected where there remains a proven need”. The final sentence advises that the policy applies to all employment generating uses.

5.5 The applicants have cited the following issues in respect of employment use of the site –

- Flood risk (the site is in flood zone 3) poses an issue with use of the site as employment land; due to the effects of flooding and difficulty in obtaining insurance.
- The buildings date from the 1960's/80's and are in poor condition; substantial investment would be required to allow re-use.
- The existing car showroom use, and similar industrial uses, can be accommodated, and are more suitably located on industrial estates, such as Clifton Moor further from the centre.

5.6 The economic statement issued with the application from a property consultancy advises –

- The existing buildings may be considered suitable for an alternative use, perhaps leisure or possibly industrial. In the case of leisure, it would be low grade only given the nature of the buildings and ultimately in a short space of time would be out of keeping with the improving profile of the area.
- Similarly, industrial uses will be affected by flood plain restrictions limiting the scope of industrial development significantly. Based on the Applicant's discussions with the Environment Agency, any development of the site will need to be restricted to the footprint of the existing building, limiting any new industrial use building to c 1,170sqm at ground level, leaving almost 2/3rd of the site area undevelopable.

5.7 Policy EC2 is clear that to demonstrate compliance a reasonable marketing exercise, to retain the site in a use providing employment is required, or it needs to be demonstrated all employment uses would be incompatible with adjacent uses. The site has not been reasonably marketed – the applicant’s economic statement does not provide details of any marketing. It only gives opinion that in the event of offering the site for sale, interest would primarily be from PBSA and residential developers. The site is situated within a group of commercial uses, some of which have only recently located. These include a diverse mix of uses that do contribute to the vitality and viability of the area. Officers are not satisfied that an employment use of the site is not compatible with its setting.

5.8 In respect of the second criteria of policy EC2, whilst the Local Plan allocates sites to accommodate growth, EC2 is established because existing sites are required to accommodate overall needs. The submission makes a case that due to the peripheral location of the site, and availability elsewhere, it is unlikely to be desirable as office space. It does not demonstrate the site is not required to meet any of the employment needs within the city. As noted earlier, there are a variety of commercial buildings on this section of Layerthorpe. The submission does not comply with policy EC2.

5.9 The proposed redevelopment of the site would conflict with policy EC2 Loss of Employment Land. The application does not demonstrate that the site is not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and nor does it demonstrate that the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period. The proposals are therefore contrary to the Local Plan in respect of delivering the city’s economic ambitions by providing sufficient land to meet the level of growth set out in the Spatial Strategy in policy SS1.

#### Off-campus PBSA (purpose-built student accommodation)

5.10 Local Plan policy H7 states proposals for new off campus PBSA, other than the allocation at SH1, will be permitted where all the following criteria are satisfied:

- i. it can be demonstrated that there is a need for student housing which cannot be met on campus and
- ii. the site is in an appropriate location for education institutions and accessible by sustainable transport modes.

- ii. The rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University.
- iii. The development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area.
- iv. The accommodation shall be occupied only by full-time students enrolled in courses of one academic year or more and conditions or obligations shall be imposed to secure compliance with this requirement and for the proper management of the properties.

The policy also advises that for new student accommodation a financial contribution should be secured towards delivering affordable housing elsewhere in the City. This matter is assessed in the planning obligations section.

5.11 The Councils most recent data shows that based on current student numbers, purpose build accommodation, including schemes with permission, schemes with a resolution to grant (subject to a s106 legal agreement and allocated sites) will provide approximately 1 bedspace for every 2 students. On this basis there remains a need for student accommodation.

5.12 The site is in a suitable location due to its proximity to York St John University.

5.13 Nominations agreement – it is assumed the developer is not agreed to the accommodation being subject to a nomination agreement by one of the universities, because the submission explains they oppose this in principle. The initial planning statement includes representations on behalf of the developer objecting to the policy itself and the requirement for nominations agreements. This element of the policy (and policy H3: Balancing the housing market) are to ensure housing delivery represents housing need. Without a nominations agreement, or an appropriate accommodation mix, the scheme would conflict with one of the principles of policy SS3 related to the city centre; to deliver sustainable homes that provide quality, affordability and choice for all ages, including a good mix of accommodation and the strategy for delivering affordable housing in policy SS1: Delivering Sustainable Growth for York.

5.14 The scheme is contrary to policy H7 in that there is no agreement in principle that the rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University. As such the proposals are contrary to the requirements of policy H7 in

so far as it seeks to control occupancy to ensure that it only comes forward when it is needed and that it does not suppress affordability of accommodation and delivery of affordable housing in general.

5.15 Amenity – because of the site location and surrounding uses there are not any nearby residents would not be unduly affected by the scheme. The site is on a main route into the city and surrounded by commercial uses and the river.

### **Accommodation mix**

5.16 When applying Local Plan policy H3 the Council's most recent data suggests a need for at least 50% of student accommodation to be within clusters to ensure affordability. Policy H3 states the Council will expect developers to provide housing solutions that contribute to meeting York's housing needs, as identified in the latest Local Housing Needs Assessment (LHNA) and in any other appropriate local evidence. New residential development should therefore maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.'

5.17 PBSA provision contributes to providing housing solutions for the student population but should also provide a mix of properties to support sustainable communities in line with policy H3. Studio flats and their higher costs result in a less affordable option and do not contribute to the mixed and inclusive communities as required by policy. Just over 50% of bedrooms in built PBSA provision has been in studio flats. Evidence shows studio flats are considerably more expensive (between £190-£255 per week for cluster accommodation compared to £175-£414 for studio rooms).

5.18 The scheme would provide 220 units - 94 cluster flats and 114 studios (12 accessible studios 5.5% provision). The proportion of studios is higher than what the Council would prefer in light of the evidence on housing need. However, the Council has only recently provided this information. The applicant did make a pre-application enquiry and were not advised of the preferred approach, to provide a majority of accommodation within cluster type accommodation; the scheme was progressed on this basis. The scheme does include a mix of studios and cluster rooms. The Council's desired mix is not currently established in policy or part of the published evidence base. As such officers can give limited weight to what is perceived to be conflict with policy H3 in this particular case.

## **Flood risk and drainage**

5.19 Local Plan policy ENV4 states new development shall not be subject to unacceptable flood risk and shall be designed and constructed in such a way that mitigates against current and future flood events. Development proposed in areas of flood risk must be informed by an acceptable site-specific flood risk assessment, following the Sequential Test and, if required, the Exception Test.

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

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

Proposals should adopt a sequential approach to site layout.

### Flood risk off-site

5.21 The scheme has been designed to reduce surface water by 30% compared to the existing rate (as required under local policy in respect of drainage in ENV5) and so there would be no loss of floodwater storage onsite in accordance with the Council's Strategic Flood Risk Assessment. The latter is achieved by floodable voids beneath the building. These matters could be satisfied by way of planning conditions that there would be no increase in flood risk elsewhere.

### Flood risk on-site

5.22 The site could be affected by a flood level of 10.617m during the 1 in 100 plus 30% climate change design storm. Bedrooms/studios and clusters are set at a raised level (10.92 AOD) and so would be reasonably defended from flood risk. All other ground floor uses would be at either 9.4 AOD or 9.65 AOD and therefore susceptible to flooding. This includes communal areas, circulation areas and the access/egress from the site. The applicants advise these could be subject to flooding during the design storm, therefore, to provide protection, demountable flood defences would be incorporated in the design of the scheme up to 10.92m AOD.



5.23 The scheme is regarded not to be reasonably safe for its lifetime and nor is it regarded to be sufficiently flood resilient. The arrangement would not provide safe access and egress in a time of flooding. The building is setback and set down in relation to the street; access and egress routes are set lower than Layerthorpe itself and are not at a sufficient level to protect them from flooding. In a flood event there would need to be early warning and occupants evacuated from the building, alternatively they would be required to take refuge in the studios / clusters or they could be rescued from the roof; they would be unable to use the communal amenities in the building or access and egress routes.

5.24 The scheme is in conflict with policy ENV5; the development would not be suitably safe from flood risk and it is not an appropriate design approach to set access and egress routes and communal areas at a lower level and consequently expect residents to be either stranded in the building or for them to find alternative accommodation in a flood event.

### The Sequential Test

5.25 The Sequential Test is necessary. National planning advice in the NPPG advises “the approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas ... Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features”.

5.26 For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.

5.27 ‘Reasonably available sites’ are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’.

5.28 The applicants have issued a Sequential Test (file date 13 June 2024). This includes a review of whether some of the housing allocation sites are reasonably

available and direct correspondence with 6 property agents (they have also reviewed websites for property). Flexibility was applied in terms of the size of the site and site suitability for the development type proposed.

5.29 The Sequential Test is regarded not to be passed. It does not include a review of all planning permissions for PBSA, it does not assess all housing site allocations and it does not consider the suitability of site SH1: Land at Heworth Croft which is allocated for student housing.

### The Exception Test

5.30 The Exception Test requires it should be demonstrated that:

- development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.31 The Exception Test is only applicable if the Sequential Test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered.

5.32 Even if the Sequential Test were deemed to be passed, it is considered this scheme would still not pass the Exception Test. This fail is because wider sustainability benefits are limited and deemed not to outweigh flood risk; there are reasons for refusal because the scheme is not compatible with the priorities for delivering sustainable growth for York as set out in strategic policies SS1 and SS3; in respect of providing land for economic growth, meeting housing need - taking into account affordability and affordable housing, conserving and enhancing the historic character of the city centre, the setting of the River Foss and biodiversity.

5.33 The scheme is unacceptable on flood risk grounds; the site is in Flood Zone 3 and the scheme is not designed to adequately mitigate against flood risk against current and future flood events. It does not provide for access and egress during a flood event and the majority of the ground floor area would be unprotected without demountable flood barriers. The scheme is also not appropriate in Flood Zone 3 as it has not been sufficiently demonstrated the Sequential Test is passed. The proposals are contrary to policy ENV4: Flood Risk and contrary to policies in the

NPPF in respect of meeting the challenge of climate change, flooding and coastal change.

## Drainage

5.34 Policy ENV5 requires sustainable drainage. This involves controlling surface water run off and the use of sustainable drainage systems. It requires –

- For all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate (i.e. 30% reduction in existing runoff), unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff.
- Sustainable Drainage System (SuDS) methods of source control and water quality improvement should be utilised for all new development, to minimise the risk of pollution and to attenuate flood volumes.

5.35 The drainage strategy issued is agreed in principle. Soakaway has been proven unsuitable on site therefore a connection to a watercourse is the preferred sustainable option. The run-off rates are agreed. The submitted Concept Drainage Strategy – Re: FAH-ZZ-00-DR-D-0010 Revision P3 dated 17th December 2024 included within Revision P5 proposes surface water connection to the River Foss at a restricted rate of 6.1 (six point one) litres per second (l/sec) with appropriate attenuation up to and including the 1 in 100-year event with 45% climate change event.

## **Design and conservation**

5.36 Local Plan policy D1: Placemaking states development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that:

- fail to take account of York's special qualities and/or
- fail to make a positive design contribution to the city, and/or
- cause damage to the character and quality of an area will be refused.

Policy D1 in respect of assessing design provides advice on urban structure and grain, density and massing, streets and spaces, building heights and views and character and design standards. The explanation text refers to national best practice, including the National Design Guide.

5.37 Policy D2: Landscape and setting advises development proposals will be encouraged and supported where they:

- protect and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities;
- demonstrate a comprehensive understanding of the interrelationship between good landscape design, bio-diversity enhancement and water sensitive design;
- create a comfortable association between the built and natural environment and attain an appropriate relationship of scale between building and adjacent open space, garden or street.

5.38 The site is within the city centre and policy SS3: York City contains the following relevant design principles to be considered for development proposals-

- Conserve and enhance the existing historic character of York City Centre whilst encouraging contemporary high-quality developments that add to the sense of place and create a prestigious and desirable location for thriving businesses.
- Enhance the setting of the River Ouse and River Foss and their frontages, turning them into attractive, vibrant and bustling environments with improved access to the riverside and linkages to other parts of the city centre.

5.39 There are consistent development principles in policy DP2: Sustainable Development and DP3: Sustainable Communities in respect of conserving, and where appropriate enhancing, those elements which contribute to the special character and setting of the historic City and delivering high quality design of appropriate density, layout and scale.

5.40 The site is outside of the Central Historic Core Conservation Area. However, it has potential to affect the setting of the Conservation Area and the setting of Listed Buildings. Historic England consider that the harm that would be caused to the significance of York Minster and the County House; a modest level of less than substantial harm because the development would remove views of these buildings from Layerthorpe and it would challenge their landmark status due to the amount and scale of development proposed.

5.41 In respect of conservation areas Local Plan policy D4 advises development proposals within or affecting the setting of a conservation area, will be supported where they are designed to preserve or enhance those elements which contribute to the character or appearance of the Conservation Area and where they safeguard important views guided by existing evidence, including in the York Central Historic Core Conservation Area Appraisal, and other local views.

5.42 Policy D5: Listed Buildings advises proposals affecting a Listed Building or its setting will be supported where they preserve, enhance or better reveal those elements which contribute to the significance of the building or its setting. Harm to the significance of a Listed Building or its setting will be permitted only where this is outweighed by the public benefits of the proposal.

5.43 The Central Historic Core Conservation Area Appraisal (CHCCAA) identifies Key Views and includes a management strategy.

5.44 The views of the Minster and County House from Layerthorpe through the site are not identified as key views in the CHCCAA. However, the management strategy advises in this respect that “although the Appraisal has identified a series of Key Views, this selection should not be considered a definitive list: the city’s townscape is too rich and the Minster’s prominence in the wider landscape of Yorkshire is too great “. It advises on new views and development outside of, but with potential to affect the character and appearance of the Central Historic Core Conservation Area (CHCCA). “In developing schemes at the pre-application stage, the City Council should identify and seek to secure attractive new views of the city as an integral part of development within it. Taller buildings beyond the Conservation Area could have a significant impact on the character and appearance of a number of Key Views because of the generally flat topography and low-lying skyline of the city”.

#### Impact on heritage assets

5.45 The scheme would overdevelop the site and be of excessive massing and scale to the extent it would detrimentally effect views, dominate and challenge the prominence of landmark buildings (the York Minster (Grade I) and Country House (Grade II)) on the townscape. There is conflict with policies D4 and D5 regarding Conservation Areas and Listed Buildings.

5.46 Views of the Minster are only possible due to the low height of buildings on this section of Layerthorpe. The street is a main approach into the city and it is envisaged this section of the street will inevitably be subject to a degree of regeneration. Buildings higher than 2-storey would impact views. Consequently, the Council’s focus in terms of placemaking and impact on setting has been to promote the creation of a river walkway and open space riverside as development schemes come forward; creating new, and more attractive views of Heritage Assets. To provide views through the site, to enable an appreciation of the landscape character and context; the new riverside setting in juxtaposition of wider views of the historic core would be beneficial and follow advice in policy D1: Placemaking. As at

other sites on this section of the River Foss, public access to the riverside could be secured through a legal agreement.

5.47 The scheme would lead to harm to significance however, because existing views would be lost. The impact on views and townscape is regarded to be less than substantial harm on the setting of the conservation area and listed buildings; a modest level of less than substantial harm was identified by Historic England and officers agree. This harm would not be offset by sufficient new public open space (in size and landscape type) that would better reveal views of the CHCCA and views of Listed Buildings in their townscape context.

5.48 The are not regarded to be public benefits to outweigh the harm. From an economic perspective there is a loss of employment land and the site is Flood Zone 3; so not necessarily appropriate for a residential use. In terms of housing need the city has a current 5-year housing supply. Giving due regard to sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990; section 66 advises that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and section 72 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas, and considering the conflict with Local Plan policies, the identified harm is considered not outweighed by any public benefits derived from housing delivery in this case.

#### Layout and scale

5.49 The proposals would involve an extension upward of the existing retaining wall at the bank of the River Foss. The building would be setback between 5.5m and 6.5m from the river, with the building inset only around 2m from each end of the plot. The riverside elevation would be 5-storey high (in part elevated by almost 1.5m with floodable void below). Between Heworth Green and the site all other redevelopment schemes have been setback substantially (typically in excess of 15m) from the riverside and there is space, and therefore views, between buildings.

5.50 The scheme due to the proposed river wall, lack of openness (due to the amount of development proposed on-site), building scale, and its proximity to the riverside would be unduly imposing over the river and form a significant departure from the landscaped riverside setting. The landscape setting to the river that would result as a consequence of the scheme would conflict with policy SS3 in respect of enhancing the setting of the river and policy D1: Placemaking in respect of design

points on urban structure and grain; to enhance and complement the character and appearance of landscape, city parks, landforms, open space, planting and boundary treatment and streets and spaces; to promote legibility, improve the quality of public realm and the wider environment, and to provide a pattern of continuity and enclosure. There is conflict also with policy D2: Landscape and setting in not creating a comfortable association between the built and natural environment taking into account the scale and amount of development and its relationship to open space, biodiversity enhancement and water sensitive design.

5.51 In plan form the proposed development covers a considerable amount of the plot with very limited open space and public realm. The building is a mix of 4 and 5 storey. Whilst there are tall buildings in the Layerthorpe area and around the River Foss (similar in storey height to this scheme), they are generally either in more spacious plots, consequently there is a stronger degree of openness, or they form part of a larger composition of blocks of development in an urban setting away from the riverside.

5.52 Due to the massing of the development, it would be unduly imposing and over-dominant over its setting and out of character. Its excessive impact would be apparent in both views along Layerthorpe and from the riverside and Foss Bank. The scheme in terms of its density and massing is contrary to policy D1: Placemaking; it would not be appropriate for its context and it would unduly dominate its wider setting, including other buildings and spaces.

### Detailing

5.53 The building is regarded to be excessive in its volume and height. Whilst there are cases of tall buildings with flat roofs in the Layerthorpe area, this site is regarded as being more sensitive due to its proximity to the river and the City Walls. In applying design principles and recommendations in strategic policies DP2, DP3, SS1, SS3 and D1 which all relate to conserving, and where appropriate enhancing, those elements which contribute to the special character and setting of the historic City by ensuring that development is in acceptable locations and of the highest standards in terms of urban design and detailing, a building of the volume and scale proposed and with flat roofs would not be appropriate.

5.54 The general architectural detailing and materials of the building's facade is however regarded acceptable. The building would be of red brick which is respectful of its setting. The building adheres to good design principles and the local vernacular found in the city centre in that the building has a strong base and appears grounded due to the arched detailing, appearing as a colonnade at ground

level, combined with a more generous floor to ceiling height at this level. Based on the scheme submitted, officers agree with the Civic Trust (in the first comment) that alternative proportions to the top floor, and a less vertical emphasis to the 5-storey riverside elevation would be beneficial. The supporting images show a depth to the façade and detailing around windows that would generate visual interest. It would be typical for large scale details of such details, shown in section could be secured through the use of a planning condition.

5.55 The composition of uses means open spaces will have natural surveillance and there will be an active frontage onto the street. The approach is acceptable therefore in respect of Secure by Design principles.

### **Open space**

5.56 Local Plan policy GI6 New open space provision states residential development proposals should contribute to the provision of open space for recreation and amenity in accordance with current local standards and using the Council's up to date open space assessment. It states off-site provision will be considered acceptable if the proposed development is of insufficient size in itself to make appropriate provision. The background text advises the relevant standards are the Open Space and Green Infrastructure (2014) and Update (2017).

5.57 The applicant's planning statement advises accessible and useable soft and hard landscaping on the ground and roof floors totals 1647.6sqm.

5.58 For a scheme with 220 occupants the Open Space and Green Infrastructure Update advises requirements would be as follows -

Amenity – 8,910sqm (minus 1647.5sqm = 7,262.5sqm shortfall)

Amenity off-site contribution would be £27,077.50.

Sports off-site contribution would be £46,860.

5.59 Whilst it is accepted the site is of insufficient size to accommodate all required open space on site it is considered that the site is overdeveloped and consequently unduly lacking in on site amenity space, in particular at the riverside where it would be most beneficial in terms of its contribution to the wider setting, biodiversity and the amenity of future occupants.

### **Amenity for future residents**



5.60 In terms of design standards policy D1 refers to national best practice, including the National Design Guide. In respect of homes and buildings the guide states well-designed homes and buildings are functional, accessible and sustainable. They provide internal environments and associated external spaces that support the health and wellbeing of their users (including the provision of shared and public spaces contributing to social interaction and inclusion) and all who experience them.

5.61 As specified in the open space section, the scheme does not provide the amount of external amenity space required by policy GI6. In terms of the internal arrangement, amenity for future residents would be reasonable. The scheme provides access for persons with restricted mobility. It provides a reasonable proportion of accessible rooms (5.5%) and parking for blue badge holders. There is space for over-sized cycles. A daylight sunlight assessment confirms there will be a reasonable level of daylight and outlook to rooms and there are communal spaces for activities within the building at ground level, in addition to communal living/dining rooms in clusters. There are no national or local space standards for PBSA. The bedrooms are considered of reasonable size and layout; a typical studio room size is 18.3sqm and a cluster bedroom 13.6sqm. Each scheme the Council has assessed typically has a subtle variety of room sizes. The proposed rooms are not materially different in size to other approved schemes. The only PBSA scheme which has been refused on amenity grounds contained only studio rooms and a limited amount of communal amenity space (1sqm per room). This scheme contains a mix of studio and cluster rooms plus it has 335sqm communal space at ground level providing amenities such as common room, gym, cinema and private dining room.

## **Archaeology**

5.62 Policy D6: Archaeology states development proposals that affect archaeological features and deposits will be supported where –

- they are accompanied by an evidence-based heritage statement that describes the significance of the archaeological deposits affected
- they will not result in harm to an element which contributes to the significance or setting of a Scheduled Monument or other nationally important remains, unless that harm is outweighed by the public benefits of the proposal.

- they are designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk
- the impact of the proposal is acceptable in principle and detailed mitigation measures have been agreed

5.63 In this case it has been agreed that due to current occupation of the site a more comprehensive site investigation could be secured through planning condition.

## **Ecology**

5.64 The legal requirement for Biodiversity Net Gain, to achieve a 10% gain is applicable to this scheme. Relevant local policy is GI2: Biodiversity and Access to Nature. Policy GI2 states that in order to conserve and enhance York's biodiversity, any development should where appropriate maintain and enhance the rivers, banks, floodplains and settings of the Rivers Ouse, Derwent and Foss, and other smaller waterways for their biodiversity, cultural and historic landscapes, as well as recreational activities where this does not have a detrimental impact on the nature conservation value.

5.65 The measures to meeting 10% BNG have been issued and propose a mix of on and off site measures. The legislation requires a biodiversity net gain plan be secured through the biodiversity gain condition. This must be approved prior to commencement. A management plan could be secured through planning condition.

5.66 The Council's Ecologist advises that the design maintains the current approach of hardstanding up to the river's edge with minimal consideration for providing habitat enhancements or creation that would improve the river corridor. They would have preferred to see a scheme which incorporated the River Foss in a more integrated way that provides benefits for biodiversity and a more diverse habitat such as wildflower grassland (other neutral grassland) that would provide benefits for wildlife/pollinators. The scheme would only maintain the biodiversity value of the river and the river bank; it does not therefore fulfil the policy requirement in GI2 which requires development maintains and enhances (where appropriate) rivers and riverbanks for their biodiversity value.

## **Sustainable design and construction**

5.67 Policy CC2 states all new non-residential development with a total internal floor area of 1000m<sup>2</sup> or greater should achieve BREEAM 'Excellent' (or equivalent), where feasible and viable.

5.68 Policy CC2 compliance could be secured by planning condition. A comprehensive report has been submitted in respect of BREEAM which evidences the scheme is targeting the required Excellent rating.

## **Land contamination**

5.69 Policy ENV3: Land Contamination states development of a site known to be or which has the potential to be affected by contamination will be permitted where the proposed remedial measures deal effectively with the levels of contamination to ensure there are no significant impacts on human health, property, groundwater or surface water. Where proposals are acceptable in principle, planning permission will be granted subject to conditions – this is the case in this instance.

## **Highway network management**

5.70 Section 14 of the Local Plan, in respect of transport includes a strategic theme to implement behavioural change in respect of sustainable travel.

5.71 Local Plan policy T1: Sustainable Access advises development will be permitted where it minimises the need to travel and provides safe, suitable and attractive access for all transport users including those with impaired mobility, such that it maximises the use of more sustainable modes of transport. This will be achieved by ensuring developments that can be reasonably expected to generate significant traffic movements are supported by frequent high quality public transport linking them to York's City Centre and other key destinations, as appropriate; requiring development proposals to demonstrate safe and appropriate access and links to local services; give priority to pedestrians and cyclists and create safe layouts.

5.72 Policy T8: Demand Management does not itself set parking standards; the intent of the policy is to reduce congestion, minimise private vehicle trips and car ownership and promote sustainable travel.

5.73 Current conditions for pedestrians and in particular cyclists are poor on this section of Layerthorpe. The Council's York Map data shows the cycle lane on this

section of Layerthorpe is on-road (despite high volumes of traffic) and incomplete. The applicants Transport Assessment identifies damage to the footway and no offroad cycle lanes. Officers add that the road only has a partial, and faded cycle lane. However, no improvements were recommended in the Transport Assessment and nothing is proposed as part of the scheme.

5.74 Following the strategic objectives of the Local Plan, at pre-application stage the developer was requested to consider highway improvements and officers consider there is scope for active travel improvements on this section of Layerthorpe. Improvement works would be reasonable and proportionate to the amount of development proposed.

5.75 The amount of cycle parking is regarded sufficient and the revised scheme provides reasonable dimensions for each type of provision. The aisle width (2.5m-2.9m) of the 2-tier stands does meet the manufacturers recommendations. 159 cycle parking spaces (72% provision) is proposed at the outset, although there would be space for additional spaces. There are 6 spaces for over-sized cycles.

5.76 Access and servicing - A vehicle entrance is proposed on the north side of the site. It includes a turning area and a passing place. The space will have a low level of use; accommodating 4 accessible parking spaces and access for building maintenance and deliveries. Tracking details have been supplied in the transport assessment which show the layout accommodates all servicing vehicles.

## **Planning obligations**

### **Affordable housing**

5.77 Policy H7 states that for new student accommodation a financial contribution should be secured towards delivering affordable housing elsewhere in the City. The policy advises how the off-site contribution would be calculated. It states that where a developer considers the contribution cannot be fully met, they should justify the level of provision proposed through an open book appraisal to demonstrate to the Council's satisfaction that the development would not otherwise be viable.

5.78 The developer has submitted a viability assessment as evidence that the scheme cannot afford to provide for an off-site affordable housing contribution (or any planning obligations). This has been subject to an independent review of the build cost and an independent viability review. The independent review undertaken on behalf of the Council concluded that the scheme could afford to provide the obligations required by Local Plan policy H7. The scheme was considered viable as

it was found that the forecast build costs were lower than those proposed by the developer. The disagreement in respect of planning obligations and conflict with policy H7 due to no affordable housing contribution is a recommended reason for refusal.

## Open space

5.79 Local Plan policy GI6 New open space provision states residential development proposals should contribute to the provision of open space for recreation and amenity in accordance with current local standards and using the Council's up to date open space assessment. It states off-site provision will be considered acceptable if the proposed development is of insufficient size in itself to make appropriate provision. The background text advises the relevant standards are the Open Space and Green Infrastructure (2014) and Update (2017).

5.80 Contributions could be sought through a s106 obligation and would be as follows –

Amenity off-site contribution would be £27,077.50.

Sports off-site contribution would be £46,860.

Monitoring Fees would also be required for any planning obligations. The charging rate is £1,510 per item.

## 6.0 CONCLUSION

6.1 The proposals are recommended for refusal because there is conflict with policies EC2, related to loss of employment land and H7, related to purpose-built student accommodation of the Local Plan; the principle of the proposed use is therefore not policy compliant. In terms of the specifics of the scheme itself, there are also reasons for refusal due to the design of the scheme and conflicts with policy in respect of flood risk (conflict with ENV4), place making, the impact on designated Heritage Assets (conflict with policies DP2, DP3, SS3, D1, D2, D5, GI6, T1) and biodiversity (conflict with policy GI2).

6.2 The scheme is also in conflict with policies H7 (affordable housing) and GI6 (open space provision) because the applicant has not agreed to providing the planning obligations required under each policy. The scheme has been subject to an independent viability review undertaken on behalf of the council and the review did find that the scheme could afford to provide for the obligations.

## 7.0 RECOMMENDATION: Refuse

1 The proposed redevelopment of the site would conflict with policy EC2 Loss of Employment Land. The application does not demonstrate that the site is not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and nor does it demonstrate that the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period. The proposals are therefore contrary to the Local Plan in respect of delivering the city's economic ambitions by providing sufficient land to meet the level of growth set out in the Spatial Strategy in policy SS1: Delivering Sustainable Growth for York.

2 The scheme is contrary to policy H7: Student Housing in that there is no agreement in principle that the rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University. The proposals are contrary to the requirements of policy H7 which seeks to control occupancy to ensure that development only comes forward when it is needed and that it does not suppress affordability of accommodation and delivery of affordable housing in general. The scheme is contrary to the deliverability of affordable housing as explained in the spatial strategy, in policies H7: Student Housing and SS1: Delivering Sustainable Growth for York. There is also conflict with policy SS3: York City Centre specifically the principle to deliver sustainable homes that provide quality, affordability and choice for all ages, including a good mix of accommodation.

3 The scheme is unacceptable on flood risk grounds; the site is in Flood Zone 3 and the scheme is not designed to adequately mitigate against flood risk against current and future flood events. It does not provide for access and egress during a flood event and the majority of the ground floor area would be unprotected without demountable flood barriers. The scheme is also not appropriate in Flood Zone 3 as it has not been sufficiently demonstrated the Sequential Test is passed. The proposals are contrary to policy ENV4: Flood Risk and contrary to policies in the NPPF in respect of meeting the challenge of climate change, flooding and coastal change.

4 The proposals due to the amount, scale and form of development proposed, would be overbearing and over-dominant in its context and wider setting and fail to respect the qualities of the urban grain of the riverside in the vicinity of the site. The unacceptable scale and built form would result in a lack of appropriate landscaping being achieved.

The proposal is therefore unacceptable in design terms, would fail to respect, conserve or enhance the special historic character of the city centre and setting of the riverside. The proposals conflict with Local Plan policies SS3: York City Centre, D1: Placemaking, D2: Landscape setting and GI6: New Open Space Provision.

5 Due to the lack of active travel provision within the public realm in the vicinity the site (in the form of a safe and LTN 1/20 compliant cycle lane on Layerthorpe and footpath improvements) the proposals fail to sufficiently contribute towards delivering a fundamental shift in travel by prioritising and improving pedestrian and cycle networks. The scheme is unacceptable in active travel terms and not compliant with Local Plan policies DP2: Sustainable Development and T1: Sustainable Access and the Local Transport Strategy 2024-2040 (as referred to in section 14 of the Local Plan) in respect of providing safe and suitable pedestrian and cycle networks associated with maximising the use of more sustainable modes of transport, reducing carbon emissions and improving active travel, health and wellbeing.

6 The scheme would overdevelop the site and be of excessive massing and scale to the extent it would detrimentally effect views of and dominate and challenge the prominence of landmark buildings (the York Minster (Grade I) and Country House (Grade II)) on the townscape.

The impact on views and townscape is regarded to be less than substantial harm on the setting of the conservation area and the setting of listed buildings; a modest level of less than substantial harm. The identified harm would not be offset by sufficient new public open space (in size and landscape typology) that would consequently better reveal views of the Central Historic Core Conservation Area and views of Listed Buildings in their townscape context. The are not regarded to be public benefits to outweigh the harm. There is conflict with Local Plan policies D4: Conservation Area and D5: Listed Buildings.

7 The scheme would not enhance the biodiversity of the River Foss and its bank and such measures are deemed appropriate in this instance. The proposals are therefore contrary to policy GI2: Biodiversity and Access to Nature which seeks to conserve and enhance all sites and areas of biodiversity value in York.

8 The lack of planning obligations offered in respect of affordable housing and open space contributions are contrary to Local Plan policies H7: Student Housing and GI6: New Open Space Provision. The scheme is contrary to the vision and development principles of the Local Plan, within policy DP2: Sustainable Development; to provide good quality homes, addressing the housing and community needs of York's current and future population and to preserve and enhance York's green infrastructure and policy SS1: Delivering Sustainable Growth for York, in respect of delivering at least 45% of the 9,396 affordable dwellings that are needed to meet the needs of residents unable to compete on the open market.

## **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 39) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome: provided pre-application advice and advised on the issues identified with the scheme, and in this respect allowed one opportunity for the scheme to be revised to address objections. Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

#### **Contact details:**

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