



Notice of a public meeting of

Planning Committee

To: Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Lomas and Fisher

Officers: Becky Eades (Head of Development Services)
Gareth Arnold (Development Manager)
Victoria Bell, Hannah Blackburn, Tim Goodall and Jonathan Kenyon (Development Management Officers)
Helene Vergereau (Principal Development Control Engineer, Planning)
Heidi Lehane (Senior Solicitor, Planning)
Sandra Branigan (Senior Solicitor)

Date: Thursday, 9 July 2020

Time: 10.30 am

Venue: Remote Meeting

AGENDA

Please note there will be no site visits ahead of this meeting.

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 24)

To approve the minutes of the meetings of the Planning Committee held on 12 March 2020 and 11 June 2020.

3. **Public Participation**

At this point in the meeting, members of the public who have registered their wish to speak can do so.

Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at remote meetings.

The deadline for registering at this meeting is **5:00pm on Tuesday, 7 July**.

Under current Standing Orders for remote meetings of the Planning Committee, members of the public can speak only on the matters or applications to be considered by the Committee at the meeting.

To register, please contact Democratic Services on the details at the foot of this agenda. You will then be advised on the procedures for dialling into the remote meeting.

Webcasting of Remote Public Meetings

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

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

4. **Plans List**

This item invites Members to determine the following planning applications:

[Presentation slides on all of these applications are attached at the end of the agenda papers]

a) Spark York, Piccadilly, York [20/00561/FUL] (Pages 25 - 44)

Application to vary Condition 2 of permitted application 17/00274/FUL to extend the duration of the permission to 31.3.2022.

**b) Axcel Group Limited, 36 - 44 Piccadilly, York YO1 9NX
[19/02293/FULM] (Pages 45 - 98)**

Major Full Application for the erection of a 5 storey hotel with additional plant storey (168 Bedrooms) fronting onto Piccadilly, with ancillary restaurant, landscaping and retention of the Banana Warehouse facade.

**c) North Selby Mine, New Road, Deighton, York YO19 6EZ
[19/00078/OUTM] (Pages 99 - 144)**

Outline application for redevelopment of the former North Selby Mine site to a leisure development comprising a range of touring caravan and static caravans with associated facilities (revised scheme).

5. Urgent Business

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

Democratic Services – contact details

Democracy Officer – Angela Bielby

- Telephone: 01904 552599
- Email: a.bielby@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Planning Committee
Date	12 March 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Hollyer, Kilbane, Perrett, Warters, Widdowson and Melly (Substitute)
Apologies	Councillor Fitzpatrick

43. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. Cllr Pavlovic declared an interest in agenda item 4b [Former Gas Works, Heworth Green, York YO31 7UG [19/00979/OUTM] as he had a previous working relationship with Joe Gardham, who was speaking on the application.

44. Minutes

Resolved: That the minutes of the last meeting held on 11 February 2020 be approved and then signed by the Chair as a correct record.

45. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

46. Plans List

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

46a Playing Field, Sycamore Terrace, York [19/02347/FUL]

Members considered an application from Emma Beever for flood alleviation works comprising of the replacement and extension of the existing flood/retaining wall located within the south-west corner of Olave's School playing field, Sycamore Terrace, York.

Officers demonstrated the layout of the applications using plans and photographs. In answer to a Member question they confirmed that there was a condition regarding operating hours on the site.

David Morrey (Environment Agency) spoke in support of the application on behalf of the applicant. He explained the context of the application and that the works were for a flood cell which was part of 19 flood cells. He explained that the application had come to committee as the wall encroached onto the Green Belt. He advised that approval of the application would allow the completion of flood defences with minimal impact.

It was:

Resolved: That the application be approved, subject to the conditions listed in the report.

Reasons:

- i. The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.
- ii. National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions to this outlined in paragraph 145 b of

the NPPF. The proposal has been assessed to represent engineering operations as outlined in paragraph 146 (b) of the NPPF however, the development is inappropriate development because, for the reasons outlined above in this report, it fails to preserve the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt, namely parts C and D of policy 134 of the NPPF (assisting in safeguarding the countryside from encroachment and preserving the setting and special character of historic towns), contrary to paragraph 145b of the NPPF.

- iii. The proposal, providing flood defence assets, cannot be located in land at lower risk of flooding as the level of protection would not be achieved. A sequential and exception test has been applied, and as the development is assessed as 'Water Compatible', this is appropriate development within any of the Flood Zones.
- iv. The application will lead to less than substantial harm to the significance on archaeological features and deposits which are situated within the Central Area of Archaeological Importance. Public benefits are considered to justify this harm. There are limited impacts in respect to landscape setting, ecology and any impacts can be mitigated by condition.
- v. This area has a history of flooding and the proposed development is in response to an identified need to protect residential and non-residential properties as well as transport routes. Having attached substantial weight to the harm to the Green Belt and great weight to the conservation of designated heritage assets (archaeology), it is therefore considered that the considerations set out in paragraphs 5.33 to 5.36 and 5.37 above would collectively clearly outweigh the harm to the Green Belt and designated heritage assets. No other harm has been identified and it is considered that the very special circumstances necessary to justify the proposed development exist.

**46b Former Gas Works, Heworth Green, York YO31 7UG
[19/00979/OUTM]**

Members considered a major outline application with all matters reserved except for access, layout and scale from Heworth Green Developments Ltd and Moda Living Ltd for the erection of a maximum of 625 residential apartments (use class C3), 130sqm (GIA) retail or community use floorspace (flexible use incorporating use classes A1-A4/ D1), 2 gas governor compounds, site remediation, associated access, car parking, amenity space and landscaping after demolition of existing pipework, structures and telephone mast at the Former Gas Works, Heworth Green, York YO31 7UG.

An officer update was provided. Members were informed that revised plans had been received since the site meeting. The revised plans:

- Reduced the amount of development in block B2, which was the block closet Layerthorpe / Hawthorne Grove
- Reduced the total number of dwellings 607.
- Pushed back the 6-storey element away from Hawthorne Grove and the 7-storey omitted. The tallest parts of the development would be 3m higher than Apollo House. This was shown in an illustrative floor plan.

It was noted that the revised plans meant that the relevant numbers / percentages in the committee report were superseded. The S106 items remained detailed in section 7 and the on site affordable in Build to Rent was noted as thirty one roomed and ten two bedroomed apartments. It was noted that the highway works on Heworth Green included a zebra crossing and improved safety for cyclists at roundabouts.

Members were informed that a further objection had been received from Heworth Mews and an outline of this was given. They were also advised of amendments to condition Conditions 4, 5, 17, 21, 36 and 37; and minor changes to Conditions 20, 23, 24, 26, 39 that did not have a material change to their requirement. Members were advised that the additional information had been assessed and the planning balance and recommendation remained unchanged from the published report.

In answer to Member questions, officers confirmed that:

- The number of affordable housing had not changed from

the previous application and the percentages in the housing mix stayed the same. Officers were happy with the mix of housing and had been working with the developers so that there was a variety in the types of flats in the design guide.

- The S106 contribution would go towards affordable housing.
- There needed to be a lot of housing on the site to make it viable.
- The detailed design of the roundabout had not been received but a contribution towards it had been secured.
- The housing densities were right for the city centre. The NPPF requirements for this were noted and the view of the Forward Planning Officer was explained in context of the case officer's view.
- An explanation was given about the transition of the site between a suburban area and former industrial site.
- The detail of Conditions 21 and 30 was explained.
- The applicants were spending more than was required to make the buildings sustainable and the building fabric would be up to building regulations.
- The service charges would be included in the rent.
- £2.71million had been set for offsite affordable housing that would be used to contribute to the council's affordable housing delivery.
- The over massing numbers had changed by having a diminishing scale. There was no seventh storey, the sixth storey had changed and the fifth storey remained the same. The housing mix was detailed.
- The apartments could not be used as a hotel as this was a different use class but the use class for Airbnb was that same as that for a house.
- With regard to the unadopted road, the Applicant had refused but there was a condition for the road to be adopted to a constructable standard.
- There was an additional park and rode stop near the site.
- The context of the site allocation in the Draft Local Plan was explained.
- Car parking had been negotiated with the developer and £50k had been allocated to address this. This could be used for the development of a residents parking scheme but would not cover the year on year cost of this after 1-2 years. The cost for respark was £5k to £20k. It was noted that the majority of the surrounding area was respark.

Sara Ma, a local resident, spoke in objection to the application. She explained that she lived in one of the residences most affected by the development. She noted that plans were far from satisfactory and she expressed concern about the height and density of the development which would impact her amenity. She added that there was a need for family housing. She was asked and that although she was pleased the height had been reduced, she had personal concern about the height of the buildings and that the development would change the nature of the site.

Ian Anderson, a local resident, spoke in objection to the application. He expressed concern concerning traffic as traffic and congestion had increased since the introduction of traffic lights in Eboracum Way and whilst the developers encouraged non car use he believed that there would be an increase in car use. He suggested that 50 car parking spaces was not enough and there would be an increase in the use of taxis. He further suggested that not enough weight had been given to the York Civic Trust response.

Joe Gardham, on behalf of Social Vision spoke in support of the application. He explained the work of Social Vision and noted that they worked with Northstar. He explained that the application presented an opportunity for a community space noting that there was a lack of provision for dementia sufferers and their carers in a modern and welcoming space. He was asked and explained that he saw resident using the community space as an open access space inside and outside. He confirmed that he was involved in the application as part of the development of the community space and that he had a financial arrangement with Northstar to work one day a week.

Egg Cameron, on behalf of Move the Masses spoke in support of the application. She explained that there was not enough green space in York. She was in support of the application because of the inclusion of the outdoor fitness equipment on the green space on the site. She added that the better walking routes would make a big difference. She was asked whether there was a financial arrangement with Northstar and confirmed that they had sponsored Move the Masses.

The architect of the scheme, Lee Vincent spoke in support of the application. He outlined the changes to the amended

scheme, clarifying that the height was two meters lower than the existing buildings. He noted that the majority of the buildings were lower than the approved Tiger scheme buildings that were one metre higher.

He added that the footprint in terms of the scheme's development was less than 30% of the site and he outlined the green spaces in the application.

In response to Member questions, Mr Vincent explained that:

- The Sustrans route created a boundary
- The timing of the works for the gasworks diversion was needed on site and if not approved the application would be delayed by a year.
- The stepping on the site was site specific.
- The build to rent operators wanted to create a good space for people to live there.
- It was his view that the gas pipes were best below ground.

Officers confirmed that the details of the professional fees for the application were commercially sensitive and that the development was deemed a reasonable scale for the site.

Janet O'Neill, agent for applicant, spoke in support of the application. She spoke on the York housing need noting that the local authority had a duty to provide a 5 year housing land supply. She noted that the development would help supply towards housing needs and that the application was now at the deadline for the land decontamination. She noted the benefits of the scheme, adding that the site had been vacant for 15 years and that a further reduction in the scale of the development would not make it viable. Ms O'Neill was asked if the application was fixed and she explained that 18 months had been spent negotiating the site and that the number of storeys had been reduced and the amount of affordable housing kept the same. In response to further questions she explained:

- The reason why the road had not been adopted.
- The open space on the site
- The management company would be responsible for maintaining the highways.
- In terms of meeting housing need, one development could not address housing need for the SMAH.
- Regarding a reduction to five storeys, it was an expensive site to bring forward and there had been a number of applications brought forward previously.

In terms of cost, officers explained that the price paid for the site was not related to the viability of the site and there had been significant discussion with the District Land Valuer regarding the site. They also clarified that the service charge was included in the rent for affordable housing as part of the S106 agreement.

Cllr Webb, Ward Councillor, spoke in objection to the application. He explained that the development would overshadow the homes of residents in his Ward and that at meetings, residents had expressed that the heights and massings of the buildings were too much. He questioned how the block of flats would be used and added that the development would create strain on local services as well as congestion. He stated that the development would set a precedent.

Cllr Webb was asked whether he had explained the complexities of the site prior to asking residents their views and responded that the developers had been invited to both residents meetings, at which 80-100 residents attended and a number expressed the view that the buildings were too high and there was overmassing. He added that the development would affect far more people than live in the area and the residents knew that it was a difficult site. In response to further questions he noted there were other small sites that could be developed and that this site was in the suburbs and that there were townhouses on one side of the site but 90% of the houses were not townhouses.

Cllr Craghill, Guildhall Ward Councillor expressed mixed feelings about the application, noting that there were positive aspects. She welcomed the amendments to the application and inclusion of open green spaces and she recognised the use of the brownfield site. She wanted to see a high level of affordable housing and for the development to meet local plan policies, and in expressing concern regarding affordability versus sustainability requested deferral of the application.

During debate during which a number of views were expressed, further questions arose to which officers demonstrated the location of the Conservation Area in relation to the site and confirmed that the plans shown included the revised heights.

Following a vote there were seven in favour and seven against and on the Chair's casting vote it was:

Resolved: That the application be approved subject to the conditions listed in the report and the following amended conditions:

Conditions 4, 5 and 17 revised to accommodate revised plans / reduced amount of development and updated Design Code.

Condition 17 – reworded – zones A & C are grouped - The scheme hereby permitted shall adhere to the following stipulations; to ensure that it is consistent with the details contained within the outline application –

The buildings hereby permitted shall not exceed the building footprints, scale and AOD heights as annotated on the approved parameter plans and shall adhere to the rules as detailed on the approved parameter plans.

The maximum number of dwellings shall not exceed 607 comprising 215 dwellings in Zones A and Zone C, and 392 dwellings in Zone B.

Housing mix – within each zone as shown on the illustrative layout – development zones; Drawing IS106 P03 the scheme shall provide at least the following amount of 2 and 3 bedroom sized dwellings (unless an alternative mix, which has a non-material impact on the amount of development hereby approved, is approved at reserved matters stage by the Local Planning Authority) –

Zones A and C – at least 20% of dwellings to be 3-bed; at least 32% of dwellings to be 2-bed.

Zone B – at least 5% of dwellings to be 3-bed; at least 31% of dwellings to be 2-bed.

Within zones A and C there shall be at least 130 sq m floor space (overall) which shall be available for commercial or community use

Within zone B there shall be at least 230 sq m which shall be available for either sports and/or recreation facilities for residents, health / leisure or community ancillary uses.

Car parking – at least the following number of car parking spaces shall be provided within each zone of development. In addition there shall be at least 10 spaces for visitor parking across the site (unless evidence is presented to the Local Planning Authority, and agreed, that the stipulated car parking provision is unnecessary) –

Zone A - 45 car parking spaces

Zone B - 90 car parking spaces

Zone C - 60 car parking spaces

Reason: To ensure a reasonable mix of housing and ancillary facilities, as detailed in the application and to ensure a mixed community with reasonable social, recreational and cultural facilities, in accordance with sections 5 and 8 of the NPPF.

Condition 21 – Sustrans connection – condition deleted. The requirement to install is now included in condition 20.

Condition 36 – Electric vehicle charging. One fewer point required – because the amount of dwellings reduced from 700 + to 625.

Condition 37- noise – re-worded to allow up to 10 exceedances of 45db max during the night (this is the standard approach).

Minor amendments to Conditions 20, 23, 24, 26, 39.

Reasons:

- i. The site is previously developed, vacant and in a sustainable location. It is allocated for housing in the 2018 DLP and on the Brownfield Land Register. Whilst the number of dwellings proposed is high and tall buildings are proposed, the site is in a location where national policy promotes high density. Officer consider the scale of buildings on site will be controlled to the extent that they would not appear out of character and provide a reasonable transition between the industrial and commercial areas of Foss Islands / Layerthorpe and the residential areas further east. This is assisted by the separation offered by the Sustrans route and tree cover around the eastern side of the site.
- ii. The amount of development proposed makes the scheme viable (the site is vacant; since 2006 there have been 4 approved residential schemes never implemented) and

can deliver a policy compliant amount of affordable housing in the Build to Rent blocks (with adjusted rents below the guideline 20% minimum) and a contribution towards off site affordable housing.

- iii. Whilst local affordable housing targets will not be fully met in terms of numbers, for Zones A and C the off- site contribution could deliver more variety; some 20 family houses off site (opposed to 36 flats on site which would be policy compliant).
- iv. The scheme will make adequate contributions in terms of accommodating demand for education facilities and its provision of open space. It will provide good connectivity and public realm to integrate the development into the locality; the Sustrans connection, the pedestrian and cycle routes that will be provided through the site and a significant new public green space, some 2,500 sq m in area.
- v. For the reasons set out above in this report, subject to approval of reserved matters there will be no adverse effect on heritage assets (and this includes the impact on views of the Minster) or neighbouring residents' amenity.
- vi. By virtue of its location and proposals for the public realm, limited car parking and the promotion of sustainable modes of transport, both on site and through improvements along Heworth Green sustainable travel is encouraged, as required by the NPPF. There is no evidence there will be a "severe" impact on the highway network and therefore there is no conflict with the NPPF in this respect. The scheme can also be sustainable in terms of its use of low carbon technology; the buildings will be energy efficient and provide facilities for cyclists.
- vii. The local concerns about the amount of development proposed for the site have to be considered against the following NPPF requirements and giving due weight to the aforementioned wider public benefits derived from comprehensive re-use and regeneration of the site -
 - To give "substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.

- To support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land".
 - The requirement to “boost significantly housing supply” (in particular given the lack of a deliverable 5 year supply in the city (Council position is that supply is just below 3 years without Local Plan allocations within the general extent of the Green Belt).
- viii. Approval is given subject to completion of a S106 agreement and the recommended conditions. On this basis the scheme will reasonably comply with the economic, social and environmental objectives of the NPPF. There are no protected habitats, designated heritage assets or flood risk grounds that provide a clear reason for refusing the development and there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.

**46c Ashbank, 1 Shipton Road, Clifton, York YO30 5RE
[19/01042/FULM]**

Members considered a major full application from P18-02072 for the emolition of Barleyfields and erection of 54 no. assisted living apartments and communal facilities; demolition of modern extensions to Ashbank and conversion to 4 no. assisted living apartments; associated parking and landscaping at Ashbank, 1 Shipton Road Clifton York.

Members were advised by officers of an additional condition that the building(s) would not be demolished until a contract for the works had been agreed by the council. The site and scheme were then outlined to Members.

Following the update, Officers were asked and clarified that:

- There was a sufficient number of parking spaces.
- The trees on site had been covered by the tree survey.
- Regarding the bus stop nearby, the footways were narrow and a justifiable, affordable and deliverable solution could not be found to this.
- Regarding the possibility of the right of way to the side of

the site, other sources of funding for this could be examined.

- Whilst there was considerable tree loss, high quality semi mature trees would be planted and the applicant would pay a green space contribution to works at the Homestead Park.
- Electric vehicle (EV) parking was included in Condition 6.
- With regard to provision being made for existing residents, affordable housing was included and there was no policy of the existing facility to be retained as council could only require what was required by housing policy, which had been achieved on site.

Janice Gray, a local resident, spoke in objection to the application. She expressed concern about the loss of 15 affordable housing units. She explained that there was a pelican crossing past the entrance to the site and she suggested that another one was needed on Clifton Green. She suggested that the inclusion of senior activity equipment for the senior outdoor space would be good idea, adding that some of the S106 contribution to the Homestead Park could go towards this. She was asked and explained that the Barleyfields residents had relatives to walk them to the Homestead Park.

Liz Fowler spoke in support on behalf of the applicant. She noted that the not for profit provider owned and operated the existing Barleyfields and in considering their options deemed redevelopment the best option. The provider had acknowledged the closure of the existing scheme and had offered residents first refusal on the units. She noted the use of the site as an existing brownfield site and that it was policy compliant in regard to affordable housing.

In answer to questions raised by Members she confirmed that: The access route would remain unobstructed.

The communal facilities included a staff kitchen and bistro and lounge for residents.

Regarding affordable units to rent, the application was policy compliant, and first refusal on the units had been offered to residents.

Cllr Smalley, Ward Member, spoke on the application noting that he was supportive of developments but concerns remained over the loss of tree canopy, the building overlooking residents and requirement for route to be maintained. He further

explained concerns about applications in unparished areas that had no planning panel, which he was happy to discuss with officers. He was asked and noted that Clifton Parish Council would be happy to look at this. Concerning the bus stops, Cllr Smalley explained that the path was narrow near the bus stop and there could be a programme to make the bus stop easier to use.

Further questions were then raised by Members to which officers responded that:

- A scheme needed to be identified for the £25k S106 contribution, and this was to be put towards the tennis club and Homestead Park. The allocation for sports provision and open space was explained.
- Regarding an extension of the public right of way being extended to the pedestrian access along the back lane, this was a public right of way but not on a definitive map.
- A contribution towards the bus stop had not been requested.
- Whether some of the S106 contribution could be used towards benches depended on the specific works identified.

Following questions, a number of Members commented that it would be useful for the Executive Member for Culture to work with Officers to ensure that the S106 contribution was used for the benefit of residents.

It was:

Resolved: That the application be approved subject to the conditions listed in the report and the below additional condition:

Additional condition

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 produced to and agreed 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 agreed in writing with 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.

Reasons:

- i. Officers recognise that this is a balanced judgement. The benefits of the scheme are that it provides new residential accommodation on predominantly brownfield land and, in accordance with para. 118 of the NPPF, this should be given substantial weight. Other advantages of the scheme are the bringing back in to use of the villa; the removal of its modern and unattractive extensions; and the demolition of the Barleyfields building. The provision of modern purpose-built extra-care accommodation, where there is an identified shortfall, should also be given significant weight.
- ii. Weighed against these benefits are concerns about the level of tree loss within the Conservation Area, while recognising that the proposed landscaping scheme provides a high level of replacement planting; the scale of the building in relation to other buildings in the locality; overlooking to the neighbouring site; and levels of external amenity space.
- iii. The presumption in favour of sustainable development contained within para.11 of the NPPF requires that, where there are no relevant development plan policies, or the policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to include those related to designated heritage assets which would include the Clifton Conservation Area. This means that the application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- iv. The proposal has been considered against the relevant NPPF policies particularly those in Section 16: Heritage Assets. When taking a balanced view, and assigning substantial weight to the provision of extra care housing on brownfield land, it is considered that the substantial benefits of the scheme would not be significantly and demonstrably outweighed by the less than substantial harm to the Conservation Area, tree loss, and concerns about amenity.

46d Telecommunications Mast, MBNL, Naburn Lane, Naburn, York [19/02766/FUL]

Members considered a full application from MBNL (EE Ltd And Hutchinson 3G UK Ltd) for the installation of telecoms cabinets and replacement mast at the Telecommunications Mast MBNL, Naburn Lane, Naburn, York. Officers were asked and confirmed that the application related to 5G roll out.

It was:

Resolved: That the application be approved subject to the conditions listed in the report.

Reasons:

- i. The proposal would be inappropriate development in the green belt. It is harmful to the openness of the green belt and represents encroachment. Substantial weight must be given to this harm to the green belt in the planning balance. The proposal would also be harmful to the character and appearance of the area.
- ii. In the planning balance it is acknowledged that the scheme proposes an upgrade to help new 5G technology and that using existing sites is preferable to erecting new masts. As such it is considered that the harm caused by the mast and equipment has a relatively low impact on openness of the green belt and encroachment, the local context and the harm to the character and appearance of the area, are clearly outweighed by the cumulative benefits of the scheme identified in paragraph 5.25 above and

therefore very special circumstances are considered to exist which clearly outweigh the harm the green belt and any other harms.

- iii. The application therefore accords with the NPPF, particularly Chapter 10, Policies GB1 and C1 of the Draft Plan 2018 and Policies GB1 and GP20 of the Deposit Draft Local Plan 2005.

CLlr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 8.15 pm].

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Meeting	Planning Committee
Date	11 June 2020
Present	Councillors Pavlovic (Vice-Chair, in the Chair), Ayre, Fenton, Hollyer, Melly (Substitute for Cllr Kilbane), Perrett and D Taylor (Substitute for Cllr D'Agorne)
	<i>*Note: at two points in the meeting, from 12:06 -12:11 and at 12:25, Cllr Taylor was not visible on screen; however, he confirmed that he was able to follow the proceedings throughout.</i>
Apologies	Councillors Cullwick, D'Agorne and Kilbane

Chair's Remarks / Election of Vice Chair

The Chair explained the format of the remote meeting and invited Members to elect a Vice Chair to take over his role should technical difficulties interrupt his access to the meeting.

Resolved: That Cllr Hollyer be appointed to act as Vice Chair for the meeting.

50. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests, that they might have in the business on the agenda. No interests were declared.

51. Minutes

Resolved: That the minutes of the meeting held on 21 May 2020 be approved as a correct record, to be signed by the Chair at a later date.

52. Public Participation

It was confirmed that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on matters not relating to the application under consideration.

53. Planning Application - Land Between Clementhorpe Beck and Butcher Terrace [19/00570/FUL]

Members considered a full application by the Environment Agency (EA) for Clementhorpe and South Bank flood alleviation scheme works on land between Clementhorpe Beck and Butcher Terrace, comprising: flood gate at the junction of Clementhorpe and Terry Avenue; flood defence wall at Lower Ebor Street; site compound on land to the east of Butcher Terrace and temporary access road between Butcher Terrace and Terry Avenue.

Officers gave a presentation based upon the slides at pages 4-68 of the agenda and provided an update, reporting:

- corrections to paragraphs 5.32, 6.1 and 6.2 of the report;
- the receipt of 7 further letters in objection to the application, and 3 further letters in support;
- an updated response from the Micklegate Planning Panel;
- Government guidance on cycling and Covid-19;
- that the 5 March proposed diversion route drawing was to be finalised in the Construction Traffic Management Plan condition, no as an approved plan in Condition 2.
- amendments to Condition 9 (additional wording).

It was noted that none of the above affected the Planning balance or the recommendations in the report.

In response to questions from Members, Officers confirmed that:

- The flood gate would be of a similar design to those used in flood defence schemes across the country
- It was not considered necessary to widen the path along the East river bank to accommodate a cycle/pedestrian diversion
- The diversion routes were suggestions, not fixed routes
- Officers would continue to work with the EA on a travel plan; the matter could be brought back to Members if a consensus was not reached
- Condition 4 could be amended to include protection for wildlife habitats in the CEMP if Members so wished

- The applicant could not reasonably be required to return the site compound to a state better than its current condition.

[At 11:20, the meeting was adjourned to enable the registered public speakers for the item to be brought in. It was re-convened at 11:54]

Public speakers

The following spoke in **objection** to the application, raising issues in relation to accessibility, safety, the accuracy of flood level predictions and the location of the construction site:

- Rebecca Lack, a local resident
- Maeve Pearson, of York Cycle Campaign (YCC)
- Daniel Salisbury, a local resident
- Andrew Burnard, a local resident and retired construction professional
- Christopher Rainger, a local resident and retired civil engineer
- Prof Tony May, Chair of York Civic Trust (YCT) Transport Advisory Group

The following spoke in **support**, on the grounds of the benefits the scheme would bring in terms of flood protection:

- Gwen Swinburn, a local resident
- Daniel Rust, a local resident

Micklegate Ward Members

Cllr Baker spoke in support of the application, subject to conditions to address safety issues, as suggested by Micklegate Planning Panel, the YCC and the YCT.

Cllr Kilbane spoke in support of the application, subject to agreement of a robust traffic management plan to address residents' concerns.

A written statement submitted by Cllr Crawshaw, supporting the scheme but with concerns as to whether adequate steps had been taken to mitigate safety issues, was read out at the meeting.

Applicant

Steven Taylor of the EA addressed the Committee, and responded to Members' questions along with the three additional EA officers in attendance at the meeting. It was confirmed that:

- Road safety audits and testing of cycle routes had been carried out in conjunction with council officers;
- The EA was open to further discussions on alternative cycle routes if these did not delay the scheme disproportionately;
- Defra funding could only be spent on flood defences; the EA had no budget for substantial improvements to cycle routes.
- Repairs to the Blue Bridge were due for completion before work on the scheme began in October;
- The EA was engaging with residents of Waterfront House on noise mitigation measures and potential re-location;
- The closure of Terry Avenue was essential for safety reasons and was planned to last 12 months, during installation of the grout curtain;
- River transport had been ruled out due to the issues of offloading locations and the use of cranes;
- Despite a technical discrepancy pointed out by one of the public speakers, the EA was satisfied with the accuracy of its models.

[The meeting was adjourned at 13:45 for a short break and reconvened at 14:00]

Members then debated the proposals, after which Cllr Taylor moved, and Cllr Hollyer seconded, that the application be approved, subject to the conditions listed in the report, with the amendments to conditions identified in the officer update and/or discussed at the meeting. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Ayre, Fenton, Hollyer, Melly, Perrett, Taylor and Pavlovic all voted in favour of this proposal, and it was

Resolved: That the application be approved, subject to:

- (i) Conditions 1-3, 5-8, 10, 11, 13 and 15-22 as set out in the report;

- (ii) Amendments to Conditions 4, 9, 12 and 14 to reflect the following requirements, with the wording of the amended conditions to be delegated to officers in consultation with the Chair and Vice Chair of the meeting:

Condition 4 (Construction Environment Management Plan) - to include mitigation measures for wildlife;

Condition 9 (Construction Traffic Management Plan) – pedestrian and cyclist diversion routes (sub-paragraph (d)) to be removed and made the subject of a separate condition;

Condition 12 (Temporary TRO) – details of highway works to be approved by officers in consultation with the Chair and Vice Chair

Condition 14 (road safety audit) – audit must be independent.

The final wording of the conditions to be delegated to officers along with Chair and Vice Chair of the meeting.

Reason: It is considered that the substantial public benefits of the proposal, namely the improved flood defences to 135 properties, outweigh the temporary disruption to local residents and users of the affected public highway and the harms identified to the Green Belt and the heritage assets.

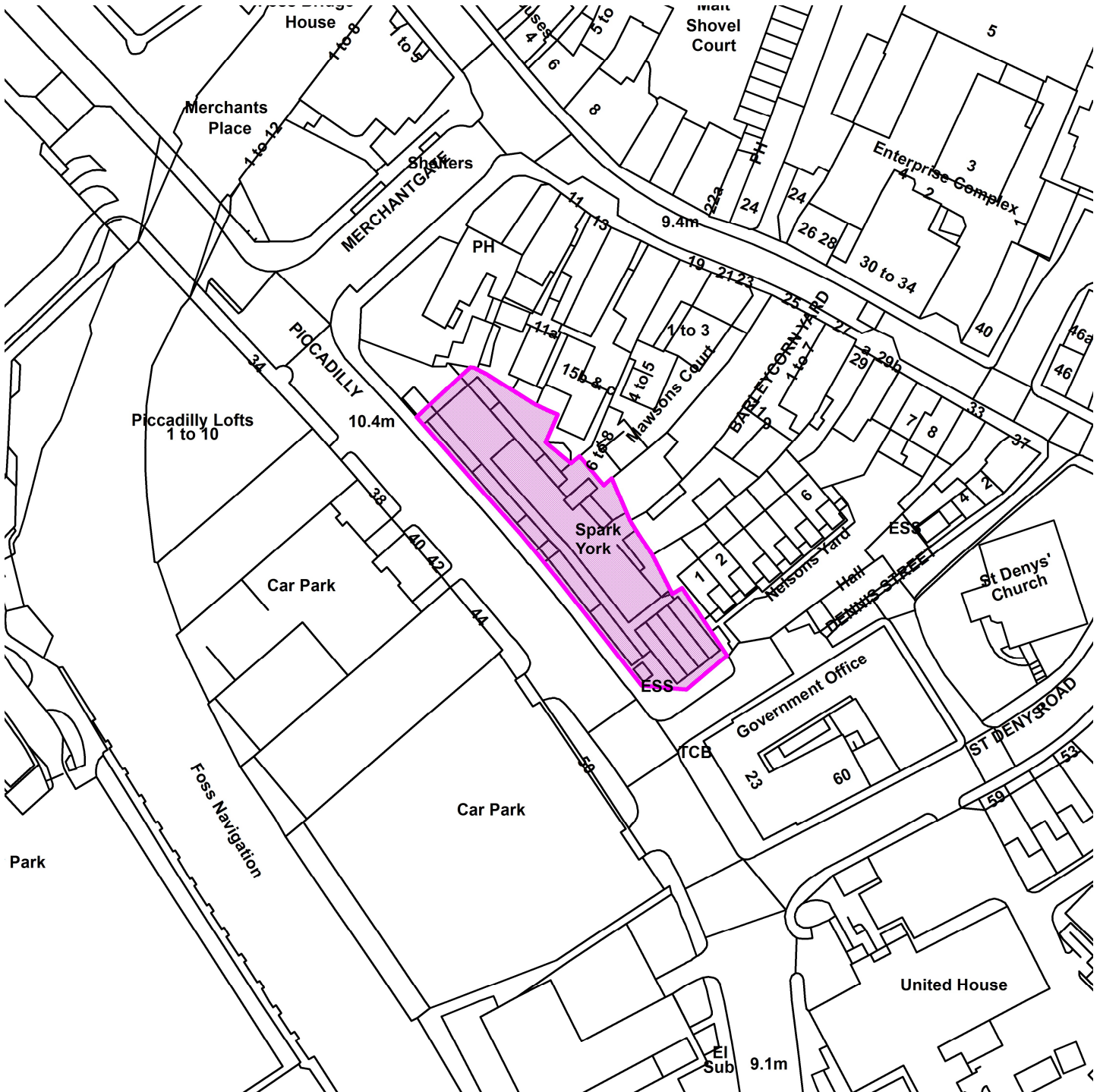
Cllr M Pavlovic, Chair

[The meeting started at 10.30 am and finished at 2.42 pm].

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20/00561/FUL

Spark York, Piccadilly



Scale : 1:1028

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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	29 June 2020
SLA Number	Not Set

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COMMITTEE REPORT

Date: 9 July 2020

Ward: Guildhall

Team: East Area

Parish: Guildhall Planning Panel

Reference: 20/00561/FUL

Application at: Spark York Piccadilly York

For: Variation of condition 2 of permitted application 17/00274/FUL to extend duration of permission to 31.3.2022

By: Mr Samuel Leach

Application Type: Full Application

Target Date: 1 June 2020

Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The application relates to the Spark venue, which comprises of multiple small commercial units and outside amenity space. The commercial units are occupied as a social hub, retail/A1 uses, and food and drink outlets.

1.2 The scheme was granted permission originally for a temporary period only, expiring 1 July 2020.

1.3 The site is Council owned and a temporary permission was sought as Spark has always been intended as a temporary “meanwhile” use of the site. The Council’s long-term intention, as part of the Castle Gateway project, is for alternative redevelopment of the site. This site sits within a later phase of the project and the Council is currently working on development proposals for the site. A report is expected to be presented to Executive later in the year seeking approval for a redevelopment strategy for the site.

PROPOSALS

1.4 The application is to vary condition 2 of the original permission, allowing Spark to remain onsite until 31.3.2022.

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1.5 The relevant condition stated as follows –

“This (approved) use (of the site) shall cease and all associated structures shall be removed from the site by 1 July 2020; unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission”.

1.6 Although the development is now in breach of this condition, and technically the permission is no longer valid, under the circumstances officers are content committee could still determine to approve this application. This is on the following grounds -

1.7 On 22 June the government issued a press release that stated as follows – *“Sites with consent that have an expiry date between the start of lockdown and the end of this year will now see their consent extended to 1 April 2021”.* At the time of writing the associated legislation regarding this is not yet in force (and consequently we do not know the details of this change). It is assumed this legislation will extend the lifetime of the existing permission into next year.

1.8 However should this legislation not be in force by the time of committee, the recommendation will be approval subject to the legislation coming into force to automatically extend permissions that have expired during lockdown.

1.9 The application is for the consideration of Main Planning Committee at the request of the Assistant Director for Planning and Public Protection.

BACKGROUND / RELEVANT SITE HISTORY

17/00274/FUL

Original permission, subject to conditions regarding opening times, with certain areas to close at 9pm.

18/01102/FUL

Application to omit timber cladding to exterior, refused; appeal dismissed.

18/02268/FUL

Permission to allow roof canopy on a seasonal basis, between 1 September 2018 and 1 May 2019 and 1 September 2019 and 1 May 2020.

2.0 POLICY CONTEXT

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2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

2.2 Key policies / sections of the NPPF are as follows -

The Publication Draft City of York Local Plan 2018 ('2018 DLP') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the 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.

2.3 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

- SS5 Castle Gateway
- D1 Place-making
- D2 Landscape and Setting
- D3 Cultural Provision
- D4 Conservation Areas
- D5 Listed Buildings

3.0 CONSULTATIONS

INTERNAL

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 No comment.

PUBLIC PROTECTION

3.2 Officers have made comment regarding noise from music and customers and with measures to prevent an impact on amenity from cooking.

3.3 Public Protection have received 14 complaints from 5 different addresses about noise from music and films being audible at the complainants properties, 2 complaints about construction noise and 1 complaint about raised voices.

Amplified Music

3.4 An officer from Public Protection attended a complainant's property on 2 November 2019 and witnessed noise from music from an event at Spark. Although the noise was not loud enough to be a statutory nuisance, it was audible within the complainant's property and was therefore a breach of condition 16 of the planning permission.

3.5 On 31 January 2020 officers witnessed that music noise was clearly audible just beyond the boundary of Spark and also at a distance of 27 metres down the street. This was on a busy evening night with traffic and pedestrians in the vicinity. This breach was also witnessed in a complainant's property; music noise was clearly audible in a bedroom. Had this been after 11pm it would have been sufficient to be a statutory nuisance.

3.6 The number of complaints received by local residents, some of which have been corroborated by the applicants as being when music and cinema events were taking place, is indicative that planning condition 16 (regarding amplified music) is not being adhered to by the applicants on a regular basis. This is supported by the two visits from Public Protection Officers who witnessed clear breaches.

3.7 The applicants were issued three warning letters that noise complaints had been received and that they needed to control noise from the live and recorded and film events at the premises. Further to this they have had at least two discussions with Public Protection officers about implementing adequate noise management of the site during such events.

3.8 A noise management plan has been submitted as part of the licensing regime. Whilst this does not form part of the planning permission, it highlights that monitoring should have taken place at the location where the breach of the planning condition was witnessed on 31 January 2020 and the music should have subsequently been reduced in level so that it was inaudible beyond the site boundary. The noise management plan does not appear to have been correctly adhered to at all times.

3.9 Conditions and managing strategies have already been attached to the previous planning permission and licensing permission for the site. These requirements have not been adhered to and resulted in complaints. As such Public Protection officers are not convinced the applicants can control noise from films or music at the venue to a level whereby it will be inaudible beyond their boundary or from causing

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annoyance and inconvenience to the neighbouring properties (which are only 2 metres away) without significant investment in sound proofing that would contain noise and vibration to an enclosed space.

Customer noise

3.10 Public Protection initially had concerns regarding the potential for people noise associated with the outdoor seating areas affecting the nearest properties. Specific concern was raised about the south-east corner of the site, and it was a requirement of the original permission certain areas on this side of the site be closed at 21.00.

3.11 The noise assessment submitted with the original application showed that as early evening progressed background noise levels reduced and so resulted in the potential for greater impact of the proposals. Comparison of the existing background levels with the predicted Leq (continuous noise level) of people noise arising from peak use of the site showed that noise levels would be likely to increase by 4dB after 21:00, with increases of between 0.6dB and 3.5dB before this time.

3.12 There was particular concern over how the increase in noise level would compare with the background (L90) noise levels, (the level of noise exceeded for 90% of the time). The variation was predicted to increase from 4dB to 14dB (due to traffic noise) to between 6dB and 17dB (due to raised voices).

Plant and equipment

3.13 With regards the equipment associated with cooking and the food outlets and any other plant/machinery, there were conditions that required approval of noise from plant and machinery and confirmation measures were adequate to deal with cooking odour. Officers note these conditions were never formally complied with. However there have been no complaints with regards plant/equipment or cooking odour.

EXTERNAL

GUILDHALL PLANNING PANEL

3.14 No objections, as long as Spark complies with the existing planning requirements regarding music, noise and cladding issues.

HISTORIC ENGLAND

3.15 HE expressed concern about the inward looking nature of the development and in particular the blank frontage that runs along the Piccadilly elevation of the site. HE

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would prefer a solution that was more open to present a more active feel to the street frontage.

3.16 The most critical issue for HE is the unresolved question of the long-term future of the site. It is therefore a concern that there is no supporting information submitted with this application to explain what efforts have been made to find a permanent use for the site. Therefore, if minded to grant consent for an extension to this scheme, HE ask that it is only be on the basis that a more permanent solution is being pursued and that there is a clear mechanism to secure a long term use for the site.

POLICE Architectural Liaison Officer

3.17 An analysis of crime and disorder for a 12 month period (1 April 2019 to 31 March 2020), showed that there are no issues at the site. No further comments to make regarding the proposal.

4.0 REPRESENTATIONS

4.1 There have been five objections to the application. Three are from residents nearby, at 3 Walmgate, and nos. 1, 4, 6 Nelsons' Yard.

4.2 Grounds for objection are that the operation has an adverse effect on residential amenity and the character and appearance of the area, as follows –

- Contrary to their original application, Spark have breached their planning conditions since opening which has an adverse effect on resident's amenity. The Planning Department and Noise Patrol have contacted Spark on a number of occasions due to breaches of the existing planning permission.
- The venue has a number of bars, takeaways and has regular live music performances and DJ's. The music stage is only some 2m away from neighbouring houses. It has also screened sports events and such events have been rowdy.
- Not respecting the noise restriction (imposed through condition) meant that on many occasions residents' was disturbed. The stress of not knowing when neighbours would be able to get a good night's sleep is affecting health.
- Music is played constantly site-wide through a PA system. Irrespective of if played by a DJ or not, this is still disruptive to local residents.
- The drawings that accompany the planning extension application do not include ones from the original application indicating the areas to be closed after 21:00.

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These areas include 2 of the 4 bars located on site. The areas have consistently been occupied after 21:00 by noisy customers in breach of planning permission.

- It has become clear that the development is principally an alcohol led enterprise. This conflicts with the diversity claims made as part of the original application. Due to the type of uses within the venue and the way it operates it does not benefit the image and vitality of the city. The site is a prime city centre location owned by the Council and has generated zero revenue for them over the last 3 years. The Council should sell the site at the earliest opportunity. This will allow the area to be regenerated by private developers who will have both the capacity and finances to commence the redevelopment of the site.
- The original permission was temporary and the view of committee was that a permanent solution was required for the site.
- The appearance of the building detracts for the standards expected near the City's historic conservation area.

5.0 APPRAISAL

5.1 The key issues are as follows –

- Principle of the proposed use
- Impact on designated heritage assets (setting of listed buildings / character and appearance of the conservation area)
- Impact on residential amenity
- Drainage / Flood Risk
- The use of planning conditions

Assessment

PRINCIPLE OF THE PROPOSED USE

5.2 The application site is Council owned and is one of the sites allocated for redevelopment as part of the Castle Gateway Project. The area/project is of strategic importance for the city and the aspirations are set out in policy SS5 in the 2018 Draft Local Plan (DLP).

5.3 The regeneration project is intended to be delivered in phases. The first phase is currently at planning stage, this involves the Castle Mills development, public realm / highway improvements at Tower Street and the multi storey car park at St Georges Field. The application site is within the second phase of work. The aspiration for the site potentially includes workspace and retail. The redevelopment

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strategy for the site is under preparation, with the intention of obtaining Executive approval this year. The Council is demonstrably making progress in what is a complex and comprehensive regeneration scheme.

5.4 NPPF policy with regards the economy and town centres is to support economic growth and productivity, taking into account both local business needs and wider opportunities for development and to take a positive approach facilitating growth , allowing diversification and promoting distinctive character. The guidance on the use of conditions specifically refers to intended temporary uses (such as Spark), which are intended as meanwhile uses and advocates the control of such through allowing planning permission for a temporary period.

5.5 The original planning permission for Spark was granted for 3 years and another 2 years is now sought. The phased delivery of the Castle Gateway project has been transparently communicated on the Council's website and there is evidence of progress. In terms of supporting the economy and the town centre, it would be consistent with national policy to allow Spark to remain on site for a further 2 years; any alternative becomes increasingly less viable as permanent redevelopment plans for the site emerge.

IMPACT ON DESIGNATED HERITAGE ASSETS

Policy context

5.6 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. Section 66 of the Act requires 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 exercise of any features of special architectural or historic interest which it possesses.

5.7 The approach to determining planning applications, in terms of assessment on Heritage Assets, is set out in section 16 of the NPPF. Since the original application for this site was determined in 2017, the NPPF was updated in February 2019. The guiding principles have not changed significantly.

Assessment of significance of heritage assets affected and impacts

5.8 The site is within the Central Historic Core Conservation Area. The site, and its main entrance, is adjacent the Grade II listed Red Lion public house and its curtilage.

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5.9 The significance of the heritage assets that would be affected was established in the original application. It was determined that there would be no harm to the setting of listed buildings and less than substantial harm to the character and appearance of the conservation area. This assessment remains applicable three years later.

5.10 The less than substantial harm is as a consequence of the appearance of the Spark complex, due to its use of low quality materials and its inward orientation, presenting a predominantly blank façade to the street. One of the principles for regeneration of the street, as detailed in DLP policy SS5 for Castle Gateway, is to ensure active ground floor frontages within new developments.

5.11 The level of harm is deemed less than substantial as only a temporary permission is sought and due to the character and appearance of this specific section of the Central Historic Core Conservation Area – the Piccadilly Area during a period of transition and bearing in mind the historic condition/appearance of the application site.

5.12 The Piccadilly Area, as explained in the Central Historic Core Conservation Area Appraisal, was developed much later than the rest of the medieval city centre and has larger scale building plots, reflecting its industrial past. This character is evident in the street, which contains buildings of a commercial and industrial scale and vernacular. The area is in a period of transition and has multiple dilapidated or vacant/cleared sites awaiting regeneration and buildings under construction. In this context, allowing the Spark complex for a short-term temporary period, while wider regeneration takes place, causes less than substantial harm.

5.13 Where a development proposal will lead to “less than substantial harm” to the significance of a designated heritage asset i.e. the conservation area, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.14 The weight to be attributed to the harm to the conservation area carries less weight in this case due to the impact being temporary only and whilst the area is in transition. The harm in this case is as follows -

- The sites' inward looking nature, essentially making it an attraction in isolation, rather than part of a wider vibrant street, is less harmful given the intent that this scheme was for the short-term only and occurring in advance of other regeneration of the street (including the public realm).
- The building's appearance and use of relatively low cost materials, justified as a consequence of viability, given the intention for a temporary development only.

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Assessment of public benefits

5.15 National planning guidance explains “public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8)”.

5.16 The public benefits of the scheme are both economic and social. The site is in a prominent location and was previously vacant and hard-landscaped; it made a negative impact to both the appearance of the conservation area and the vitality of the area.

5.17 The scheme provides a cluster of affordable small-scale commercial spaces not otherwise provided for in the city centre. To facilitate this has a positive effect on the city centre and its economy. Enabling the scheme is consistent with sections 6 and 7 of the NPPF on building a strong competitive economy and ensuring the vitality of town centres which require the following -

- 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”.
- “Recognise and address the specific local and national requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations”.
- Take a positive approach to the growth, management and adaptation of town centres, allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.
- Retain and enhance existing markets and, where appropriate, re-introduce or create new ones.

5.18 The social objective of the NPPF is to support strong, vibrant and healthy communities, which involves providing services which reflect communities’ health, social and cultural well-being. The development does have two floors of community space on its south side and facilitates activities and events for a variety of individuals and community groups. This provides a local asset; a public benefit.

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RESIDENTIAL AMENITY

Policy context

5.19 In assessment of the operation of the development and its impact on amenity NPPF paragraphs 127 and 180 advises developments should -

- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Assessment

5.20 There are dwellings adjacent the site, in closest proximity are those to the rear of Walmgate, including at Nelson's Lane. The proximity of neighbours has not changed since the original assessment of this application (Nelson's Lane was under construction at the time).

5.21 A Noise Assessment informed the initial application, which contained conditions to control impact, related to amplified noise, noise and odour from plant and equipment, and restricted times of opening. The premises were required to close at 23.00 with certain areas at the south end to close at 21.00 to limit capacity and contain customers to areas better enclosed / further from neighbours.

5.22 The limitation on capacity was imposed due to the variation between the existing typical noise level exceeded 90% of the time (LA90) measured and the predicted noise levels at the site boundary (by the nearest apartments) and how the local noise levels lowered during the evening. The noise levels suggested that there could be spikes in noise levels (from raised voices for example) that could cause disturbance, illustrated as follows -

Measured noise levels between 15.00 and 23.00

- The LA90 noise level at the nearest apartments = 47dB
- Average noise levels (LAeqT) = 59dB

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These levels were higher earlier during the day, being 54dB and 62dB respectively.

Predicted average noise levels were 54-58 dBa (normal use) and 60-67 dBa (peak use).

5.23 To put this into context, guidance advises that changes over 5dB can lead to an adverse effect. A typical high street has noise levels of between 60 and 70 dBa.

5.24 The applicant's noise assessment recommended against live music performance from the stage. This was accepted by the applicants and a condition imposed to this effect on the original permission. The condition must be re-imposed and adhered to.

5.25 The original permission had conditions to control noise, specifically preventing amplified music being audible beyond the site boundary, limiting capacity at 9pm by only allowing customers to gather in parts of the site better enclosed therefore shielded from neighbouring residents and an overall closing time of 11pm. These conditions were breached in the past and consequently (primarily due to amplified music) there was a demonstrable adverse effect on neighbours' amenity. The Council subsequently took enforcement action.

5.26 The complaints due to noise disturbance resulted in a breach of condition enforcement notice, served in February 2020. The notice referred to non-compliance with conditions 14 and 16, which related to areas required to close at 9pm and the control of amplified music respectively. No further complaints have been received since the notice was issued.

5.27 The applicants have raised concern about areas not being able to operate after 9pm as the majority of the ground floor seating is within this area (at the southern end of the site, by the 'performance stage' and community hub). An alternative condition is suggested which requires approval of a management strategy for the site. As part of this measure customers in this area would be seated only (others would be directed to more enclosed parts of the site, further from neighbours). This would lead to smaller and more intimate groups occupying the space, and consequently a reduced risk of raised voices.

5.28 Officer's advice is that multiple planning conditions can reasonably manage noise levels, so levels would not exceed what would be reasonably expected for a vibrant part of the city centre. The conditions would continue to manage levels of amplified (recorded) music (it will be expected the management plan clarifies the use of a noise restrictor so amplified music cannot exceed an agreed limit). After

9pm in the area closest Nelson's Yard customers will be managed to minimise the potential for disturbance.

5.29 In variation to the original plan an outside area has been added by the main entrance (by Merchantgate). This provides dedicated outdoor seating for the restaurant occupying the adjacent container. The area has been enclosed in cladding to match the remainder of the development.

5.30 The external area added is close to the outside beer garden associated with the Red Lion public house and roadside. It currently serves a restaurant and a condition could control the area to required customers be seated i.e. no vertical drinking. Due to the size of the area (around 10 sq m), therefore limited capacity, the proximity to other noise sources and proposed condition, it is not likely to have a material impact on local noise levels.

DRAINAGE & FLOOD RISK

5.31 The site is in Flood Zone 3 where flood risk is high. The development is compliant with the intentions of NPPF flood risk policy as the development is reasonably safe from flood risk and will not increase flood risk elsewhere.

5.32 The original application explained how in accordance with NPPF policy requirements the sequential and exception tests were passed, how the development would be safe for its lifetime and the impact on flood risk elsewhere. A shortfall of the scheme was that existing surface water run off rates were not reduced by 30%; the local requirement for development to protect against future climate change over its lifetime. This remains a reasonable approach given the short life expectancy of the development.

USE OF CONDITIONS

5.33 National planning guidance states that in granting permission under section 73 (as in this case) the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. The planning permission should also set out all of the conditions imposed on earlier permissions that continue to have effect.

5.34 The conditions from the original permission which relate to the ongoing operation of the premises would be repeated in this permission. These include measures to limit the trading area after 9pm, an overall closing time of 11pm, prevention of amplified music being played that would exceed background noise levels beyond the site, and times when litter (such as glass bottles) be emptied into

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waste bins. In addition there will be a requirement that customers are seated when using the outside amenity space by the site entrance.

6.0 CONCLUSION

6.1 In terms of local distinctiveness and the city centre economy, the Spark development does have a positive impact; it provides a platform for emerging business and facilitates community uses. These positive economic and social benefits must be weighed against the identified harm.

6.2 There is less than substantial harm to the conservation area, regarded to be a low level of harm because the scheme is only temporary and whilst the area is in transition. The harm is justified by the aforementioned public benefits.

6.3 It remains the case that planning conditions can adequately mitigate the impact on residential amenity. An updated set of conditions are recommended; a combination of restrictions preventing amplified live performance and controlling noise output from amplified music and management measures to control customers by allowing only smaller (seated groups) in more sensitive areas closer to neighbours. When planning conditions have not been adhered to in the past, this has led to complaints and subsequent enforcement action. This is certainly not a desirable means of management, but, if necessary, will be a means for the Council to reasonably protect neighbours amenity for the lifetime of the development.

7.0 RECOMMENDATION: Approve - subject to the legislation coming into force to automatically extend permissions that have expired during lockdown.

1 Approved Plans

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

Floor plans and roof plan - 101-P2, 102, 103
Elevations 104-P2, 105-P2, 106-P2

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

2 Temporary permission only

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The development hereby permitted shall cease trading by 31 March 2022. Prior to the specified closure date a schedule for the removal of all associated structures from site shall be submitted to the Local Planning Authority and approved in writing. These works shall take place in accordance with the approved schedule thereafter.

Reason: In the interests of flood risk and to enable a meanwhile use of vacant land prior to its expected longer term regeneration, in the interests of vitality and viability of the city centre.

3 Management strategy required

There shall be an approved management strategy for the site, which shall be adhered to at all times. Within 2 months of this permission, a management strategy for the site shall be submitted to the Local Planning Authority to be approved in writing. The strategy shall incorporate the following measures -

- Floor plans with seating areas included, illustrating areas where after 21.00 customers will be seated only, with other customers directed to other areas of the site.
- Commentary as to how the aforementioned proposal will be enforced.

Until details have been approved for this condition, after 21.00 the areas as shown on the plans from application 17/00274/FUL (showing areas of ground and first floors to be vacated/not open to customers after 21.00 each day) - 16YRK-GA-101 and 16YRKGA- 102 shall not be open to customers.

Reason: In the interests of residential amenity, to prevent larger groups of customers causing noise disturbance.

4 Live Music

There shall be no performance of amplified music on-site.

Reason: In the interests of residential amenity.

5 Amplified / recorded music

There shall be no playing of amplified or recorded music that would exceed background noise levels at the site boundary with noise sensitive receptors.

Within 2 months of this permission details as to how this requirement shall be complied with at all times shall be submitted to and approved in writing by the Local Planning Authority. The details shall include noise levels to be achieved at the site

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boundary, how this will be achieved and measures for ongoing monitoring (to evidence compliance). The approved details shall be adhered to at all times.

Reason: In the interests of residential amenity.

6 Hours of operation

The site shall only be open to customers between 07.00 and 23.00 each day of the week.

The site shall be vacated by staff, lighting (apart from any essential safety/security lighting) turned off and the site closed by 24.00 each day.

Reason: In the interests of residential amenity.

7 Use of external seating area (adjacent main entrance)

All customers using the outside seating area on the exterior of the Spark complex (annotated as restaurant decking on the approved ground floor plan) shall be seated; there shall be no standing areas and no vertical drinking.

Reason: In the interests of the amenities of surrounding occupants.

8 Plant & Machinery

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed 44dB(A) L90 1 hour during the hours of 07:00 to 23:00 or 35dB(A) L90 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.

9 Waste Management

Waste shall only be emptied into bins between the hours of 07.00 and 21.00 each day of the week.

Reason: In the interests of residential amenity.

10 Composition of uses

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There shall be no more drinking establishments on site than as shown on the approved floor plans.

Reason: In the interests of residential amenity and to prevent crime and disorder.

11 Flood risk management

The development incorporate the proposed flood resilience measures as detailed in the revised Flood Risk Assessment approved under application 17/00274/FUL.

Reason: To reduce flood risk in accordance with section 14 of the NPPF.

8.0 INFORMATIVES:

Notes to Applicant

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

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

Contact details:

Case Officer: Jonathan Kenyon

Tel No: 01904 551323

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COMMITTEE REPORT

Date: 9 July 2020 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel
Reference: 19/02293/FULM
Application at: Axcel Group Limited 36 - 44 Piccadilly York YO1 9NX
For: Partial demolition of existing building and construction of 3 to 5 storey hotel with ancillary restaurant/bar, landscaping and retention of the Banana Warehouse facade (resubmission)
By: Axcel Group Limited
Application Type: Major Full Application
Target Date: 29 May 2020
Recommendation: Approve

1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a 5 storey hotel with additional plant storey (168 Bedrooms) fronting onto Piccadilly, with ancillary restaurant, landscaping and retention of the Banana Warehouse facade.

1.2 Part of the site is currently used as a car park. The retail units to the north east part of the site fronting onto Piccadilly have not been in use since 2015. The majority of the buildings on the site date from the early 20th century.

1.3 The site is within the Central Historic Core Conservation Area and within an Area of Archaeological Importance. To the west is the River Foss, the Castle Museum: The Female Prison (Grade I Listed) and the debtors prison (Grade I listed), curtain wall (Grade I listed); Crown Court and Railings (Grade I listed) York Castle Car Park, and Clifford's Tower (Grade I listed). York Castle is an ancient scheduled monument.

1.4 It is anticipated that the hotel would provide 31 full time and 5 part time positions.

1.5 The site is within Flood Zone 3 and is known to flood.

1.6 The Banana Warehouse is considered to be a non-designated heritage asset

1.7 The proposed development does not comprise 'Schedule 1' development. The proposed development is however of a type listed at 10 (b) in column 1 of Schedule 2 (Urban Development Projects) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is the view of Officers that the proposed

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site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact, the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

RELEVANT PLANNING HISTORY

1.8 Application site:

- 18/02495/FULM - Partial demolition of existing building and construction of 3 to 5 storey hotel to provide 158 bedrooms, with ancillary restaurant/cafe, gym, conference room, landscaping and retention of the Banana Warehouse façade - Withdrawn
- 13/02397/FULM - Demolition and partial demolition of existing buildings and erection of a mixed use development comprising 2no. ground floor retail units (use class A1/A2/A3/A4) and 37 residential units (use Class C3) with associated parking, access and landscaping - Finally Disposed Of
- 00/01297/FUL - Mixed use development - retail, restaurants, residential (27 flats), offices, leisure and car parking, alterations to Fenwick's and Preston's and associated highway works including changes to Tower Street/Piccadilly junction (Revised Scheme) - Refused

2.0 POLICY CONTEXT

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

CYSP3 Safeguarding the Historic Character and Setting of York

CYGP1 Design

CYGP3 Planning against crime

CYGP4A Sustainability

CYGP9 Landscaping

CGP15A Development and Flood Risk

CYNE1 Trees, woodlands, hedgerows

CYNE3 Water protection

CYNE6 Species protected by law

CYNE7 Habitat protection and creation

CYHE2 Development in historic locations

CYHE3 Conservation Areas

CYHE4 Listed Buildings

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CYHE9 Scheduled Ancient Monuments
CYHE10 Archaeology
CYHE11 Trees and landscape
CYT13A Travel Plans and Contributions
CYS7 Evening entertainment including A3/D2
CYV3 Criteria for hotels and guest houses

2.2 The Publication Draft York Local Plan (2018)

DP4 Approach to Development Management
SS3 York City Centre
SS5 Castle Gateway
EC2 Loss of Employment Land
EC4 Tourism
D1 Placemaking
D2 Landscape and Setting
D4 Conservation Areas
D5 Listed Buildings
D6 Archaeology
D7 The Significance of Non-Designated Heritage Assets
GI2 Biodiversity and Access to Nature
GI4 Trees and Hedgerows
CC1 Renewable and Low Carbon Energy Generation and Storage
CC2 Sustainable Design and Construction of New Development
ENV2 Managing Environmental Quality
ENV3 Land Contamination
ENV4 Flood Risk
ENV5 Sustainable Drainage
T5 Strategic Cycle and Pedestrian Network Links and Improvements

2.3 Please see the Appraisal Section (5.0) for national and local policy context.

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No objections, the drawing of the Proposed Carriageway Narrowing on Piccadilly should be indicative, as HNM are finalising the plans for Piccadilly and some changes are likely, for example with the location of loading bays, bus stops, pedestrian crossing facilities, etc. The principle of the narrowing is agreed but the details should be sought via condition for approval of detail under S278 of the Highways Act (HWAY39). Request a Travel Plan is sought via condition.

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DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (DESIGN & SUSTAINABILITY MANAGER)

3.2 The proposed massing now more closely resembles the pattern of current subdivision of the whole site which dates from around 1930, created after the extension northwards of road Piccadilly shortly before this period. These form strips of built form that are articulated to run from street to water side. It helps articulate the massing in a way that more closely reflects its context, blending it more naturally into the city fabric from elevated views like those nearby from Clifford's Tower, and it also provides a more appropriately varied rhythm to townscape views up and down Piccadilly.

3.3 Set back from the boundary with 46 – 50 Piccadilly, this separation eases the previous wall like design tendencies of the two buildings combined.

3.4 Massing strips are varied in height - with forms appropriately rising to the southern side of the site to reflect the general height increases of buildings south of the street, but it avoids crudeness by setting this within a pleasant down-up-down rhythm making the highest point roughly in the centre of the plot. Highest point is now five floors and this occupies about 50-60% of floorplate below. The fifth floor now includes a successfully hidden plant zone in the middle of the footprint, away from views even at elevated points like Clifford's tower.

3.5 The removal of the fifth would be welcome, but is not considered as essential, given that it only occupies part of the footprint and given council support for adjacent bulkier/taller 46-50 Piccadilly whilst also acknowledging that one's less sensitive location

3.6 Proposed roof shapes are now rather jumbled, but the view for Clifford's Tower (Image 6) demonstrates its visual affect does help blend it into the city roof-scape backdrop behind so, on balance, changes are not recommended.

3.7 The Banana Warehouse facade and adjacent link block have a flat roof and this is an appropriate stylistic response to a deco-like banana warehouse facade.

3.8 Public access along the riverside is not provided, it would be an undesirable dead end route and desirable through routes are far more satisfactorily positioned on the other side of the water as part of the Castle Gateway masterplan. Open space is better here serving as private use amenity and as ecology improvement to the Foss corridor.

3.9 In general the design is supported: Within the brickwork areas, the wall is given a subtle grid like effect through recessing brick planes and further recess is added to the resulting infill wall plane around the window. This should imbue some extra visual texture. At ground floor, the Piccadilly elevation at ground floor has a good rhythm and further variation. Foss side the ground floor is raised compared to external ground and this can appear visually clunky but sensibly disguised by a rear terrace to the back of the Banana Warehouse and recessing the plinth elsewhere.

3.10 Less successful still is the dark zinc roof top parts. The 3D visuals probably do not help- it looks a bit bland. They are welcome as a splash of greyish colour at roof level to echo traditional slate roofs often seen around it, but done here in a contemporary material (coloured zinc). The metal appearance also slightly evokes the warehouse roofs of former/current on plot buildings. However, they need to be detailed very carefully to ensure they have sufficiently rich visual texture, pattern making and elegant crisp detailing- also to keep at bay design engineered simplification at some later point. This could be resolved through conditions, including control of colour.

3.11 The Banana Warehouse building - Control of what is retained, restored or replaced on the Banana Warehouse wall is crucial and should be controlled through a condition about investigative revealing- it is possible that the new window design here might need to adapt to reflect the outcome of this.

3.12 The scheme is supported for architectural design. Request conditions for following: for set-backs and ledges though later submission of detailed drawings to ensure the massing articulation is suitable chunky when constructed; flat roofs to be green/brown; hard and soft landscaping scheme including boundary treatment; 10/1:20 scale details for a typical bay in different wall materials; provision of construction mock ups for zinc wall including roof edge, window opening and transition to brick below, in selected areas; provision of an agreed scheme of investigation for proposed components of retention, restoration or replacement within the Banana Warehouse façade.

3.13 The main assets of these considered to be most sensitive are: Character Area 14 "Piccadilly" York Central Historic Core Conservation area Appraisal; Red Lion, Grade II Listed; Clifford's Tower, Grade I Listed, and Scheduled Monument. Banana Warehouse, 36 Piccadilly, considered here in accordance with draft local plan/draft SPD selection criteria as a *non-designated historic asset*, and identified in the appraisal, in part, as a *building of Merit*.

3.14 The one asset physically impacted is Banana Warehouse. Demolition of rear parts is considered to introduce some harm as the legibility of the overall form and plot layout is lost. However, retention of the façade is considered of importance for

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aesthetic reasons as a contributor towards the early 20th century characteristic of the street (and conservation area)- a street undergoing rapid change and at risk of losing this characteristic. This is considered of importance, regardless of the individual minor architectural merits of the building taken in isolation. This secures this architectural remnant, which can otherwise be considered at risk of complete loss. This is considered a public benefit. Overall, the balance is in favour of *benefit*.

3.15 Concerning other assets, if the recommendations of the above design comments are adhered to, they are not considered here to be harmed by the proposal.

3.16 The Design & Sustainability Manager (DSM) sets out that the main point of difference between their assessment and Historic England concerns the impact the proposed fifth floor would have on views, particularly streetscape ones and views from Clifford's Tower. The DSM considers the proposed scheme has taken sufficient account of the impact it will have on the character, appearance and historic significance of its setting as experienced through views.

3.17 When viewed from Clifford's Tower, the proposed scheme will obscure some of the existing viewed roof scape backdrop of the city, but to a degree this would be so, even for a four storey building. This is evident in the "Image 6" of the Design and Access statement (numbered p32) when taking into account plot depth. The fifth floor would obscure more than a four storey building, but the DSM considers that it is sufficiently varied in design to read as an appropriately scaled/textured addition to the city roof scape and does not obscure key parts of the skyline.

3.18 The bulk of the building has been designed to consider the cumulative impact it would have on a street elevation- both viewed from street level at Piccadilly and from the river side rear- at either ground or elevated level. From the rear it is designed to provide adequate open space breaks between it and adjacent plots. From Piccadilly, it is designed to be more continuous with adjacent properties than the rear, but still provides sufficient variety of rhythm and openness and varied sky line profile.

3.19 The addition of the drawing "Typical Building Façade Details..." on 27th March 2020 gives sufficient confidence in the general approach to design quality and detailed façade modelling, for me to remain supportive of this aspect, but suggest this remains an item conditioned so we can control an adequate range of construction details.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.20 The trees on the application site provide a welcome natural edge to the bank of this canalised length of the River Foss, and complement the more natural environment of the river as a wildlife corridor. Trees shown to be removed to facilitate the development are – 4no. Weeping willows, 4no. Sycamore, and 1no. Silver birch. Two of the trees require removal are for arboricultural reasons. The others, with the exception of the Birch, are in generally poor health or structural condition, and are therefore placed within category C. Birch and Willow are fast-growing species so these could soon be replicated within an appropriate comprehensive planting scheme.

3.21 The layout of the illustrative landscaping plan is very broad brush but it illustrates the principles. The list of proposed tree species is fine but there is the potential to put some Birch and shrubby Willow back into the riverside tree planting. Would encourage the inclusion of tansy plants within the wildflower areas which is the main food source for the tansy beetle which is now found in Britain predominantly on the banks of the River Ouse.

3.22 Note that the proposed courtyard tree sits directly over the surface water attenuation - Tank 2, which should therefore be relocated to enable the planting of a tree, which will be an important defining element of the courtyard landscape. Similarly, there are a number of trees proposed over the outlet run from Tank 1. Thus there needs to be some revision to the locations of the trees and/or the outlet.

3.23 Understand that the locations of existing underground utilities would probably prevent part or all of the tree planting going in the ground on Piccadilly, therefore alternatives should be investigated and presented.

3.24 There is a significant area of flat roof on the proposed building, encourage the application of a living roof across these, which could be a simple 'brown roof' with a very thin growing substrate, which supports restricted plant growth, but is valuable for invertebrates and birds, with virtually no maintenance.

3.25 Request a landscaping scheme via condition.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY OFFICER)

3.26 Two common pipistrelle bat roosts have been identified in Buildings 4 and 5 (separate two-storey brick buildings with a pitched tiled roof, located on Piccadilly at the south east corner of the site). A single bat was recorded emerging from Building 4 during the August 2018 evening bat emergence survey and during the dusk survey in June 2019 a single common pipistrelle bat was re-ordered emerging from Building 5 then re-entering Building 4. Small numbers of common pipistrelle bats are believed

to be roosting between the roof and wall plate of Building 4 and behind the fascia board on Building 5.

3.27 As these buildings will be demolished and the roost lost, a European Protected Species Licence will be required from Natural England in order to legally proceed with the works. Measures to mitigate impacts to bats will include soft stripping of Buildings 4 and 5, and provision of bat boxes.

3.28 The buildings also have potential to support nesting birds and site clearance works should be undertaken outside of the breeding season to avoid committing an offence under the Wildlife and Countryside Act 1981. It is proposed to include a house sparrow integrated box and swift bricks within the design of the final development.

3.29 The River Foss is important because of its wildlife interest and importance as a connecting green corridor. Otter and Kingfisher are known to regularly use the River Foss within the city centre. The scheme has been revised and includes a greater area of green space to include a planting scheme which will have some benefit to wildlife, however it will still result in additional shade, noise and artificial light in this area.

3.30 A sensitive lighting scheme should be secured through a planning condition to limit excessive light spill over the River Foss and a Construction Environmental Management Plan should be secured through planning condition to ensure measures are in place to prevent pollution entering the River Foss.

3.31 Notwithstanding the Natural England licensing regime, the LPA must also address its mind to these three derogation tests (Habitats Directive and Conservation of Habitats and Species Regulations 2017) when deciding whether to grant planning permission for a development which could harm an EPS. The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017. With regards to test 3, two buildings currently support a small number of roosting Common Pipistrelle bats in a day roost which are common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence will prevent any direct harm and the provision of two integral bat boxes into of the new buildings will maintain roosting opportunities on site. Therefore the third test for maintenance of favourable conservation status is met.

3.32 There are no ecological reasons for refusal if the following conditions are sought: Developer demonstrated that a European Protected Species License has been issued; biodiversity mitigation: accommodation for bats and birds; Construction and

Environmental Management Plan; Sensitive Lighting Scheme. Request an Informative advising of the Wildlife and Countryside Act (Section 1)

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT
(ARCHAEOLOGY)

3.33 The site lies in the city centre Area of Archaeological Importance and in an area where there are exceptionally important archaeological features and deposits (non-designated heritage assets of national importance). The deposits on this site were evaluated in 1992 by York Archaeological Trust. The 1992 evaluation demonstrated the presence of important, well-preserved waterlogged anoxic deposits on this site. Waterlogged archaeological materials on the site generally lie below 5.8m AOD. However, the mean water level is noted at 7-7.6m AOD (c.2m bgl).

3.34 A comparison of organic material present in the 1992 evaluation, the 2018 evaluation and an evaluation carried out in 2017 on the adjacent site suggests a loss of organic preservation in the last 30 years.

3.35 The evidence from evaluation in 1992, 2018 and 2019 suggests strongly that the conditions on this site are far from ideal for preservation in-situ of organic material. A c.16th century timber revetment identified in 1992 has been seen to be deteriorating and will continue to decay. It is appropriate therefore to consider the excavation of this feature prior to development commencing on this site. This feature is in an active process of decay. The proposed development will not arrest this decay in fact introducing piles into this environment is likely to accelerate decay. In-situ preservation of the timber revetment cannot be achieved. Harm to this archaeological feature is therefore unavoidable.

3.36 City of York Policy HE10 (D6 (iv) current draft Local Plan) states that where harm to archaeological deposits is unavoidable, detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive, deposition and community involvement. Historic England guidance on Preserving Archaeological Remains (2016) also suggests that where the 'state of preservation of material is poor, and further burial following development is likely to cause additional damage...excavation of the archaeological remains to recover their remaining significance and evidential value is the most appropriate strategy'. Recommend that this feature is recorded prior to development taking place.

3.37 The impacts of the proposed development on the archaeological deposits on this site are:

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- Foundations – piling, pile caps and ground beams
- Drainage and flood storage tanks
- Impact on groundwater movement/drying out of deposits through the use of piles through anoxic deposits
- Restriction of groundwater exchange between River Foss and the site

3.38 A revised foundation design has been submitted (SK-16-01 Rev H). It is commonly accepted in the City of York that piles can impact upon the more significant archaeological material as long as up to 95% of these deposits is preserved in-situ. The supplied foundation design complies with this policy. It is anticipated that ground beams and pile caps will largely remain above the areas of significant archaeological deposits. In the underfloor void compensation area the base of the void is at 8.65m AOD with the underside of pile caps for this structure at 7.75m AOD. This is likely to impinge into the post-medieval waterlogged deposits. This is deemed acceptable in this instance. The impact of the piling on the longer term preservation conditions on the site is unknown. A condition to secure further water monitoring will provide further data on this impact. The developer will not be expected to act upon the data provided at the end of the conditioned 5 year hydrological monitoring cycle.

3.39 The restriction of groundwater between River Foss and the rest of the site is limited to pile caps, ground beams and the piles themselves. Water flow will not be stopped completely but may be more restricted. The 5 year hydrological scheme mentioned above should ensure that this is monitored which will help inform a strategy for future development on this plot and for similar sites.

3.40 The site may require a program of remediation due to contamination issues known along this stretch of Piccadilly. Remediation works will require monitoring through an archaeological watching brief. Any material brought onto site to re-build and heighten ground levels should be porous to allow water to continue to flow through the site.

LEAD LOCAL FLOOD AUTHORITY

3.41 No objections, subject to conditions for ensuring the proposed development is in accordance with the FRA and other submitted details; details of the proposed void and details of the river bank wall. Together with ensuring the proposed development complies with the Flood evacuation; details of the drainage systems to be submitted; separate systems of foul and surface water drainage; Plan. Request Informative advising of Foss navigation Board Permit and Environment Agency permit.

PUBLIC PROTECTION

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3.42 This revised noise assessment was reviewed and the methodology was accepted as well as the mitigation measures proposed. Request mitigation measures are sought via condition.

3.43 There are commercial properties close to the proposed site the following controls would be recommended to minimise noise, vibration and dust during demolition and construction. When assessed in line with guidance on the assessment of dust from demolition and construction (Institute of Air Quality Management, 2014) the overall risk of the impacts is considered to be 'Medium'. Mitigation measures appropriate for this risk rating should be packaged into a Construction Environmental Management Plan (CEMP) and sought via condition.

3.44 Adequate facilities for odour from commercial kitchen can be sought via condition.

3.45 The proposed development will be provided with electricity, heat and hot water using gas-fired boilers and Combined Heat and Power (CHP). Not finalised the CHP and boiler design, a screening assessment has been undertaken. Whilst this screening assessment showed that the proposed equipment would be unlikely to give rise to any significant impact on local air quality, it is recommended that this assessment is redone once the exact combustion plant to be installed at the site is finalised and exact emission rates are known. Request this is sought via condition

3.46 The site has previously been used for a variety of uses; bleach works, saw mill, timber yards, coal yard etc. These past uses could have given rise to land contamination. A site investigation is required to find out whether contamination is present. If contamination is found the appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Request this is sought via condition.

FORWARD PLANNING

3.47 Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, we would advise that the policy requirements of emerging Plan policies SS3, SS5, EC4, D1, D4, D5, D7, CC1, CC2, CC3, ENV1 and ENV2 should be applied with moderate weight.

3.48 On the basis of our analysis and conclusion, we do not raise a policy objection to this application, subject to any comments from colleagues in design and conservation on the design and historic environment considerations in this sensitive

location. It is also noted that the proposals do not currently comply with Policy CC2 in relation to achieving BREEAM excellent standard.

ECONOMIC GROWTH TEAM

3.49 No comments received.

EMERGENCY PLANNING

3.50 No objections, under the proviso that all procedures are implemented according to the draft flood evacuation plan.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

GUILDHALL PLANNING PANEL

3.51 Object, is a disappointing interpretation of the draft designs that were presented to residents originally during consultation.

3.52 There has been some reduction in height to mitigate the overbearing mass of the building, it remains too large and high on the southern side of the development and should be reduced in height by at least a storey.

3.53 Secure cycle parking for guests.

3.54 Understood there was to be provision for public access to the riverfront to enable a riverside walk to be developed and are disappointed not to see this reflected in the application.

POLICE ARCHITECTURAL LIAISON OFFICER

3.55 In the year to Oct 2019 there was 66 reported crimes and 27 reported incidents of anti-social behaviour. The significant crime issues being violence and criminal damage, cycle theft was also an issue.

3.56 Request that controlled lift and stairwell access is considered. Access points should be covered by CCTV including the reception area. Entrance doors should be well illuminated. The secure cycle parking should allow door both wheels and the cross bar of the cycle to be secured and should be supervised by hotel staff. Doors and windows should meet minimum BS PAS 24-2006, ground floor windows should have opening restrictors. Hotel doors should have multi point locking, and each bedroom should have wall or floor safe.

3.57 The Design and Access Statement submitted in support of this application does not contain any detail to show how the applicant has considered crime prevention and how it has been incorporated into their proposal. This information should be a requirement in order to assist the local authority in determining whether this development will comply with paragraphs 91 and 127 of the National Planning Policy Framework.

3.58 The overall design and layout of the proposed scheme is considered acceptable.

ENVIRONMENT AGENCY

3.59 No objection. The application is for the construction of a 3 to 5 storey hotel, as described above, which is considered to be a 'more vulnerable' land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change. It is therefore necessary for the application to pass the Sequential and Exception Tests and to be supported by a site-specific flood risk assessment (FRA), which can demonstrate that 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'.

3.60 EA advise that the development will only met the NPPF requirements in relation to flood risk if a condition it applied requiring that the development is carried out in accordance with the FRA.

3.61 The planning practice guidance (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development. Request that comments are sought from Emergency Planners.

YORKSHIRE WATER

3.62 Request there are separate systems of foul and surface water drainage and no piped discharge of surface water until the proposed works have taken place. It is noted from the submitted planning application that surface water is proposed to be drained to the watercourse to the south of the site. As surface water from the site is not proposed to discharge to the public sewer network, no assessment of the capacity of the public sewers to receive surface water has been undertaken. No objections to the foul drainage.

HISTORIC ENGLAND

3.63 The removal of the fifth storey from the Piccadilly elevation will reduce to some degree the impact on the setting and significance of the heritage assets affected. We consider that the impact on the setting of the heritage assets affected would be reduced further by the removal of the fifth storey. The reduced scale of the development would help to both reduce its impact on the streetscape in terms of its scale and massing, as well as allowing views of the roofscape beyond from Clifford's Tower. The issues need to be addressed in order for the application to meet the requirements of paragraph 192 – 196 of the NPPF.

RIVER FOSS SOCIETY

3.64 No comments received

CONSERVATION AREAS ADVISORY PANEL

3.65 No objections

YORK CIVIC TRUST

3.66 No comments received

VISIT YORK

3.67 No comments received

NATURAL ENGLAND

3.68 No comments

COUNCIL FOR BRITISH ARCHAEOLOGY

3.69 The application is accompanied by an updated Heritage Statement and a Geoarchaeological and Hydrological Evaluation. The Heritage Statement fails to integrate the results of the Geoarchaeological and Hydrological Evaluation in its report. (Officer note – this information has subsequently been submitted) It particularly fails to integrate archaeology into its summary and conclusions which find puzzling, especially as the report on the archaeology is quite favourable to the development. Note that foundation design is to be based on ground beams rather than piling which will minimise impact on sub-surface archaeology.

3.70 Regarding the design, note that the current application has changed to meet previously expressed concerns.

4.0 REPRESENTATIONS

PUBLICITY AND NEIGHBOUR NOTIFICATION

4.1 Three representations of objections:

- Not in keeping with the architecture of the inter wall city and can be easily built outside the limits of the wall.
- The proposed site has great potential for use as new entertainment venues to enrich the nightlife and culture of the inner city, which is already at great risk from the closure of existing venues. Another hotel complex would do nothing to enhance to city's culture.
- This area has potential as a creative quarter of the city, introducing new local enterprise and attractions for tourists and residents. This would preserve the facade of the current buildings, the feel of the area and large chain hotels should be kept outside of the walls to maintain authenticity in this historic town.

5.0 APPRAISAL

KEY ISSUES

- Flood Risk
- Impact to heritage assets
- Visual amenity and character
- Impact to neighbouring uses
- Highways
- Ecology
- Drainage

ASSESSMENT

PLANNING POLICY

5.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The site is not considered to serve any greenbelt purposes and is not considered to be within the general extent of the greenbelt.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

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5.2 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF as revised in February 2019, 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).

5.3 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

5.4 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF as revised in February 2019, although the weight that can be afforded to them is very limited.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.5 The revised National Planning Policy Framework was published February 2019 (NPPF) and its planning policies are a material consideration in the determination of planning applications. It is against the NPPF (as revised) that this proposal should principally be assessed.

5.6 The presumption in favour of sustainable development set out at paragraph 11 of the NPPF does not apply when the application of policies relating to impacts on the heritage assets, flood risk, and habitats sites indicates that there is a clear reason that permission should be refused.

FLOOD RISK

5.7 The site lies within Flood Zone 3 and has flooded on previous occasions.

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5.8 Policy ENV4 of the draft Local Plan (2018) is in accordance with Paragraph 163 of the NPPF which states that when determining applications the LPA should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
- and development is appropriately flood resilient and resistant;
- it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- any residual risk can be safely managed;
- and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

SEQUENTIAL TEST

5.9 The LPA needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. The aim of the sequential test is to steer new development to areas at the lowest probability of flooding (Zone 1). The NPPG states that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken: *"the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives"*. In this case, the York City Council area has been used however the agent has further clarified that any sites on the edge of York were not considered appropriate for their proposal and they only considered sites in the urban area within a commercial setting.

5.10 The proposal as a whole would result in an increase in the vulnerability classification from 'Less Vulnerable' to 'More Vulnerable'. The site has historically been developed; the existing buildings cover the majority of the site. The area is identified for regeneration (the Draft Local Plan (2018) and in the Castle Gateway Masterplan). The site is in a prominent city centre location, being viewed in its riverside setting, and along a main route through the city centre. The hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would

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also provide a number of people living/working in the city and revenue that it would bring to the city centre. The proposal is considered to pass the sequential test.

- EXCEPTION TEST

5.11 For the Exception Test to be passed: it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk; and b) a site-specific flood risk assessment must demonstrate that 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. (para 160 of the NPPF)

5.12 The regeneration of this area is a long term aim of the Council; the redevelopment of this site for a hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would also provide employment opportunities for a number of people living/working in the city and the associated spend that it would bring to the city centre.

5.13 The proposed development is not considered to increase flood risk elsewhere. The proposed development has compensatory flood storage within a void underneath the proposed hotel building.

5.14 The site lies within Flood Zone 3. Flood risk is from the River Foss to the west and the River Ouse further west. There would be sleeping accommodation on the ground floor of the hotel. No additional flood resilient measures above the proposed ground floor level are proposed. The Flood Risk Management Team and the Environment Agency are satisfied that the proposed floor levels are appropriate in this location.

5.15 Safe access and egress cannot be provided during a design flood however the site benefits from the presence of the Foss Barrier, this regulates flood levels adjacent to the site, and although the Barrier was overwhelmed in December 2015 the storms experienced on this occasion were significantly in excess of the standard of protection of the barrier and record flows were experienced on the River Foss. The likelihood of this occurring again is low given the recent works by the Environment Agency to improve the resilience of the Foss Barrier, the barrier is currently able to manage the scenarios experienced in 2015 and further resilience will be in place when the project completes.

5.16 An effective evacuation plan is appropriate in this location due to the low residual flood risks, the presence of formal flood defence infrastructure and a mature flood warning service. If other means were deployed to provide temporary

emergency egress from the site it is likely that the site could be evacuated safely following the receipt of a flood warning.

5.17 Whilst the site is clearly in Flood Zone 3 the residual risk is relatively low - the NPPF guidance recognises that an understanding of residual risk is important behind flood defence infrastructure and it is considered that the applicant has addressed this in their approach.

5.18 The Environment Agency does not have an objection to the application, subject to the mitigation set out in the FRA taking place, part of this mitigation includes a Flood Evacuation Plan being in place. The Emergency Planning Team consider the Submitted Flood Evacuation plan is acceptable. In view of the above it is considered that the proposed development passes the exception test. There is adequate evidence that the sequential and exception tests can be passed. The measures within the FRA would be secured through a planning condition, as recommended by the Environment Agency.

IMPACT ON HERITAGE ASSETS

5.19 The site is within the Central Historic Core Conservation Area and it is within an Area of Archaeological Importance. It also forms part of the wider setting of Clifford's Tower (Ancient Scheduled Monument) and Castle Museum: The Female Prison (Grade I Listed) and the debtors prison (Grade I listed), curtain wall (Grade I listed); Crown Court and Railings (Grade I listed) York Castle Car Park, and Clifford's Tower (Grade I listed). York Castle is an ancient scheduled monument, Church of St Denys (Grade I listed). The proposed development would be within the wider setting of the Grade II listed Red Lion Public House. There are a significant number of listed buildings in close proximity to the application site: including Merchant Adventurers Hall (Grade 1), 5 Walmgate (Grade II), Foss Bridge House (Grade II), , 11, 11a, 13, 15, 17, 19, 21, 23, 25, 35, and 37 Walmgate (all Grade II), and Church of St Denys (Grade I) . In addition the Banana Warehouse and the existing building on 46 - 50 Piccadilly are considered to be non-designated heritage assets.

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

the avoidance of such harm should be afforded considerable importance and weight.

5.21 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 16 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 192, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness.

5.22 The NPPF states at paragraph 190 that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be (Para 193). Where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits that outweigh that harm or other specified factors apply (para 195); where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal (para 196). The NPPF goes on to state that Local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance, (paragraph 200).

5.23 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act.

5.24 The NPPG states that "It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting."

5.25 Paragraph 200 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the

setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. The Draft Local Plan (2018) policies D4, D5, D6, D7 and Development Control Local Plan (2005) policies HE2, HE3, HE4 and HE10 reflect legislation and national planning guidance that development proposals should preserve or enhance the special character and appearance and contribution to the significance and setting of the heritage assets and respect important views.

5.26 Policy SS3 (York City Centre) of the 2018 Draft Plan states that developments shall enhance the quality of the city centre as a place and rediscover the outstanding heritage of the city with reanimated and revitalised streets, places and spaces and with improved settings to showcase important assets such as the Minster and Clifford's Tower. Policy EC4 (Tourism) of the 2018 Draft Plan advise of supporting proposals that relate the enhancement of the built environment and public realm, particularly around access to the river and showcasing York's built heritage.

ARCHAEOLOGY

5.27 The NPPF sets out that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. From previous assessment of the site prior it is considered that the site has the potential to preserve undesignated heritage assets of national importance with equivalent significance to scheduled monuments.

5.28 The current application proposes construction of a substantial building with piled foundations on this site. The deposits on this site were evaluated in 1992 by York Archaeological Trust. The 1992 evaluation demonstrated the presence of important, well-preserved waterlogged anoxic deposits on this site. The results of a period of evaluation in July 2018 and April 2019 consisting of a borehole evaluation and installation of dip-wells for a six-month programme of water-level monitoring have been submitted as part of this application. The representation from the Archaeology Officer (above) sets out the information provided by the pre-determination investigation in the repots

5.29 The evidence from evaluation in 1992, 2018, and 2019 suggests that the conditions on this site are far from ideal for preservation in-situ of organic material. The evidence from this site suggests that the condition of the 16th century timber revetment identified in 1992 has deteriorated and that this feature will continue to

decay. Policy D6 of the draft Local Plan (2018) states '*that where harm to archaeological deposits is unavoidable, detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive, deposition and community involvement*'. The proposed development will not arrest this decay and in-situ preservation of this feature cannot be achieved. Harm to this archaeological feature is therefore unavoidable. The Archaeology team require that this feature is excavated and recorded prior to development taking place.

5.30 A revised foundation design has been submitted (SK-16-01 Rev H). The Archaeology Officer advises that it is commonly accepted in the City of York that piles can impact upon the more significant archaeological material as long as up to 95% of these deposits are preserved in-situ Supporting text of policy D6 and set out in Policy HE10 of the DCLP (2005). The supplied foundation design complies with this policy. It is anticipated that ground beams and pile caps will largely remain above the areas of significant archaeological deposits. In the underfloor void compensation area the base of the void is at 8.65m AOD with the underside of pile caps for this structure at 7.75m AOD. This is likely to impinge into the post-medieval waterlogged deposits. The Archaeology Officer considers that this is acceptable in this instance.

5.31 The harm is considered to be less than substantial, outweighed by the economic and social benefits of the development in terms of the provision of the provision of regeneration in the area with employment and tourism benefits, and can be mitigated by conditions. The impact of the piling on the longer term preservation conditions on the site is unknown. A condition to secure further water monitoring for 5 years will provide further data on this impact. The restriction of groundwater between River Foss and the rest of the site is limited to pile caps, ground beams and the piles themselves. Water flow will not be stopped completely but may be more restricted. The 5 year hydrological scheme should ensure that this is monitored.

ANCIENT SCHEDULED MONUMENT AND CENTRAL HISTORIC CORE CONSERVATION AREA

5.32 The application site is within the Central Historic Core Conservation Area. In the Central Historic Core Conservation Area Appraisal (2013) (CHCCAA) the site falls within Character Area 14: Piccadilly, and is directly adjacent and affecting Character Area 13: Castle.

5.33 Piccadilly was developed in the 1840s and in the early 20th century when it was linked to Parliament Street at the northern end. At the start of the 20th century it became a location for timber, builders' and coal merchants' premises as well as a

saw mill and brewery, followed in the inter-war period by car show rooms, small aeroplane factory, a fruit merchant's warehouse and garages. From the mid-20th century many of these buildings were demolished and new office blocks were constructed. The street is broad and characterised by its large building plots, which largely turn their backs on the River Foss.

5.34 From Piccadilly Bridge to St Denys Road there is a fairly consistent building and roofline line and long stretches of adjoined facades. From St Denys Road southwards, large stand alone buildings of 1-8 storeys are set back from the pavement or angled to the street resulting in a significant amount of left over space between the blocks. As a result the street lacks formality and has a poor sense of enclosure. Piccadilly is rather a barren street, lacking trees or visible greenery and dominated by large buildings. The River Foss is hidden behind buildings which back directly onto it. There is no public access to the river; the exception is the Travelodge by Castle Mills Bridge. The large buildings and their positioning also block views to the Castle.

5.35 The CHCCAA sets out important considerations for the area which must be met by any new development: The Castle Piccadilly area includes buildings of exceptional historical and architectural quality of international importance. Regeneration could transform this part of the City by enhancing the unique setting of these buildings and securing their sustainable future. In particular, the character, setting and appearance of the Castle Precinct (the area of the Scheduled Ancient Monument including Clifford's Tower) is specified.

5.36 The CHCCAA sets out that the majority of the buildings along the bank of the River Foss are designated as detractors for a number of reasons. With the exception of the Banana Warehouse, the rest of the application site is designated as a detractor. The application site is designated as a detractor. The Appraisal comments on the deteriorated quality of the buildings along Piccadilly and the location is particularly sensitive since it is directly opposite the Castle precinct. The buildings along Piccadilly are currently of a variety of styles and scale. The proposals would result in the loss of the existing buildings on the site which appear to date from the early 20th century. With the exception of the Banana Warehouse the loss of these building (and if a suitable alternative was proposed) are not considered to result in harm to the visual amenity of the streetscene and the character and appearance of the conservation area. The buildings are in a poor state of repair.

5.37 The castle area is an Ancient Scheduled Monument. The application site falls within a strategic panoramic view point from Clifford's Tower, Key View 16 (CHCCAA). The appraisal sets out that no new development should be permitted which would break the skyline of the historic core when viewed from this point. The

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views from Clifford's Tower provide an understanding of the 'topography' of the townscape. The appraisal sets out that there is a clear material division from this elevated vantage point: the everyday mass of the city is coloured in the reds and browns of brick and clay tile. From this 'choppy sea', as it has been described, rise the medieval buildings of Church and State. The appraisal advises that the view is protected and no new development should be permitted which would break the skyline of the historic core when viewed from this point. Any development of Piccadilly site should allow views through to the Foss, and have full regard for how it is viewed from Clifford's Tower, and should make a positive contribution to the quality of the panorama.

5.38 The setting of the castle complex has already been compromised by the car park, although it is a council aim to remove this car park and provide a public amenity space. The proposed development would be visible from across the castle area. Currently the buildings on the application site whilst dilapidated are small scale and modest, the proposed building would be 3- 5 storeys in height. The proposed development when viewed from across the Castle area would by virtue of its height and massing be more prominent than the previous buildings.

5.39 Historic England have expressed their concerns regarding the height of the proposed building and the impact on views from Cliffords Tower. The proposed hotel building is smaller in height than that allowed on the neighbouring site – 46 – 50 Piccadilly. The Design and Sustainability Manager advises that when the proposed development would be viewed from Clifford's Tower, the proposed scheme would obscure some of the existing viewed roof scape backdrop of the city, but to a degree this would be so, even for a four storey building, the Design and Sustainability manager sets out that the proposed building is sufficiently varied in design to read as an appropriately scaled/textured addition to the city roof scape and would not obscure key parts of the skyline.

5.40 The bulk of the building has been designed to consider the cumulative impact it would have on a street elevation- both viewed from street level at Piccadilly and from the river side - at either ground or elevated level. From the west it is designed to provide adequate open space breaks between it and adjacent plots. From Piccadilly, it is designed to be more continuous with adjacent properties than the rear, but still provides sufficient variety of rhythm and openness and varied sky line profile.

5.41 The proposed buildings would be taller than the existing and would have more presence in the street, river corridor, and the surrounding area. However it is considered that the views from Cliffords Tower have been retained and whilst altered from what exists at present is not materially harmed. Taken as a whole and on its own merits the development proposals would not harm the character and

appearance of the conservation area or the setting of Cliffords Tower and the Ancient Scheduled Monument. However it is considered that the proposed development would not result in harm to the character, appearance, or setting of the conservation area and the Ancient Scheduled Monument.

LISTED BUILDINGS

5.42 The impact on the listed building across the River Foss, forming part of the ancient scheduled monument has previously been discussed. There are number of other listed buildings in the vicinity. The closest is the Red Lion Public House (Grade II); the timber framed building dates from the 15th century. The proposed development by virtue of the difference in land levels between the 2 sites together with the height of the proposed building would appear dominant when viewed from within the curtilage of the Red Lion. However the setting of the Red Lion Public House has been substantially altered and harmed by the previous surrounding development as such the harm from the proposed development is considered to be neutral.

5.43 The proposed development is considered to have no material impact on the listed buildings set further away.

UNDESIGNATED HERITAGE ASSETS

5.44 The Banana Warehouse is considered a building of merit in the Conservation Areas Appraisal because of the historic interest of its original and former function and as the best representative of interwar architecture in the area. The Banana Warehouse was the business of FT Burley & Son, wholesale fruit merchants and "banana specialists". The painted/ rendered brick facade with large metal frame windows is a fairly plain interpretation of the Art Deco style but nevertheless clearly evokes the era.

5.45 Para 197 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

5.46 The proposed development would retain the facade facing onto Piccadilly, the rest of the building would be demolished. The building is currently in a poor state of repair. The retention of the façade is considered of importance for aesthetic reasons as a contributor towards the early 20th century characteristic of the street (and conservation area). There proposal is considered to result in harm to an undesignated heritage asset, however the proposal secures this architectural

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remnant, which can otherwise be considered at risk of complete loss. In addition the economic and social benefits from the regeneration of the site are considered to outweigh the harm.

VISUAL AMENITY AND CHARACTER

5.47 Policy D1 of the Draft Local Plan (2018) and Chapter 12 of the NPPF gives advice on design, placing great importance to the design of the built environment. At paragraph 130, it advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

5.48 The massing varies across the site, with the tallest part of the building at the centre of the plot. The variation in the height and massing provides visual interest. The roof top plant areas is centrally located and is unlikely to be visible from Cliffords Tower. The proposed roof scape by virtue of its variation is considered to be acceptable in views from Clifford's Tower it would be viewed in the context of the varied city roofscape behind and surrounding.

5.49 The proposed Piccadilly elevation with the variation in design and heights provides a varied rhythm to townscape views up and down Piccadilly. The proposed brickwork areas, give a grid like effect through recessing brick planes and further windows recesses providing visual texture.

5.50 From the River Foss the proposed development it is designed to provide open space breaks between it and adjacent plots, providing visual interest. The ground floor is raised compared to the surround ground levels, however this is mitigated by a rear terrace to the back of the Banana Warehouse and recessing the plinth elsewhere, however it is consider necessary to condition a landscaping scheme as this would assist in the relationship of the proposed development and the river.

5.51 The proposed development would be viewed in context of the recent development along Piccadilly and the proposal is not considered to result in harm to the visual amenity or character of the street. The conditions requested by the Sustainability and Design Manager (paragraph 3.12) are considered to be necessary to ensure sufficient quality in the design and construction.

ECONOMIC AND CITY CENTRE IMPACTS

5.52 The Council's Executive approved the Castle Gateway Masterplan in April 2018 which sets out the aims for the regeneration of the area, it is not a supplementary planning document, and however it is a material consideration. The site is within a wider area allocated as the Castle Gateway Opportunity Area subject

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of Policy SS5 of the draft Local Plan (2018) where it is recognised that there is significant potential to revitalise the area, reinterpreting and reasserting the varied history of the site, and creating a better connection with the city centre.

5.53 The NPPF seeks to promote the vitality of town and city centres and requires Local Planning Authorities to set policies which are positive and promote competitive town centre environments. The NPPF is clear in that Planning should operate to encourage and not act as an impediment to sustainable growth.

5.54 The NPPF considers tourism related developments such as hotels to be a main town centre use. As a town centre use hotel development plays an important role in supporting the economic well being and vibrancy of York's city centre. By virtue of the city centre location a sequential test (Section 7 of the NPPF) is not required.

5.55 Policy EC4 'Tourism' of the 2018 Draft Plan advises that proposal will be supported if they maintain and improve the choice and quality of visitor accommodation to encourage overnight stays, particularly by higher spending visitors; and the enhances the built environment and public realm, particularly around access to the river and showcasing York's built heritage.

5.56 The site is in the city centre, within walking distance of the train station and tourist attractions. The site is suitable for a hotel. The area is commercial and there would be no loss of dwellings. The proposed hotel is considered to have a potentially positive impact to the vitality and viability of the area. The proposed use will provide more footfall in the area during later hours.

5.57 The visual impact of the development, servicing and amenity are assessed in the other sections of the report.

5.58 The York Tourism Accommodation Study (July 2014) has aims of increasing the number of 4*/5* standard accommodation however the star rating of the hotel can not be ensured. If the principle of a hotel is considered acceptable, it is therefore considered unreasonable to condition the hotel be 4*/5* quality.

5.59 The NPPF states that LPAs should promote competitive town centres that provide customer choice; and retain and enhance existing markets and, where appropriate, ensuring that markets remain attractive and competitive. LPAs should support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances. The applicant is confident that there is a market for this level hotel accommodation and this view is not challenged.

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SUSTAINABILITY

5.60 The site is in reasonable proximity to the train station, and regular bus routes. There are a number of public car parks in close proximity. The site is in close proximity to shops and other amenities. The site is considered to be in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within recognised walking distances of the site. The hotel would benefit from secure cycle parking.

5.61 Policy CC1 'Renewable and Low Carbon Energy Generation and Storage' states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. The submitted sustainability report sets out that this can 28.7% saving in Co2 emission can be achieved

Policy CC2 'Sustainable Design and Construction of New Development' states that Developments which demonstrate high standards of sustainable design and construction will be encouraged. Development proposals will be required to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency. All new non-residential buildings with a total internal floor area of 100m² or greater should achieve BREEAM 'Excellent' (or equivalent). The supporting information indicates that the proposed development can achieve BREEAM 'very good'. As set out above the proposed development would meet the required carbon dioxide savings. The agent has advised they are willing to accept a condition requiring the development to achieve a BREEAM 'Excellent' rating. The agent does states that if this rating is not possible they can demonstrate that the key headline credits, for example, energy and carbon, sustainable transport, water and waste can obtain high ('excellent') scores even if scoring in other credits cannot score as highly.

IMPACT ON NEIGHBOURING USES

5.63 The adjacent site to the south east (48 to 50 Piccadilly) is currently being developed as a hotel and apartments. The proposed development is not considered to result in harm to the residential amenity of the occupants of the proposed flats on 48 - 50 Piccadilly or impact on the viability of the proposed hotel on the neighbouring site.

5.64 The proposed development is not considered to result in harm to the amenity of the occupants of the site to the north. There does not appear to be any windows in this elevation facing the proposed development.

5.65 Given the proximity of the hotel building to the proposed and existing nearby residential dwellings it is considered necessary that hours of delivery (lorries would be unloaded on Piccadilly) to the hotel are restricted to ensure that there would be no loss of amenity to the residents due to noise associated with any deliveries.

NOISE

5.66 The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life, paragraph 180 and Policy GP1 of the Development Control Local Plan (2005) and Policy ENV2 of the 2018 Draft Plan require that there should be no undue adverse impact from noise disturbance. Paragraph 182 of the NPPF is pertinent: Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

5.67 A noise assessment has been submitted and Public Protection is satisfied that internal noise levels in the proposed hotel rooms. A noise report could be sought by condition to ensure that it has been built in compliance with the proposed noise insulation scheme.

5.68 No details are been provided of the plant or equipment, such as air conditioning units, kitchen extraction units etc, that will be provided within the proposed development. No external flues are shown on the plans, and external flue would require separate planning permission. It is considered that details of any machinery audible outside of the premises can be sought by condition together with mitigation measures.

HIGHWAY IMPLICATIONS

5.69 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

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5.70 No parking provision is proposed for the hotel. This is in line with other hotels that have been granted planning permission in the city centre. Policy SS5 (Castle Gateway) of the 2018 Draft Plan requires the reduction in the size of the vehicular carriageway on Piccadilly and improvement in the size and quality of the pedestrian foot streets, including tree planting. The proposed redevelopment of this site and adjacent sites will increase the footfall along Piccadilly and as such proportionate improvement to adjacent public realm related to the development scheme is being proposed. The works would be carried out to the cost of the applicant through Agreement under S278 of the Highways Act 1980. Such improvements to the highway along the site frontage would consist of a reduction in the carriageway width of Piccadilly to 6-7m with the footway on the development site side being widened.

5.71 The proposed cycle parking is in an overlooked location, further details of secure cycle parking could be sought via condition.

DRAINAGE

5.72 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan Policy GP15a (Development and Flood Risk) and 2018 Draft Plan (Policy ENV5 Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced. Information of the proposed methods of disposal were submitted with the application, further details can be sought via condition.

ECOLOGY

5.73 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. An ecological assessment has been submitted to support this application. The site is dominated by buildings and hard standing and so this focused on the potential presence of bats. No evidence of otters had been recorded. The application site lies within the Foss Corridor which is of regional importance. The River Foss is noted as a Site of Local Interest because of its wildlife interest and importance as a connecting green corridor. An ecology survey has been undertaken bat roosts were identified in Building 4 and the adjacent Building 5 (fronting onto Piccadilly). The Ecology report concludes that small numbers of Common Pipestrelle bats are believed to be roosting in these buildings. The intention is the building will be demolished therefore the roost will be lost. As such a licence to destroy the roosts will be required from Natural England. It is recommended in the ecology report that at least two integral bat boxes are included within the new buildings to mitigate for the loss of roosting habitat.

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5.74 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017, contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the LPA must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm an EPS:

5.75 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 are as follows:

- that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature;

5.76 The current site is in a significant state of dilapidation. The area is identified for regeneration (2018 Draft Plan the Draft Local Plan (2018) and the emerging Castle Gateway Masterplan). The site is in a prominent city centre location, being viewed in its riverside setting, and along a main route through the city centre. The hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would also provide a number of people living/working in the city and revenue that it would bring to the city centre.

- that there is no satisfactory alternative;

5.77 As set out above the site is in a state of disrepair. Without redevelopment, it is likely that the buildings would remain unused and fall into further disrepair, with potential loss of the bat roosts.

- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

5.78 The buildings currently support a small number of roosting Common Pipistrelle bats which are common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence will prevent any direct harm and the provision of two integral bat boxes into the western aspect of the new buildings will maintain roosting opportunities on site. Therefore the third test for maintenance of favourable

conservation status is met. The proposed development is not considered to result in harm to the health or longevity of the bat population.

5.79 The River Foss is important because of its wildlife interest and importance as a connecting green corridor. Otter and Kingfisher are known to regularly use the River Foss within the city centre. The proposed garden and building will result in additional shade, noise and artificial light in this area. Details of a sensitive lighting scheme (to prevent disturbance to ecology) can be conditioned. Integrated bricks/boxes are intended to be incorporated into the proposed building, this can be sought via condition.

SAFE ENVIRONMENTS

5.80 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder". The Police have expressed concern that there is no evidence to show how the applicant has considered crime prevention and how it has been incorporated into the proposal. Paragraphs 91 and 127 of the NPPF require developments should create safe places and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. However The Police advise that the overall design and layout of the proposed scheme is considered acceptable. The requirements for CCTV, lighting, secure cycle parking can be achieved either by conditions or part of their premises license. The premises licence is outside of the Planning regime, any premises license granted may be subject requiring the installation of CCTV which may assist in addressing any issues immediately outside the building

6.0 CONCLUSION

6.1 The application site is within an area proposed for redevelopment and regeneration in the emerging draft Local Plan (2018). The site is in a sustainable location and brings forward regeneration benefits to the local area. The site is within Flood Zone 3 would not increase flood risk elsewhere. The proposal meets the requirements of the NPPF sequential and exception tests (as set out above) and is acceptable when considered against national planning policy on flood risk, the sequential and exceptions tests are passed.

6.2 The proposed development is not considered to result in harm the character and appearance of the conservation area or the setting of nearby listed buildings and the scheduled ancient monument and accords with planning law and national and local policy in this regard. The loss of the existing building affects a non-designated heritage asset, however the façade (the reason for it being considered

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an undesignated heritage asset) is being retained. Impacts on archaeology are considered to be acceptable and can be mitigated by planning condition.

6.3 The proposed development is not considered to result in harm to residential amenity or highway safety, nor would the proposal have an unacceptable impact on ecology on or adjacent to the site.

7.0 RECOMMENDATION:

1 TIME2 Development start within three years

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

Drawing Number (SK)012 revision P9 'Flood Compensation and attenuation tank and void sizes plan, including proposed ground levels' received 27 march 2020;

Drawing Number SK-013 Revision P6 'Site Section A-A' received 37 March 2020;

Drawing Number SK-014 Revision P5 'Site Section B-B' received 27 March 2020;

Drawing Number SK- 015 Revision P6 'Site Section C-C' received 27 March 2020;

Drawing Number BW-CDA-01-00-DR-A-PL-0004 Revision P8 'Proposed Ground Floor' received 30 April 2020;

Drawing Number BW-CDA-01-01-DR-A-PL-0005 Revision P5 'Proposed First Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-02-DR-A-PL-0006 Revision P5 'Proposed Second Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-03-DR-A-PL-0007 Revision P5 'Proposed Third Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-04-DR-A-PL-0008 Revision P5 'Proposed Fourth Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-05-DR-A-PL-0009 Revision P6 'Proposed Roof Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0001 Revision P4 'Site Location Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0002 Revision P2 'Proposed Demolitions Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0015 Revision P2 'Proposed Block Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0016 Revision P2 'Proposed Site Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0101 Revision P3 'Proposed Site Wide Elevations' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0200 Revision P4 'Proposed Site Wide Section A-A' received 27 March 2020;

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Drawing Number BW-CDA-01-ZZ-DR-A-PL-0102 Revision P3 'Proposed North East Elevation' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0103 Revision P3 'Proposed South West Elevation' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0104 Revision P2 'Proposed North West Elevation' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0105 Revision P2 'Proposed South East Elevation' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0201 Revision P2 'Proposed Section AA' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0203 Revision P3 'Proposed Section CC' received 27 March 2020;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0204 Revision P3 'Proposed Section DD' received 27 March 2020;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0206 Revision P2 'Proposed Section FF' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0207 Revision P2 'Proposed Section GG' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0208 Revision P3 'Proposed Section HH' received 27 March 2020;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0300 Revision P3 'Proposed North East Elevation Details and Materials' received 28 October 2019;
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0301 Revision P3 'Proposed South West Elevation Details and Materials' received 28 October 2019;
Drawing number BW-CDA-01-ZZ-DR-A-PL-0303 Revision P1 'Typical Building Façade Details Set back and recess dimensions' received 27 March 2020;
Drawing Number SK-16-01 Revision H 'Outline Foundation and Floodplain Storage Tank general Arrangement' received 27 March 2020;
Drawing Number BW-CDA-XX-XX-DR-A-PL-0017 Revision P1 'Bike Shelter Details' received 30 April 2020;

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

3 A programme of archaeological excavation of is required on this site for:

- the timber revetment and associated deposits
- any significant deposits or features identified during any periods of archaeological watching brief which are safe to excavate

The archaeological scheme comprises 4 stages of work .Each of the following stages shall be completed and submitted to and approved in writing by the Local Planning Authority.

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(i) No development or excavation shall take place until a written scheme of investigation (WSI) for excavation, post-exc analysis, publication, archive deposition and community involvement, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the approved WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

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

(iii) A copy of a report shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

(iv) The buildings shall not be brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced (or is in the process of being produced) in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

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

4 An archaeological programme of hydrological and water quality monitoring is required prior to the installation of piles and associated structures to assess continued in-situ preservation. Each of the following stages shall be completed and submitted to and approved in writing by the Local Planning Authority.

(i) No development shall commence until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority which sets out how appropriate hydrological and water quality monitoring will be re-introduced on the site prior to the installation of piles/foundations and how it will be assessed and reported at suitable intervals. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

(ii) Installation of hydrological and water quality monitoring devices shall be completed in accordance with the programme set out in the WSI approved under

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condition (i)

(iii) Evidence of provision for monitoring of and analysis and reporting on data from the hydrological and water quality monitoring devices for a period of 5 years shall be submitted to the Local Planning Authority on an annual basis.

(iv) A final copy of a report on the archaeological programme detailed in the WSI will be deposited with City of York Historic Environment Record within six months of the completion of the 5 year monitoring period or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an Area of Archaeological Importance which contains nationally significant undesignated heritage asset (waterlogged organic archaeological deposits) which will be affected by development. The effect on these deposits must be monitored. This condition is imposed in accordance with Section 16 of NPPF and the latest guidance from Historic England on in-situ preservation of organic deposits and subsequent monitoring.

5

The following stages of post-determination archaeological mitigation shall be completed and submitted to and approved in writing by the Local Planning Authority.

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

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

(iii) A copy of a report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an Area of Archaeological Importance and the

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development may affect important archaeological deposits which must be recorded prior to destruction. This condition is imposed in accordance with Section 16 of NPPF.

6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of all 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 building envelope of the hotel. This includes vision and any non-vision glazing, flat or pitched roofs (note requirement for green/brown flat roof above banana warehouse). The development shall be carried out using the approved materials. Samples should be provided of sufficient size to be able to appropriately judge, and to be provided together where seen together.

Mock-up sample constructions of the hotel shall be provided for :

(i) Condensed construction mock ups for a part of the zinc wall to include the various interfaces such as roof edge, window opening and transition to brick below, in a selected area.

Brick sample panels:

(i) For each type of brick, in each type of bond, including selection of mortar and pointing 2x2m. Smaller panels for each might be agreed, if multiple combinations are proposed. The panel is to also be used as a construction quality baseline and is to be retained on site for the duration of the brick work package.

Note: 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. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument.

7 Large scale (1:10/1:20) details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority. The details shall be submitted following the demolition of the buildings but prior to the start of the commencement of the construction of the hotel. The works shall be carried out in accordance with the approved details.

(i) Façade Set backs and ledges

(ii) typical bay details where different wall materials (brick, retail façade, zinc, flood water openings). To include external ground floor and roof interface and window

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- (iii) Entrance including canopy
- (iv) Rear built raised terracing, balustrade, steps
- (v) External roof top plant room including zone for agreed plant maximum height
- (vi) Site boundary treatment (walls, balustrade, guarding etc...)
- (vii) Any permanent fixed equipment used to service/maintain the building, and any plant equipment including wall or roof grilles/protrusions (other than within the plant room).

Reason: The success of the design is significantly dependant on detailing and built quality so these are needed to avoid the proposed design intent from being watered down in execution. So that the Local Planning Authority may be satisfied with these details and the appearance of the development. In the interests of the character and appearance of the conservation area. The information is sought prior to commencement of construction work to ensure that it is initiated at an appropriate point in the development procedure.

8 Prior to the first use of the hotel building a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs of the landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are approved in writing by the Local Planning Authority.

INFORMATIVE

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site. The River Foss/South West elevation is prominent within the Central Historic Core Conservation Area and in key views from Cliffords Tower (ancient Scheduled monument), therefore details are required to ensure the planting is visually acceptable. Trees are required to provide a visual break of the proposed hotel building

9 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties. To ensure the boundary treatment is appropriate to the area.

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The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

10 Prior to the first use of the hotel details of the gate into service courtyard shall be submitted to and approved in writing by the Local Planning Authority. The gate shall be constructed in accordance with these approved details.

Reason: as to achieve a visually cohesive appearance. To ensure that the gate is not a solid barrier and allows views into and through the site

11 No work (demolition, alteration, removal of fabric) shall take place until a scheme for investigation for the proposed components of the retention and restoration of the Banana Warehouse facade is agreed. Subsequent to this agreement, detail (1:10/1:20) drawings for proposed construction works to be approved, prior to commencement of renovation of this façade.

Reason: The Banana Warehouse facade is an undesignated heritage asset and must be recorded prior to demolition/ alteration/ removal of fabric.

12 Demolition works to 40-42 Piccadilly and 44 Piccadilly shall not in any circumstances commence unless the local planning authority has been provided with either:

- (i) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead;
- (ii) Confirmation that the site is registered on a Low Impact Class Licence; or
- (iii) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To avoid harm to, and maintain the favourable conservation status of, a European Protected Species.

13 Prior to first use of the development hereby approved two integrated features providing a roosting crevice for bats (e.g. bat box) must be constructed within the fabric of the new buildings, and two swift boxes and one house sparrow terrace to be provided as shown on Drawing Number BW-CDA-01-SW-DR-A-PL-0003 Revision P7.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 of the NPPF to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity

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14 Prior to the first use of the hotel details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, angle, design and lux of all external lighting. The development shall be carried out in accordance with the approved lighting scheme.

Any subsequent revisions or alterations to the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved lighting scheme.

Reason: So as to achieve a visually cohesive appearance. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. Night time illumination may potentially impact on the night time ambience of the conservation area. To ensure that the proposed development is not unduly prominent within conservation area and wider views of the city. On ecology grounds - to limit excessive light spill over the River Foss

15 Upon completion of the insulation scheme works (as stated within NSL Noise Assessment project number 87759 dated 22/10/19), no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

16 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 building is first used or occupied.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 46dB(A) LA90 1 hour during the hours of

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07:00 to 23:00 or 38dB(A) 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.

17 Upon completion of the development, delivery vehicles to the hotel shall be confined to the following hours:

Monday to Saturday 07:00 to 18:00 hours
Sundays and Bank Holidays 09:00 to 17:00 hours

Reason: To protect the amenity of local residents and businesses.

18 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.

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

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

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

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

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

Reason: To protect the amenity of the locality

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

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1300 hours
Not at all on Sundays and Bank Holidays	

20 Details of the extraction plant or machinery and any filtration system required for the treatment and extraction of cooking odours shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the EMAQ Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

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

21 Prior to installation of **the gas-fired boilers and Combined Heat and Power**, an air quality screening assessment should be carried out to consider emissions from all combustion plant proposed for the site. Where necessary, this should be supplemented with a detailed air quality assessment to assess likely air quality impacts at nearby sensitive receptors. The scope of the screening and/or detailed air quality assessment shall be agreed in writing with City of York Council's Public Protection Unit.

Reason: To protect local air quality and human health

22 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and be subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The scheme shall contain a site specific chapter on archaeology as stated in Historic England Land Contamination and Archaeology guidance. The strategy should set out a methodology for groundwater monitoring during remediation works and a safe methodology to record any structures revealed.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and be subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

25 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and

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where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

26 The development shall be carried out in accordance with the submitted flood risk assessment Re: 42344/4001 revision A dated October 2019 by Peter Brett Associates and the subsequent Technical Note - Re: 42344 TN001 dated March 2020 by Stantec and the following mitigation measures it details:

- (i) Finished floor levels shall be set no lower than 11.00 metres above Ordnance Datum (AOD),
- (ii) Compensatory storage shall be provided in accordance with the details submitted within the Technical Note - Re: 42344 TN001 dated March 2020 and the Flood Storage Analysis Plan - Re: 42344/4001/001 revision H dated 18th March 2020 with a total of 1,864.5 cubic metres of storage to be provided, and
- (iii) Provision of a floodable void as shown on the Flood Flow Routes Plan - Re: 42344/4001/004 dated 18th March 2020

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

27 Prior to the construction of the hotel building the following details regarding eh floodable void beneath the building shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be constructed and maintained in accordance with these details

- (i) Details of the removable grills
- (ii) Details of the proposed low level river bank wall which according to the Technical Note will have gaps/slots in it to ensure the free access and egress of flood water

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- (iii) Details of the cleaning and maintenance arrangements to ensure the void is kept clear of any debris before and immediately after a flood event to ensure the flood compensation volume is available at all times

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

28 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage

29 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in full accordance of the approved details. The information shall include site specific details of:

- (i) the means by which foul water will be disposed,
- (ii) the two flow control devise manholes the means by which the surface water discharge rate shall be restricted to a maximum cumulative rate between the two tanks of 18.8 litres per second,
- (iii) the attenuation tanks 1 and 2 the means by which the surface water attenuation up to the 1 in 100 year event with a 40% climate change allowance shall be achieved,
- (iv) the two outfall structures in consultation with the Environment Agency and Foss Navigation Authority, and
- (v) the future management and maintenance of the proposed drainage systems and in particular tank 1 beneath the covered terrace area.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

30 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

31 The hotel hereby approved shall not be occupied until a Full Travel Plan has

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been submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines. The hotel shall thereafter be occupied in accordance with the aims, measures and outcomes of approved Travel Plan.

Within 12 months of occupation of the development hereby approved 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 the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

32 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring 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.

33 Details of the highway works for the narrowing of the Piccadilly carriageway to 6m, widening of footway along site frontage as shown in indicative drawing BW-CDA-ZZ-SW-DR-A-PL-0011 Revision P6 (received 30 April 2020) (which shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) and a timescale for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation. The approved highway works shall be carried out in accordance with the approved timescale and in accordance with the approved details, or arrangements entered into which ensure the same.

Informative: drawing is indicative only as the Council are finalising the plans for Piccadilly and some changes are likely, for example with the location of loading bays, bus stops, pedestrian crossing facilities, etc.

Reason: In the interests of the safe and free passage of highway users and to secure regeneration improvements to Piccadilly proportionate to the development proposed in accordance with policy SS5.

34 The refuse storage areas for the hotel (as detailed in Drawing Number BW-CDA-01-00-DR-A-PL-0004 Revision P8 'Proposed Ground Floor' received 30 April 2020;) shall be retained for refuse storage use only.

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Reason: To ensure there is suitable refuse storage areas of the life of the development. So as to achieve a visually cohesive appearance. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. To protect the amenity of local residents and businesses.

35 Details of the reduction in carbon emissions the development hereby approved would achieve when compared against Part L of the Building Regulations (the notional building) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the building and the development shall be carried out in accordance with the approved details.

The details shall demonstrate a reduction in carbon emissions of at least 28% through the provision of renewable or low carbon technologies or through energy efficiency measures and at least a 19% reduction in dwelling emission rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations).

Details shall also be submitted that demonstrate that the development shall also achieve a water consumption rate of no more than 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: In the interests of sustainable design and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

36 The hotel building shall be constructed to a BREEAM standard of 'Excellent'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be 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: In the interests of achieving a sustainable development in accordance with the requirements of Draft Local Plan 2018 and the NPPF.

8.0 INFORMATIVES:

Notes to Applicant

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

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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:

- Requested additional information
- Requested revised plans
- Use of conditions

2. ENVIRONMENT AGENCY INFORMATIVE

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and the EA advise them to consult the EA as at the earliest opportunity.

3. YORKSHIRE WATER INFORMATIVE

Notes for the developer:

(i) foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network;

(ii) under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to

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pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies, bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence.

4. 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.

Trees, scrub and suitable buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and suitable buildings are present on the application site and are 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 absolutely certain that nesting birds are not present.

5. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

6. DISPOSAL OF COMMERCIAL WASTE

Section 34 of the Environmental Protection Act 1990 places a duty of care on all producers of controlled waste, i.e. businesses that produce, store and dispose of rubbish. As part of this duty, waste must be kept under proper control and prevented from escaping. Collection must be arranged through a registered waste carrier. It is unlawful to disposal of commercial waste via the domestic waste collection service.

Adequate arrangements are required for proper management and storage between collections.

Section 47 of the Environmental Protection Act 1990

The storage of commercial waste must not cause a nuisance or be detrimental to the local area. Adequate storage and collections must be in place. Where the City of York Council Waste Authority considers that storage and/or disposal are not reasonable, formal notices can be served (Section 47 of the Environmental Protection Act 1990). Storage containers cannot be stored on the highway without prior consent

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of the Highway Authority of City of York Council.

Contact details:

Case Officer: Victoria Bell

Tel No: 01904 551347

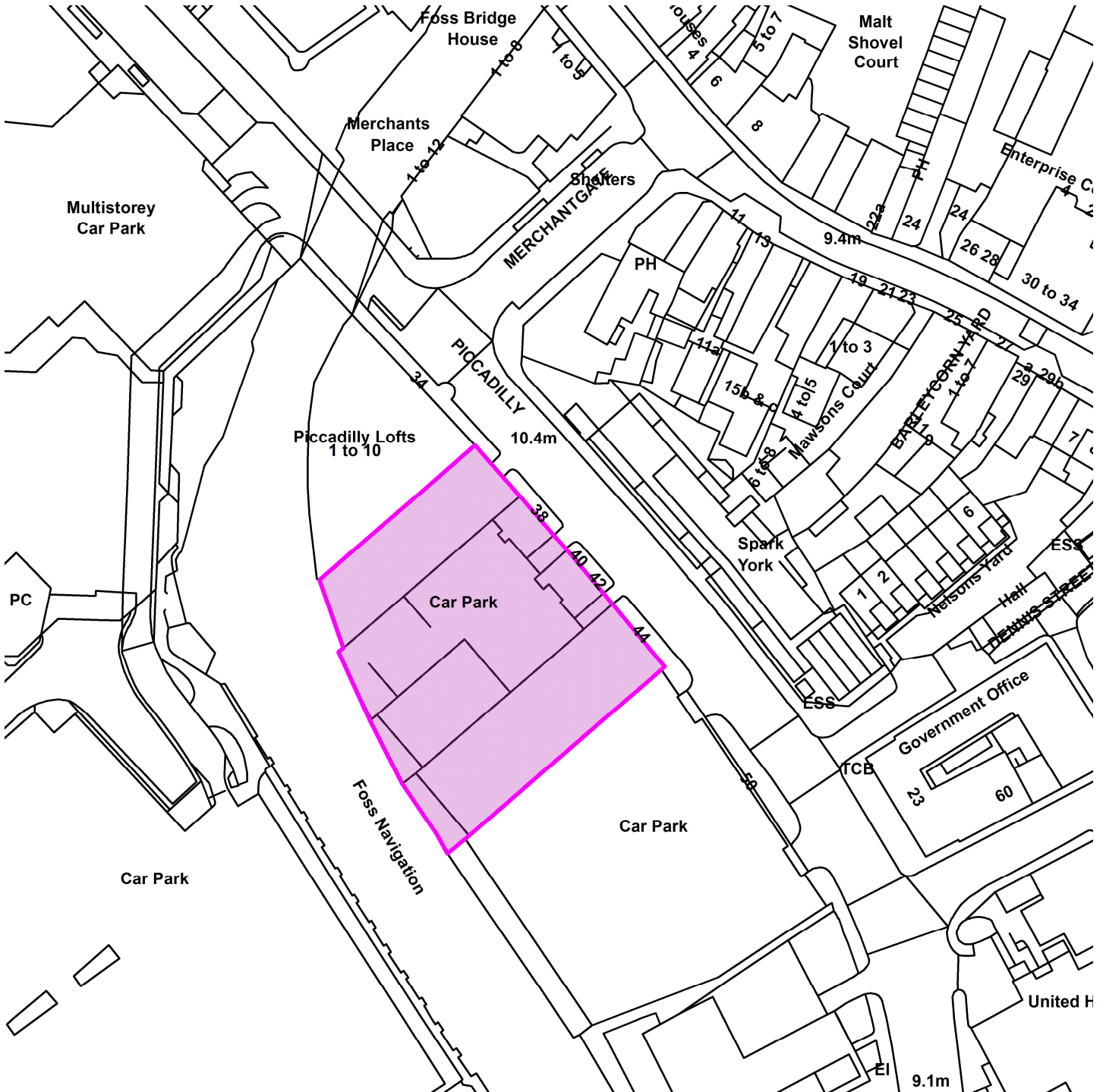
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Axcel Group Limited, 36-44 Piccadilly



GIS by ESRI (UK)



Scale : 1:1028

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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	29 June 2020
SLA Number	Not Set

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1.2 The villages of Escrick, Deighton and Wheldrake lie at distances of approximately 1.81km, 1.89km and 2.42km from the site respectively. The site lies within an area of open countryside. There are isolated dwellings or agricultural holdings surrounding the site. A public right of way between Escrick and Wheldrake crosses the site at its entrance. Bridge Dyke crosses the site at its western point. The site falls largely within Flood Zone 1, with the area either side of the drain at the site entrance, lying within Flood Zones 2 and 3. The southern part of the site, comprising former displaced material from the mine shaft, is a designated site of importance to nature conservation (SINC).

1.3 Approval is sought for access, with all other matters reserved. An application has also been submitted to Selby District Council under the provisions for cross boundary developments. Access to the site is gained from an existing approximately 1.7km (1 mile) long road via its junction with the A19 north of the village of Escrick. The application has been revised since first submission and now proposes holiday accommodation split into two areas - 1.49ha of land available within the existing car parking area for use by touring campers and caravans (Woodland) and 6.24ha of land available within the existing mine pithead for static caravans (Bowl). It is likely that the proposed caravans would fall within the definition of a caravan in the 1960 Caravan Sites and Control of Development 1960, in that they would be a structure designed for human habitation which is capable of being moved from one place to another. There would be associated engineering works to create bases for the caravans, internal access roads and utility service connections. The application indicates the erection of a reception and shop (150sq.m.) and café bar (200sq.m.).

1.4 Outline consent (ref. C/8/999/18/PA) was granted in 1978 for the use of the site in connection with the mine complex, with reserved matters approval for the mine buildings and landscaping being granted in 1981 (ref. C/8/999/18G/PA). UK Coal submitted a planning application in 2000 (ref. 00/00680/FUL) for the retention of the mine buildings and their reuse for B1 (office and light industrial), B2 (general industrial) and B8 (storage and distribution) purposes, but was withdrawn prior to determination. Following legal advice in 2010, the Council took enforcement proceedings to require the removal of all plant, buildings and machinery from the site in order to comply with conditions of the outline and reserved matters consent. This was appealed by the landowner, but was held in abeyance by the Planning

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Inspectorate until alternative use of the site was investigated and was subject to due process through planning. Full planning permission (ref. 12/03385/FULM) was granted in 2014 for the demolition of the mine buildings and construction of an anaerobic digestion combined heat and power facility and horticultural glasshouse. Subsequently, in 2018, the enforcement notice was withdrawn following removal of the majority of plant, buildings and machinery and the implementation of the 2014 permission. A certificate of lawfulness to confirm implement of the 2014 permission was granted in 2017 (ref. 16/02791/CLD).

1.5 The application is considered to be EIA development as it falls within Schedule 2: Category 12 (Tourism and Leisure) Class c holiday villages. The Council provided a screening and scoping opinion in 2018 to confirm this, and the application is accompanied by an Environmental Statement (ES). In addition to the ES, the application is supported by a Planning Statement, Design and Access Statement, Tourism Supporting Statement and a Statement of Community Involvement. The latter outlines the pre-application consultation with CYC and public exhibitions to facilitate engagement with the local community. The main issues raised at the exhibitions were the potential increase in traffic at the junction with the A19 and the impact permanent residential accommodation would put on local services.

2.0 POLICY CONTEXT

2.1 Yorkshire and Humber Regional Spatial Strategy policies:

- YH9(C)
- Y1(C1 and C2)

2.2 City of York Draft Local Plan Incorporating the 4th set of changes – Development Control Local Plan (Approved April 2005) – relevant policies:

SP2 -The York Green Belt

SP3 – Safeguarding the Historic Character and Setting of York

SP6 – Location Strategy

SP7a – The Sequential Approach to Development

GP1 – Design

GP3 – Planning Against Crime

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GP4a – Sustainability
GP4b – Air Quality
GP6 – Contaminated Land
GP9 – Landscaping
GP15a – Development and Flood Risk
NE1 – Trees, Woodlands and Hedgerows
NE5a – Local Nature Conservation Sites
NE6 – Species Protected by Law
NE7 – Habitat Protection and Creation
GB1 – Development in the Green Belt
GB10 – Major Developed Sites in the Green Belt
T4 – Cycle Parking Standards
V5 – Caravan/Camping Sites

2.3 City of York Local Plan – Publication Draft February 2018 (Regulation 19 Consultation) – relevant policies:

SS2 – The Role of York’s Green Belt
EC4 – Tourism
D1 – Placemaking
D2 – Landscape and Setting
GI2 – Biodiversity and Access to Nature
GB1 – Development in the Green Belt
ENV1 – Air Quality
ENV2 – Managing Environmental Quality
ENV3 – Land Contamination
ENV4 – Flood Risk
ENV5 – Sustainable Design
T1 – Sustainable Access

3.0 CONSULTATIONS

INTERNAL

Public Protection

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3.1 The proposed development has the potential to cause air quality impacts at sensitive locations during construction and operational phases. Request conditions to require a CEMP and electricity vehicle charge points.

3.2 The site has historically comprised agricultural land prior to development as a mine. The use of the site as a mine has the potential to give rise to land contamination including through the use of various pieces of plant and equipment, train lines, storage of fuels and chemicals and the presence and use of substations at the site. The majority of these contaminative land uses at the site have occurred in the 'bowl' area which has a thick hardstanding surface cover which will limit the potential for contaminant migration. However, there is the potential that the hardstanding may have become contaminated over the years and so careful consideration should be given regarding how this is broken down and re-used across the site, as is currently proposed.

3.3 There are several embankments located on the site which were formed during the development of the mine. These were formed from mounds of the original agricultural land and from materials from the excavated shafts. During the site walkover the embankments were observed as appearing to contain anthropogenic material suggesting over the years other materials have been added to the original natural soils. One of the embankments located in the wildlife area in the eastern section of the site appeared to have limited plant growth which could potentially indicate contamination issues. It is proposed that holiday goers visiting the site will be able to access the embankments meaning there is the potential for contact with the soils. Chemical testing would need to be undertaken on the embankments to ensure they do not contain elevated chemical concentrations which pose a risk to human health receptors.

3.4 Across the bowl area there are several stockpiles of graded demolition rubble from the former amenity buildings in this area. The demolition of these buildings was completed in 2000 and no details are held regarding whether asbestos surveys were completed on the buildings prior to the demolition. The proposal for the development includes the re-grading, crushing and reuse of the demolition rubble across the site. Asbestos testing would need to be carried out on the demolition rubble to ensure it is dealt with appropriately. Request conditions.

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3.5 Request conditions relating to noise from plant and machinery, demolition and construction and an acoustic noise barrier.

Public Rights of Way Team

3.6 Two public rights of way are affected by the proposal, Public Bridleway Deighton No 5 and Public Bridleway, Wheldrake No 4. From the west, both are accessed by travelling along New Road. It is understood that there are no proposals to change the alignment of either route. There are no objections to the proposal, although no changes to the surface of either route may be made without first being authorised by public rights of way and both routes should remain open and available to the public during development. A temporary closure or diversion should be sought if the safety of the public using either route is to be compromised during development.

Economic Growth

3.7 Strongly objects to the application as the site should be considered as a development site of strategic importance given its size, existing power access to grid and close proximity to the A19 and major road network. In light of York's existing challenges around the provision of suitable employment land for attracting inward investment and facilitating business growth, the application represents a poor use of the site and the applicants should adopt a more ambitious vision for the site that will add greater value to York's economy.

Network Management

3.8 No objection subject to conditions covering Section 278 Agreement works, travel plan, cycle parking, CEMP and specific reserved matters application details.

Design Conservation and Sustainable Development (Conservation and Ecology)

3.9 Concerns were initially raised with regard to the impact on the Site of Importance for Nature Conservation (SINC) both direct from placements of lodges and indirect through recreational impact/urban edge effects, uncertainty around future management of the SINC, encroachment into existing woodland, potential impact on

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European Nature Conservation Sites (Lower Derwent Valley SPA/SAC/Ramsar, River Derwent SAC and Skipwith Common SAC) within 10km of the site and the lack of detailed information on vertebrates. Amendments to the scheme were sought.

3.10 The North Selby Mine site is a good example of how Brownfield sites can support a diversity of species and habitats of high biodiversity value. The proposed redevelopment to a leisure development is not incompatible with this biodiversity value, but will result in a range of impacts that will require mitigation. The revisions to the scheme and additional information submitted has addressed initial concerns raised at pre-app and in initial consultation. The measures proposed to mitigate and compensate for the identified impacts must be secured through planning conditions.

3.11 It is noted that the ES Chapter 8 concludes that it is unlikely that the scheme will significantly increase visitor pressure at Statutory European Nature Conservation Sites and Natural England raises no concerns.

Design Conservation and Sustainable Development (Landscape)

3.12 Requests a condition for an Arboricultural Method Statement to protect existing trees shown to be retained.

Forward Planning

3.13 For the purposes of s.38(6) Planning and Compulsory Purchase Act 2004, the proposal should be assessed against the saved RSS Green Belt policies. The policies in the NPPF should also be considered as material considerations. Given the advanced stage of the emerging plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, we would advise that the policy requirements of emerging plan policies EC4, EC5, T1, D2, GI2 and GI4 should be applied with moderate weight. Only limited weight can be afforded to Policy SS2 and GB1 at this time.

3.14 The site is located within the general extent of York's Green Belt (as per 'saved' RSS policy illustrating the Green Belt's general extent). Substantial weight

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should be given to the harm caused by the development's inappropriateness and any other harm the scheme causes. Development should not be approved except in very special circumstances; the applicant has indicated that very special circumstances exist which would outweigh the potential harm to the Green Belt.

3.15 After analysing the applicant's very special circumstances, it is considered that these do not clearly outweigh the harm to the Green Belt. It is considered that the development would impact on Green Belt openness due to the size of the operation including 434 pitches/units which are not just on the existing mine site. The economic arguments put forward do not satisfy a leisure development in this location, due to the nature of the jobs and do not satisfy the provisions of EC5 due to the size of the development. The impacts on the SINC and landscape also need to be considered by the Council's Ecologist and Landscape Architect. It is also recommended that the applicant should update the EIA based on the latest information in the updated City of York Council HRA (2019), including the Appendix C – the Visitor Survey for Skipwith Common. Policy objection raised.

Flood Risk Management

3.16 Flood Risk - Supports response of Environment Agency.

3.17 Foul and Surface Water Disposal – Following site visit to witness infiltration testing and assessment of revised Site Drainage Strategy (Feb 2020), confirm that subsoil conditions do not support the use of soakaways and therefore raise no objections in principle subject to conditions to protect the local aquatic environment and public sewer network and address flood risk matters.

EXTERNAL

Planning Casework Unit

3.18 No comments.

Highways England

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3.19 Having worked closely with our transport planning consultancy team at Jacobs to assess the developmental impact of this site upon the Strategic Road Network, raise no objections to the development proposals in question. Evidence of this formal planning recommendation is detailed within the attached HEPR16 document, while the attached email details Jacobs most recent technical assessment and associated comments for the site.

Environment Agency

3.20 No objection subject to conditions.

3.21 Flood risk - The proposal must not include any permanent structures within Flood Zone 3 as defined on the Agency's Flood Map for Planning. In terms of flood warning, having reviewed flood risk assessment, it is considered that there will be a danger to some or danger to most and that there is access to Flood Zone 1 in close proximity on the development site.

3.22 Flood Compensation - In response to amended information with indicative masterplan dated 6 March 2020, comment that please to see that the location of proposed flood compensation has been amended appropriately. Condition requested to cover details.

3.23 Ground contamination - The site is located upon the Sherwood sandstone, a principal aquifer capable of supplying baseflow to rivers and water supply on a strategic level. It is not within a SPZ or other environmental designation. No objection to hydrogeological assessment and agree with the conclusions of the site investigation which did not show any evidence of significant contamination. The risk from the development will not be significant to water resources.

Natural England

3.24 No objection as the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes and proposed amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.

Yorkshire Water

3.25 Water Supply - Request conditions in order to protect the local aquatic environment and YW infrastructure.

3.26 Waste Water - There are no public sewers within the vicinity of the site. The application suggests that both foul and surface water will drain to a private waste water treatment plant.

3.27 In response to revised flood compensatory storage plan, make no further comments.

Ouse and Derwent Internal Drainage Board

3.28 The Board does have assets adjacent to the site in the form of Bridge Dyke and Halfpenny Dyke, which are adjacent to the site, are Board maintained watercourses these watercourses are known to be subject to high flows during storm events.

3.29 Highlights the prior written consent that is needed for any connection to, discharge into, works within or over, or construction works within 9 metres of a Board maintained watercourse. This includes the raising of the road and increasing hedgerows.

3.30 The Board supports the recommended conditions by the Environment Agency regarding the compensatory flood storage area.

3.31 Notes the reduction in hardstanding areas to 3.04 hectares. Noting that soakaways are not viable, suggests the use of an attenuation pond. Seeks clarification about treated foul flows. Requests drainage conditions and informatives if approved.

North Yorkshire Police

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3.32 Following a 12 month period crime and disorder analysis, the site is located within a low crime and disorder area, with 1 recorded crime. Consideration should be given to secure cycle storage for each unit or a secure communal storage area within independent anchorage points given the nature of this type of development.

Butterfly Conservation (Yorkshire)

3.33 This site is valuable and unique in the Vale of York as a natural resource as it is a large site with an unusually good population of typically limestone quarry lepidoptera including high priority for conservation species and nationally scarce species. The site is feeding out these species to many other sites locally for some distance. Presently it is degrading due to scrub encroachment. The current plan would preserve and mitigate it to some degree. There will be a considerable downside from arrival of domestic cats and dogs if pitches are sold and pets allowed due to major grazers of the site (Brown Hare and deer) being lost, which would significantly degrade the site. There is need for a section 106 so that there is assurance of a more refined plan.

Escrick Parish Council

3.34 Supports the principle of the proposed use but objects to specific details and requests following amendments:

- Reduction of scale of development to delete those areas of accommodation located within the SINC and established woodland;
- Restrictions to prevent permanent residential use of the holiday accommodation;
- A maximum number of accommodation units on the site to be specified in any consent;
- Works required and restrictions applied to mitigate impact of light, noise and traffic during construction and use of the holiday park;
- The highways impact of the development on the A19 needs to be thoroughly understood and mitigated as appropriate, with the potential requirement for improvements to A19/New Road junction;
- Encouragement of sustainable travel with installation of footpath/cycleway along length of New Road and within A19 verge from junction to garage/shop on edge of Escrick;

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- Construction traffic and heavy lorries delivering the lodges and static caravans should be prohibited from using Skipwith Road and other streets within the village to safeguard residential amenity;
- Conditions imposed restricting hours of construction work and requiring 'Code of Considerate Practice' to minimise impact on local community.

Deighton Parish Council

3.35 Deighton Parish Council supports the general plans, but has concerns about a number of items which should be addressed before planning approval is granted:

- The comments made by Escrick Parish Council are fully supported by Deighton Parish Council.
- In addition, Councillors have requested that measures are considered to mitigate large/slow vehicles entering/exiting the site, such as VAS to keep vehicles within the speed limit. Currently, the police do not carry out speed checks in the 40mph limit through Deighton: or other measures to slow down the speed of vehicles in both directions on the A19.

4.0 REPRESENTATIONS

4.1 One response from resident on New Road, objecting on following grounds:

- Scale of proposals is out of proportion to the size of the site;
- Access, traffic and safety considerations.

4.2 One objection from resident of Escrick village:

- The increased congestion and pollution that will be caused on the already over used A19;
- Increased accident blackspot as turning across A19 is already bad and dangerous;
- Building on green belt - area needs to be left as intended after mine finished being used;
- The owner is linked to the previous applicant and threatened at the open meeting better us than getting the anaerobic digestion facility;
- Closure of a right of way that is regularly used;

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- Opening for further development - 2 local land owners have already stated their intention to re-submit their applications for caravans that have previously been turned down;
- Impact on local environment, including noise and disturbance from alcohol being sold on site.

5.0 APPRAISAL

5.1 Key issues:

- Principle of development
- Provision of holiday accommodation
- Green Belt policy
- Flood risk and drainage
- Access, parking and highway safety
- Character and appearance
- Biodiversity
- Residential amenity
- Environmental matters
- Alternative uses for the site
- Other considerations including economic considerations

PLANNING POLICY CONTEXT

5.2 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", 2019). Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance, including land designated as Green Belt, provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

5.3 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan for this area of York includes the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS"), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. The retained RSS policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt around York with an outer boundary about 6 miles from the City Centre. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

5.4 Although there is no formally adopted local plan, the Development Control Local Plan (DCLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. However, such policies can be afforded very limited weight. The relevant policies are summarised in section 2.1 above. The site is included in the general extent of Green Belt on the Proposals Map that accompanies the plan.

5.5 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF, 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).

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5.6 Relevant policies are set out in section 2, but are attributed little weight. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications; the evidence base includes the Approach to Green Belt Appraisal 2003, Topic Paper Approach to Defining York's Green Belt (May 2018) and the Green Belt TP1 Addendum and Annex 2 Outer Boundary Descriptions and Justifications (2019). In these evidence base documents, the site lies within Area D3 Extension to green wedge: Heslington Common that retains an open area south of the A64 in order to continue a wedge of countryside outside the ring road. As such, it is included on the Proposals Map accompanying the 2018 draft plan within the general extent of Green Belt.

PRINCIPLE OF DEVELOPMENT

5.7 The proposal involves the use of a former mine site located within open countryside north of Escrick for a holiday village of static and touring caravans. These would be sited within the existing operational area of the mine, which falls entirely within the CYC boundary, with ancillary facility buildings and engineering works to create bases for the siting of the caravans, internal access roads/paths and service connections. The surrounding land within the larger site but outside the former operational area of the mine is to be retained as woodland, agricultural grassland and open mosaic habitat.

5.8 The NPPF supports a prosperous rural economy with, *inter alia*, sustainable rural tourism and leisure developments which respect the character of the countryside (paragraph 83(c)). At paragraph 84 it states that 'the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'. DCLP policy V1 discourages visitor accommodation outside settlements within the Green Belt unless it involves reuse of existing buildings that have alternative means of transport than the private car. Policy EC4 Tourism of the 2018 emerging plan supports proposals that maintain and improve the choice and quality of visitor accommodation. Policy EC5 Rural Economy indicates that York's rural economy will be sustained and diversified through, *inter alia*, permitting camping and caravan sites for holiday and recreational use where proposals can be satisfactorily integrated into the landscape without detriment to its character, are in a location accessible to local facilities and within walking distance of public transport, and would not generate significant

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volumes of traffic. The supporting text to this policy refers to the serious harm to landscape that can be created by insensitively located or unduly large caravan sites. All proposals will be expected to be unobtrusive within the landscape and be in keeping with the character of the rural area.

5.9 As a result of its rural location and open setting of the surrounding land, the site is considered to fall within the general extent of York's Green Belt. This is supported by emerging Local Plan evidence base documents. The site also lies partly within Flood Zone 3 (high probability). In accordance with paragraph 11 of the NPPF and as the site lies within land designated as Green Belt and an area at risk of flooding, the proposal needs to be assessed against the restrictive policies in Chapter 13 'Protecting Green Belt land' and 14 'Meeting the challenge of climate change, flooding and coastal change' of the NPPF.

GREEN BELT POLICY

5.10 The NPPF confirms that, in order to prevent urban sprawl by keeping land permanently open, all development in Green Belts is inappropriate unless it falls within the list of exceptions contained in paragraphs 145 and 146. Inappropriate development is, by definition, harmful and should only be allowed in very special circumstances.

5.11 At paragraph 145(g) of the NPPF, the construction of new buildings as part of the partial or complete re-development of previously developed land that does not have a greater impact on openness of the Green Belt than the existing development is appropriate development. Engineering operations and material changes in the use of land (such as to outdoor sport and recreation) are not inappropriate under paragraphs 146(b) and 146(e) respectively of the NPPF, providing they preserve openness of the Green Belt and do not conflict with the purposes of including land within it.

5.12 The NPPF defines previously developed land as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land...and any associated fixed surface infrastructure'. The definition excludes, firstly, land that has been developed for mineral extraction where provision for restoration has been made through development management procedures and, secondly, land that was

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previously developed but where the remains of permanent or fixed surface structure have blended into the landscape. However, in light of the site's history, including the fact that the restoration provision has not been fully enforced, the removal of the enforcement notice after removal of the majority of mine buildings and implementation of the approved 2014 application, the former operational area of the mine is considered to be previously developed land as defined by the NPPF. The current level of development on the site comprises areas of hard surfacing and six smaller colliery buildings centred round the capped shifts on the pithead, which have been retained due to the presence of protected species and waste water infrastructure. The former pithead is enclosed by a high fence. The land outside the operational area, being undeveloped or land reclaimed by nature is not considered to constitute previously developed land.

5.13 The erection of any buildings on the former pithead would fall within 145(g) and providing they had no greater impact on openness than the existing built form would constitute appropriate development. However, these would be ancillary to the main element of the proposal being the use of the land for siting static and touring caravans as part of a residential leisure development, which would not fall within any of the listed exceptions in paragraph 146 of the NPPF. As such, the proposal overall would be inappropriate development in the Green Belt.

5.14 In addition to the assessment of appropriateness in the Green Belt, consideration needs to be given to the impact on the openness and purposes of the Green Belt. Whilst it is acknowledged that there is the 2014 implemented permission for an anaerobic digestion facility and horticultural glasshouses, the baseline for considering the impact on openness is the existing development on site, comprising areas of level hard surfacing and six retained former colliery buildings. The proposal would result in an increase in the amount of three-dimensional development across the site over and above the current extent of retained buildings, which would in turn have a moderate impact on the openness of the site due to the limited short and longer distance views of the site possible because of the existing topography and landscaping of the site.

5.15 The proposal would not conflict with the five purposes that Green Belt serves as listed in paragraph 134 of the NPPF. These are:

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- a) to check the unrestricted sprawl of large built-up areas – the site is physically separate from York urban area and its outlying villages and is a former mine that has an implemented permission for development as an AD facility and glasshouses;
- b) to prevent neighbouring towns from merging into one another - the application site is nearby, though physically separate from the surrounding villages of Escrick, Deighton and Wheldrake and as a result would not lead to these neighbouring settlements merging;
- c) to assist in safeguarding the countryside from encroachment – the proposal relates to the re-use of a former mine site and the part that is considered to be previously developed land;
- d) to preserve the setting and special character of historic towns – longer distance views from the south of the historic city of York and its Minster would not be adversely affected by the development which lies at lower level nor would it affect the historic layout of the City and its surrounding hinterland of villages amidst open countryside;
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land – the proposal would not assist in the regeneration of other urban area, but would bring previously developed land into a use.

5.16 Overall, however, the proposal constitutes inappropriate development in the Green Belt that would also erode its openness to a moderate degree. Such harm is attributed substantial weight as required by paragraph 144 of the NPPF and the proposal should not be approved unless the harm is clearly outweighed by other considerations.

FLOOD RISK

5.17 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

5.18 The site falls largely within Flood Zone 1 (low probability), and, as such, should not suffer from river flooding. However, the access road at its entrance and the land either side of it falls within Flood Zone 3 (high probability). Advice in the NPPF and its accompanying Planning Practice Guidance requires that a sequential approach

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be taken to the location of development with development being directed to land at least risk of flooding before higher risk areas are considered. No permanent structures are proposed in Flood Zone 3. The access is existing and cannot be re-positioned. The application proposes to raise the level of the access to lift it above the height of flood waters and provide compensatory flood storage on the land to the west. This is considered to be acceptable subject to detailed design, which can be required through condition.

5.19 A site-specific flood risk assessment has been carried out for the proposed development and confirms that the proposed development will not increase the risk of downstream flooding. Infiltration tests undertaken have demonstrated that the site is not suitable for soakaways. It is proposed to install a new waste water treatment plant to dispose of foul water utilising the existing outfall from the system in place as part of the colliery. Existing permitted discharge points and flow rates would be retained. Conditions are sought to cover the detailed design of foul and, in particular, surface water drainage.

5.20 Overall, the proposal has sought to direct development away from areas at the highest risk of flooding and has demonstrated that the site can be adequately drained without increasing flood risk elsewhere. Therefore, subject to conditions covering water supply, waste water and flood risk, it is acceptable in flood risk terms and complies with national and local flood risk planning policy.

HIGHWAY SAFETY

5.21 The NPPF encourages development that is sustainably located and accessible. Paragraph 108(b) requires that all development achieves safe and suitable access for all users. It advises at paragraph 109 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Policy T1 of the 2018 emerging Local plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists. Policy T4 of the 2005 Draft Local Plan seeks adequate cycle parking provision.

5.22 The site has an existing access road, built to serve its use as a mine. It joins the York-Selby A19 to the north of the village of Escrick. A Transport Statement has been submitted with the application and confirms that the junction capacity testing indicates that the additional traffic movements would not lead to capacity issues at this junction of the A19 with New Road.

5.23 Three public rights of way connect into or run through the site. These are footpath 35.28/2/1 that runs from Escrick to New Road at Spring Wood, bridleway 23/5/10 that runs along the southern site boundary and bridleway 6/4/20 that runs along New Road following the northern site boundary. These existing public rights of way would be retained. Whilst no footpaths would need to be diverted, there may be the potential for disturbance due to increased vehicles movements along the access road. It is indicated that warning signs could be erected at crossing points to mitigate any hazard. New recreational footpaths constructed of recycled crushed material are proposed within the site. It is indicated on the masterplan that a connection could be made from the existing public right of way on the south-west side of the site with the recreational footpaths.

5.24 The nature and location of the site means that it is not in the most sustainable and accessible location. A shop and café bar are proposed on site to cater for daily needs. The site is adjacent to and within walking distance via PROW or New Road of Escrick village, which has some local services including shop, pubs and restaurants and a church. There is access to the primary visitor centres of York and Selby via the National Cycle Route 65 and the 415 York-Selby bus service along the A19. The park and ride at the McArthur Glen Designer Outlet is within short driving distance.

5.25 Improvements to the footpaths on the A19 between New Road and the petrol station to enable bicycles to connect to the National Cycle Route, improved signage and traffic calming measures near the site access road are sought by way of a Section 278 Agreement. A Travel Plan to include a site management strategy and further details of internal access roads, cycle links and adequate car and cycle parking are required by condition. Subject to the above requirements, there is no objection on highway safety grounds to the proposal.

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5.26 Chapter 11 of the NPPF seeks the efficient use of land, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Chapter 12 gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 127 of the NPPF states that planning decisions should ensure that development will, inter alia, add to the overall quality of the area, be visually attractive, be sympathetic to local character and history, and have a high standard of amenity for existing and future users. Emerging Local Plan policies D1: Placemaking and D2: Landscape and Setting reflect advice in the NPPF. In particular, Policy D2 seeks to conserve and enhance the quality of the character and landscape in York through an understanding of its natural and historic features, good landscape design, biodiversity enhancement and water sensitive design.

5.27 A Landscape and Visual Impact Assessment was undertaken as part of the ES, which considered the difference between the implemented approved AD facility and the proposed leisure scheme. It concludes that the proposed development would not result in any significant adverse effects on landscape character or visual amenity either during construction or operational stages.

5.28 The site landform would be retained primarily as existing. There are steep earthworks around the majority of the previously developed area and established woodland to the west, which would provide substantial screening of the site from outside including New Road, the surrounding public rights of way and adjacent properties. The exception to this is at the western entrance, which includes a grassland meadow adjacent to the access road. This area would be retained, though re-modelled to provide compensatory flood storage following the raising of the access road. The existing grassed bank opposite the nearest residential properties at Sheepwalk Farm and the pasture in the north east corner of the site are proposed to be retained, with new native broadleaved woodland planting proposed on the top and inside slopes of the earthworks.

5.29 The distance between caravans on site would be controlled though site licence rather than planning control. It would allow for increased planting within the site to create an attractive environment for future holiday residents. This, together with the retained areas of landscaped open space and landscaping along site boundaries,

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would reduce the visual impact of the proposal on the character and appearance of the surrounding area. A detailed lighting scheme requiring low level lighting would be required to minimise the impact of the holiday village in short and longer distance views at night. As this is an outline application, there are no details of the appearance of the static caravans that would be at the site on a longer term basis, but this could be conditioned to ensure the use of recessive colours – i.e. green or grey.

5.30 On the basis of the above, it is concluded that the impact of the proposals can be appropriately mitigated so as not to be significant and therefore from a landscape and visual perspective, the proposals accord with national and local planning policy.

BIODIVERSITY

5.31 Chapter 15 of the NPPF 'Conserving and enhancing the natural environment' states that planning decisions should contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Policies NE1 and NE6 of the DCLP and GI2 and GI4 of the 2018 Publication Draft Local Plan reflect this advice in relation to trees, protected species and habitats.

5.32 The application is supported by ecological assessments as part of the ES. These consider the potential impacts of the proposal on the European Sites within 10km of the site (Lower Derwent Valley SAC/SPA/RAMSAR and Skipwith Common SAC, specifically in relation to recreational impacts, and conclude that any potential adverse effects would be very small and therefore not significant.

5.33 A significant area of the former mine site was designated as a Site of Importance for Nature Conservation (SINC) in 2010 for the mix of habitat and structural mosaics on site including species-rich calcareous and neutral grassland, wetland, scrub and colonising habitats occurring as a result of the previous use. The 'open mosaic habitat on previously developed land' is a habitat of principal importance for the conservation of biodiversity in England, as required under Section 41 of the Natural Environment and Rural Communities Act 2006 and is also incorporated into the 'Urban Habitats' action plan within the City of York Local Biodiversity Action Plan. The SINC supports invertebrates and as such an

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invertebrate survey has been undertaken. It is considered that the features of interest to invertebrates can be protected, maintained and enhanced through SINC management measures. A Recreation Strategy has been submitted to address some of the potential operational impacts of the development on the SINC, i.e. litter, dog fouling and noise/light pollution. A SINC Management Plan has also been prepared.

5.34 There has been evidence previously of barn owl and bats being present at the site within existing building B2. Updated surveys are required at Reserved Matters or prior to demolition of this building, plus a detailed sensitive lighting scheme. Great Crested Newts (GCN) have been recorded within existing pond P3. As GCN are European Protected Species (EPS), the local planning authority must consider the three 'derogation tests' of the Habitats Directive as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended) when deciding whether to grant planning permission for a development which could harm an EPS. The third test for the maintenance of favourable conservation status can be met as the requirement for a European Protected Species Licence will prevent any direct harm and a range of habitats can be maintained through a scheme of mitigation.

5.35 Other protected species have been identified at the site, including birds, grass snake, brown hare, water vole, which may be affected by the proposal, but any harm can be satisfactorily mitigated against. Indeed, the SINC Management Plan includes consideration of Willow Tits, which is a Red-listed Bird of Conservation Concern and a Rare Breeding Birds Panel species, and should benefit in the longer-term.

5.36 The proposal has been revised from first submission to reduce the extent of the site area to be used for the siting of holiday accommodation. It now keeps the proposed holiday accommodation outside the designated SINC with the exception of a small triangle area of land to the east of the operational mine area thereby retaining the open mosaic habitat and intends no access for visitors and dogs. It is also intending that existing ponds would be retained with new ponds created designed as amphibian habitat. A wildlife area is proposed to be created to the east of the SINC. Existing hedgerows are to be retained and strengthened and additional areas of native species woodland, hedgerow and shrubby understorey planting are proposed. Planning conditions are required to ensure that detailed proposals at

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reserved matters stage are confined to the development limits indicated on the Indicative Masterplan. Need conditions to ensure strict compliance with the SINC Management Plan and Recreation Strategy.

RESIDENTIAL AMENITY

5.37 Paragraph 127(f) of the NPPF seeks a high standard of amenity for existing and future users. Paragraph 180 of the NPPF requires that new development is appropriate for its location taking into account the likely effects of pollution on health and living condition with suitable mitigation to, *inter alia*, reduce to a minimum adverse impacts and limit light pollution. Draft local planning policies seek to reflect this advice.

5.38 The closest residential properties are Sheepwalk Farm and Cottages, which lie to the north of the site. The existing 3m approximately screen mound is to be retained and enhanced with a 2m high close boarded fence, retention of existing planting and additional native and evergreen shrub planting. The use of the site for the proposed use would likely result in an increase in disturbance to neighbouring residents from associated activity, but the retention and enhancement of site boundaries, control over site lighting along with site management normal for such sites, would help to mitigate harm. Residents of Spring House Farm and Cottage on New Road would experience increased vehicle movements along the access road, Disturbance from increased vehicle movement along New Road compared to current levels of activity. However, these would be on the whole private vehicles rather than heavy vehicles associated with the implemented use of the site and would be likely to be restricted largely to daytime hours. Spring Wood separates these properties from the site.

5.39 There is the potential for noise disturbance and air quality impacts during the construction and operational phases of the holiday village, which could be controlled by condition to mitigate harm.

5.40 It is acknowledged that there would be likely be some disturbance to the occupants of surrounding residential properties from the construction and operation of the development. Mitigation measures are required through condition to reduce any harm.

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ENVIRONMENTAL MATTERS

5.41 Paragraph 170(e) of the NPPF seeks to prevent new development from contributing to unacceptable levels of pollution or land instability. Paragraph 178 deals specifically with ground conditions and pollution.

5.42 The use of the site as a mine has the potential to give rise to land contamination including through the use of various pieces of plant and equipment, train lines, storage of fuels and chemicals and the presence and use of substations at the site, the majority of which are contained in the 'bowl' area, the former operational area of the mine. There is also the potential for contamination issues on the mounds created within the site formed from agricultural land and materials from the excavated shafts. The stockpiles of graded demolition rubble left from demolition of the former mine buildings requires asbestos testing to ensure it is dealt with adequately. Appropriate conditions are required to address any contamination on site.

ALTERNATIVE USES OF SITE

5.43 It is noted that the 2014 planning permission for an anaerobic digestion facility and horticultural glasshouse has been implemented on site following the carrying out of material operations consisting of the demolition of buildings and approval of details pursuant to pre-commencement conditions satisfied (ref. 16/02791/CLD granted in 2017). Whilst the original partner for the AD facility has indicated that it does not wish to continue involvement in the scheme, another operator may be found to progress the development to full implementation. This would include the provision of an AD facility with stack (12m high and 15m high respectively), CHP building with stack (9.5m high and 22.5m high respectively), tank farm (with tanks between 10-18m high) and other plant ranging in height from 8m to 12m. The 51,210sq.m. horticultural glasshouse building would be approximately 7m high.

OTHER CONSIDERATIONS

5.44 The proposal would constitute inappropriate development that would, by definition, be harmful to the Green Belt by reason of inappropriateness. There would

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also be additional harm caused to openness from the siting of the holiday accommodation. No other harm has been identified. Substantial weight is given to the harm to the Green Belt. Paragraphs 143-144 of the NPPF advise that permission should be refused for inappropriate development, unless other considerations exist that amount to 'very special circumstances' and that would be sufficient to clearly outweigh identified harm to the Green Belt by reason of inappropriateness and any other harm.

5.45 The applicant considers that the proposal is appropriate development in the Green Belt that would not cause significant harm to the overall perception of openness of the Green Belt - when compared to the approved implemented scheme of AD facility and glasshouse - and would not be in conflict with the purposes of including land within the Green Belt. However, due to the planning complexities associated with the site and in order to be fully robust, the applicant has put forward the following other considerations as very special circumstances:

- Economic Growth, Employment and Tourism Benefits;
- Nature conservation and biodiversity benefits;
- Landscape character protection and improvements;
- 'Do nothing' considerations.

Economic and Tourism Benefits

5.46 The applicant considers that the proposal would be an economic driver that would deliver quality holiday accommodation and facilities and extend the holiday season through the year. A Tourism Supporting Statement and Economic Impact analysis has been prepared in support of the application that confirms that tourism is the third highest export in the UK supporting 2.6 million jobs, small to medium enterprises and worth £8bn per year to the Yorkshire economy. The rural nature of the site along with what are considered to be good road access and existing infrastructure make this a popular site as a holiday park. As such, the direct impacts of the proposal are identified as being in the region of £5m-£7m and creating between 400-500 direct, indirect and induced employment impacts (NB. Assessment of jobs undertaken prior to reduction in size of development).

5.47 The Council's Economic Growth Team objects to the application on the basis that the site should be considered as a development site of strategic importance due to its size, connection to the power grid and proximity to major road network. The proposal is considered to be a poor use of the site and a more ambitious vision for the site should be adopted that will add greater value to the York economy. Reference is made to redevelopment of the site for workspace linked to the bio-economy sector, which is important to York because of the University of York is ranked 1st in the UK for the impact of their biological sciences research and recently launched BioYork initiative and also to Selby who have identified Agri-Tech as a key growth sector. Further, there is a shortage of business accommodation across York.

5.48 However, whilst acknowledging this objection, it is noted that the site has not been allocated in either the 2005 or 2018 draft Local Plans as an employment site because of its remote location and an application submitted in 2000 (ref. 00/00680/FUL) for reuse of the colliery buildings for B1, B2 and B8 purposes was not supported by the authority resulting in its withdrawal undetermined in 2014 following approval of the 2014 AD facility and glasshouse.

5.49 The applicant has responded to the objection from the Economic Growth Team highlighting, firstly, the development opportunities at the site since the mine closed including discussions with the University of York in 2007-2011 about a bio-renewables centre that did not progress due to withdrawal of University of York from the scheme and, secondly, the importance of tourism to the City and significant contribution to the local economy which has been under-estimated. It is also noted that there is an implemented approval for alternative uses as AD facility and glasshouses, which has not progressed following withdrawal of the AD operating partner.

Biodiversity benefits

5.50 The applicant considers that the proposed development offers benefits to biodiversity following the creation of an attractive setting, delivery of environmental assets in a long-term effective management programme, increased public accessibility and habitat creation and biodiversity gain. The initial concerns raised by officers about encroachment of the development into the SINC and woodland have been addressed by the reduction in the proposed developed site area. Subject to

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adequate controls in place through site management, the biodiversity of the wider site would be maintained and enhanced.

Landscape character protection and improvements

5.51 The applicant considers that the leisure development can be sympathetically accommodated within the existing landform with less harm to the surrounding countryside character than the approved implemented scheme. In addition to respecting and strengthening the landscape structure, the proposal would increase public enjoyment of the landscape through increased access, which is currently restricted due to safety concerns around its historic use as a mine.

'Do nothing' considerations

5.52 The applicant refers to the 'do nothing option' of not pursuing development of the site through the implemented permission and leaving it in its current state. Whilst this would reduce impact on openness of the Green Belt and avoid any impact on residential amenity, the applicant points out that this would potentially have a negative impact on the SINC. As set out in the ES, there has been a significant amount of scrub encroachment since the SINC was designated as it has not been managed while the site has been standing unused and its principle element will gradually degrade through natural succession with its value being lost. Development of the site would secure long-term favourable management. The do-nothing option is also considered to be neither viable or sustainable as it does not promote effective use of land or support opportunities to remediate despoiled and derelict land.

Assessment of Very Special Circumstances Case

5.53 The northern part of the site lies within the general extent of the York Green Belt. The southern part falls within the administrative boundary of Selby District Council. The proposal relates to the operational area of the former mine, which is considered to be previously developed land. It would result in the re-use of the site for a holiday village, which would have a moderate degree of harm over and above the current baseline being the existing development on site. It is noted that the impact on openness of the Green Belt and visual amenity would be less than the approved development for an AD facility and horticultural glasshouse, which has

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been implemented and, therefore, could be delivered. The landowner has investigated other development options for the site since the mine ceased operating, including re-use of the buildings for B1, B2 and B8 uses and a partnership with the University of York for a bio-renewables centre. This current proposal represents the most viable option identified by the landowner at this time for this part brownfield site. It would contribute to the tourism sector of the city with holiday accommodation that would blend within its landscape following enhancement of existing planting. Access to the SINC could be restricted to avoid damage and disturbance to biodiversity with alternative provision being made for occupiers of the holiday accommodation. A use for the site would avoid further degradation of the SINC.

5.54 Therefore, it is considered that, when taken together, there are compelling and substantial considerations that weigh heavily in favour of the proposal.

6.0 CONCLUSION

6.1 The application seeks outline approval for the creation of a holiday village complex on the former operational area of North Selby Mine. However, the site lies within the general extent of York's Green Belt. Part of the site lies within Flood Zone 3. In accordance with paragraph 11 of the NPPF, the more restrictive Green Belt and flood risk policies in the NPPF apply. The proposal would result in harm to the Green Belt by reason of inappropriateness as well as additional harm to the openness of the Green Belt and substantial weight is attached to this harm. Other identified potential harms to flood risk, highway safety, biodiversity, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

6.2 It is considered that the benefits that would be provided by the scheme, when taken together, being the re-use of previously developed land, tourism and investment in the local economy and biodiversity benefits, are of sufficient weight to clearly outweigh the Green Belt harm. Therefore, very special circumstances exist to justify the proposal and the application is recommended for approval subject to conditions.

RECOMMENDATION: Approve

1 OUT1 Approval of Reserved Matters

2 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building/engineering works, and the development shall be carried out in accordance with such details:

These details shall include: appearance, landscaping of site, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

3 The number of static caravan pitches on site shall be restricted to no more than 231, to be sited in the area totalling 6.24ha that is marked as the Bowl and shown coloured lilac on the submitted Parameters Plan no.2356.02 Rev.03, unless otherwise agreed in writing by the Local Planning Authority.

The number of touring caravans and tent pitches shall be restricted to 92, to be sited in the area totalling 1.49ha that is marked as the Woodland and shown coloured rose pink on the submitted Parameters Plan no.2356.02 Rev.03, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The condition is imposed to ensure that the number of caravans is not increased to a level which could harm the appearance or character of the area, openness of the Green Belt, nature conservation value of the wider site and in the interests of highway safety.

4 The static and mobile caravans and tents shall be occupied for holiday purposes only and not as a person's sole or main place of residence.

The site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

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Reason: This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.

5 Before the stationing of any static caravans hereby approved, details of the external materials and muted colours of the static caravans shall be submitted to and approved by the Local Planning Authority in writing. Only caravans constructed/sited in accordance with the approved details shall be stationed on site.

NOTE: The colour finish to the static caravans shall be a recessive colour(s).

Reason: In the interests of visual amenity given the sensitive rural location of the site.

6 No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To secure practical measures to avoid or reduce impacts to biodiversity features and the Site of Importance to Nature Conservation (SINC) during construction, as appropriate to the scale of development. The details are required

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prior to commencement in order to ensure that they are in force at an appropriate point in the development procedure and during the whole of the construction phase of the development.

7 Prior to or concurrently with the first Reserved Matters application, updated ecology surveys along with updates to the relevant mitigation plans shall be submitted to the Local Planning Authority for approval. This is with particular reference to Bats (roosting within building), Barn Owl, Water Vole and Grass Snake. The scheme shall be fully implemented in accordance with the approved mitigation plans.

Reason: To ensure that species and their habitats are adequately protected. The details are required prior to commencement in order to prevent irreversible harm to a biodiversity.

8 No works (site clearance, preparatory work or development) shall commence until the Local Planning Authority has been provided with:

a) a European Protected Species Licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead, along with appropriate mitigation for Great Crested Newts.

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure the protection of a European protected species using the site. The details are required prior to commencement in order to prevent irreversible harm to a protected species.

9 Prior to or concurrently with the first reserved matters application, a survey of trees within and immediately adjacent to the site, an arboricultural impact assessment, a schedule of works, and a draft arboricultural method statement and tree protection plan, all in accordance with British Standard BS 5837, shall be submitted and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the retention and protection of existing trees that are desirable and/or suitable for retention before, during and after development and to allow an accurate assessment of the compatibility of the detailed development proposals with existing trees that make a significant contribution to landscape mitigation, and the

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amenity of the area and/or development.

10 Prior to or concurrently with the first Reserved Matters application, detailed long term management and monitoring of the Site of Importance to Nature Conservation (SINC) shall be submitted to and approved in writing by the Local Planning Authority. These shall be in line with the already submitted SINC Management Proposals, FPCR Environment and Design Ltd, July 2019. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that there is adequate long term management of the SINC.

11 Prior to or concurrently with the first Reserved Matters application, a detailed Site Wide Recreation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be in line with the already submitted Harworth Estates Investments Ltd, North Selby Leisure Proposal, Recreation Strategy, 5th August 2019 and drawing 2356.08 Recreation Strategy Plan. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that there is proper mitigation given to the impact of the development on ecology with the site.

12 Any reserved matters application shall include a detailed landscape scheme. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation; tree planting details; paving and other hard landscape details, and street furniture, and any phasing of implementation. This scheme shall be implemented within a period of six months of the practical completion of the development or any phase thereof. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the landscape mitigation and/or amenity of the development and/or the immediate area.

13 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

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Reason: In the interest of satisfactory and sustainable drainage.

14 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no part of the development hereby permitted shall be occupied prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

15 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

Design considerations: The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDS). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuDS.

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

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

As SuDS have been proven to be unsuitable then In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface

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run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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

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

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant shall provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. No part of the development to be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

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

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site. It is necessary to require this information prior to commencement of any ground works on site to ensure that adequate measures are put in place for the disposal of drainage from the site.

16 No construction works in the relevant area (s) of the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. No trees shall be planted within 5 metres of the centre line of any water

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main that is located within the site boundary i.e. protected strip widths of 10 metres per water main.

Reason: In the interest of public health and maintaining the public water supply. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

17 No works involved in the raising of the road at its access with New Road shall commence until a scheme for compensatory flood storage for the loss of floodplain from raising the road has been submitted to and approved in writing by the local planning authority. The scheme shall provide level for level compensatory storage outside of flood zone 3. It must include:

- calculations and section drawings that show that the compensatory storage volume is hydraulically and hydrologically connected to the floodplain such that it provides level for level compensation allowing floodwaters to rise and fall as existing.

- a Flood Warning and Evacuation Plan for future users of the site. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing and phasing arrangements, or within any other period as may subsequently be agreed in writing by the local planning authority.

- no permanent structures shall be built within Flood Zone 3 as defined on the Environment Agency's Flood Map for Planning.

Reason: To reduce the risk of flooding to the proposed development and its future users.

18 A strip of land 9 metres wide adjacent to the top of both banks of Half Penny Dyke and Bridge Dyke on site shall be kept clear of all new buildings and structures (including gates, walls, fences and trees) unless otherwise agreed in writing with the Local Planning Authority. Ground levels shall not be raised in this area.

NOTE: Please ensure that access arrangements are agreed with the Internal Drainage Board.

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

19 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

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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.

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

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

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

For lighting, details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

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Details shall be provided about the management of construction and contractor traffic and parking. The CEMP shall include a dilapidation survey of the area around the junction of the A19 and New Road should be provided.

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

Reason: To protect the amenity of the locality. It is necessary to require this information prior to commencement of any development to prevent irreversible harm occurring as part of the works.

20 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's

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'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

21 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Any remediation that is required to the area of Site of Importance to Nature Conservation to allow people access, should ensure that nature conservation interests take priority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

22 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

23 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which

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is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24 Details of all machinery, plant and equipment to be installed in or located on the site, which is audible outside of the site, 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.

25 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason: To protect the amenity of local residents

26 Details of any acoustic noise barrier to protect the amenity of residential

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dwellings to the north eastern part of the site, where gardens back onto the A19, shall be submitted to and approved in writing by the local planning authority. These details shall include the construction method, height, thickness, acoustic properties and the exact position of the barrier. The barrier shall be erected in accordance with the approval before the use hereby permitted first comes into use and maintained thereafter.

Reason: To protect the amenity of local residents.

27 No part of the development hereby permitted shall commence be commenced until the full design and construction details of the following have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out in full prior to the site coming into use.

- Improvements to the footpath on the A19 from the access point to New Road to the petrol station/shop to be widened to enable bicycles to use it to connect to National Cycle Route 65 (approx. 200m in length).
- Informal crossing point to be provided before the petrol station (making use of the central reservation for a two stage crossing) to enable users to cross the A19 and join the path on the western side of the A19 and safely access National Cycle Route 65.
- Signage to mark the link to the Sustrans route.
- Traffic calming measures near the site access road will be provided in the form of electronic flashing warning signs (or similar).

Reason: In the interests of highway safety and to provide for and promote appropriate safe and usable pedestrian and cycle access to facilities.

28 Prior to or concurrently with the first reserved matters application, details of the access road shall be submitted to and approved in writing by the Local Planning Authority. The details shall include passing places to facilitate traffic movements when caravans, HGVs and agricultural vehicles might conflict with each other or with cyclists, pedestrians and horse riders. The scheme shall be implemented in accordance with the approved details.

Reason: In the interest of road safety.

29 Prior to or concurrently with the first reserved matters application, details of the following shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

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- Internal road details;
- Consideration of pedestrian and cycle links to Wheldrake;
- Staff and visitor car parking and delivery bays/turning areas;
- Secure cycle parking for staff and visitors.

Reason: In the interest of road safety.

NOTE:

The site layout needs to ensure that queues can be accommodated without impeding access by local residents or emergency services and consider the needs of horse riders.

30 Prior to the development hereby approved coming into use, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. It shall include a site management strategy to ensure that peak traffic to and from the site (changeover times) avoid A19 peak hours (weekday am/pm peaks and Saturday midday peak). The approved travel plan shall thereafter be fully implemented and adhered to.

Reason: In the interest of sustainable transport and road safety.

31 Prior to or concurrently with the first reserved matters application, a plan shall be submitted to and approved in writing by the Local Planning Authority showing a sensitive lighting design strategy for the development. The scheme shall ensure that there is no lighting within woodland areas or sensitive habitats or dispersed on to New Road. The development shall be carried out in accordance with the approved scheme.

Reason: In the interests of visual amenity, to achieve a safe environment and to protect biodiversity and residential amenity.

32 Before the occupation of the development, 2% of parking spaces on the site should include facilities for charging electric vehicles. The exact number, position and specification of points should be agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

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Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

NOTES:

- Electric Vehicle Charging Points should incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle.
- Each Electric Vehicle Charge Points should include sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future.
- Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this.
- All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015).

7.0 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:

- Pre-application advice provided;
- Revisions made to the scheme to address LPA opinion and consultee responses;
- Imposition of conditions.

2. INFORMATIVE NOTE - DRAINAGE

i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

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ii) As per the above design considerations the modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required and not just the 6 hour duration.

iii) The applicant should be advised that the Ouse & Derwent Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

iv) The disposal of treated sewage effluent is not the intended function of the land drainage network and accordingly the Ouse & Derwent Internal Drainage Board will only be prepared to accept the treated foul flow if the combined rate of discharge for surface water and treated effluent does not exceed the discharge rate agreed/approved above.

3. MAINTENANCE RESPONSIBILITY - GENERAL

The proposed development is within the Internal Drainage Board's area and is adjacent to the Half Penny Dyke and Bridge Dyke, which at these locations, are maintained by the Board under permissive powers within the Land Drainage Act. 1991. However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

4. CONSENT - DISCHARGE

Under the Internal Drainage Board's Byelaws the written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

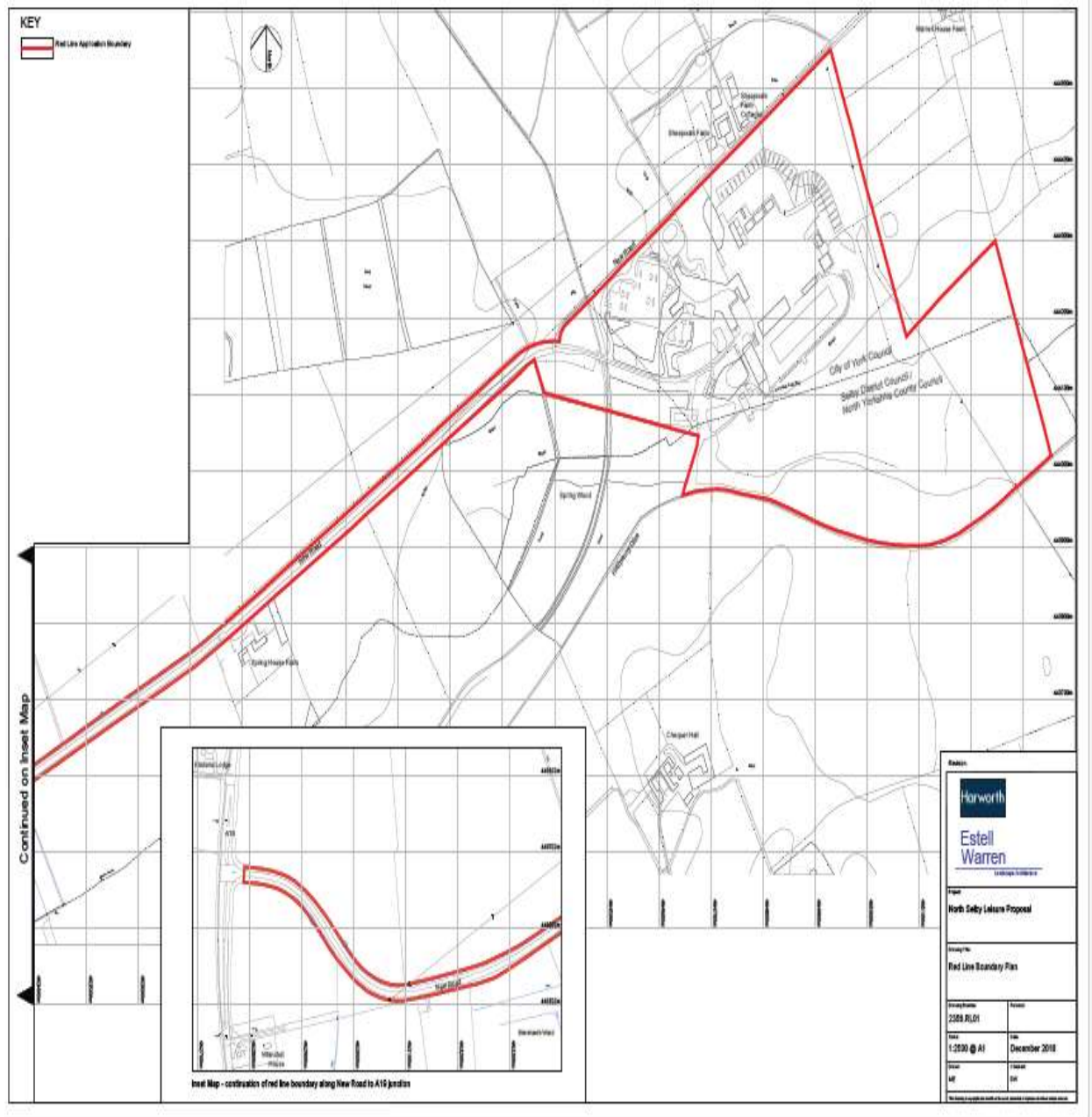
Contact details:

Case Officer: Hannah Blackburn

Tel No: 01904 551325

19/00078/OUTM

North Selby Mine, New Road, Deighton



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Planning Committee

To be held remotely on Thursday 9th July 2020 at 4:30pm.

20/00561/FUL - Spark York, Piccadilly, York

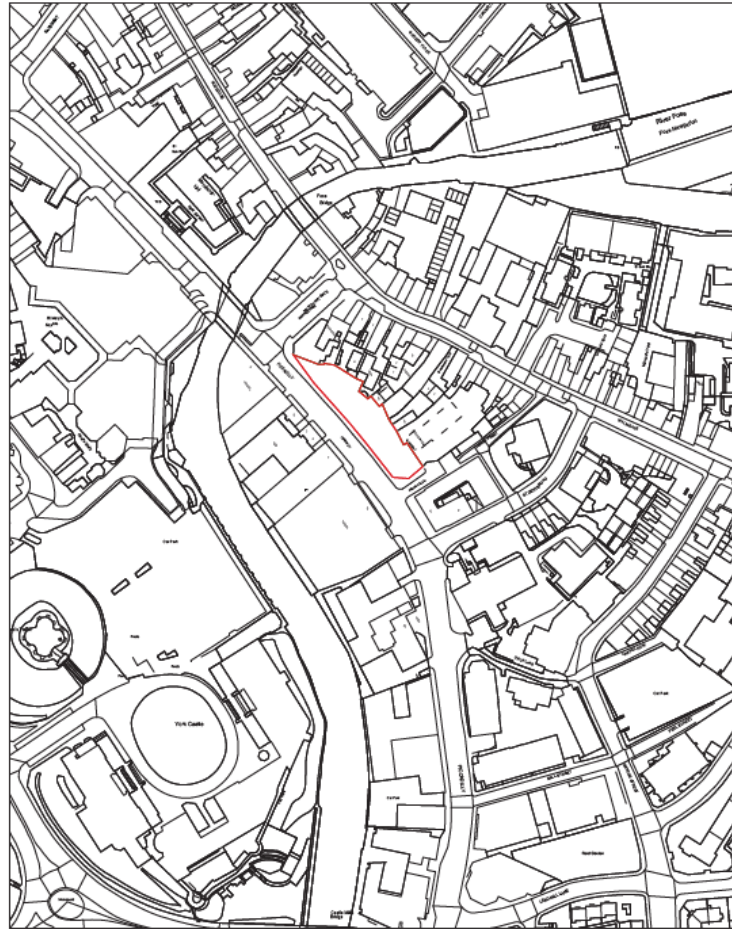
Variation of condition 2 of permitted application 17/00274/FUL to extend duration of permission to
31.3.2022



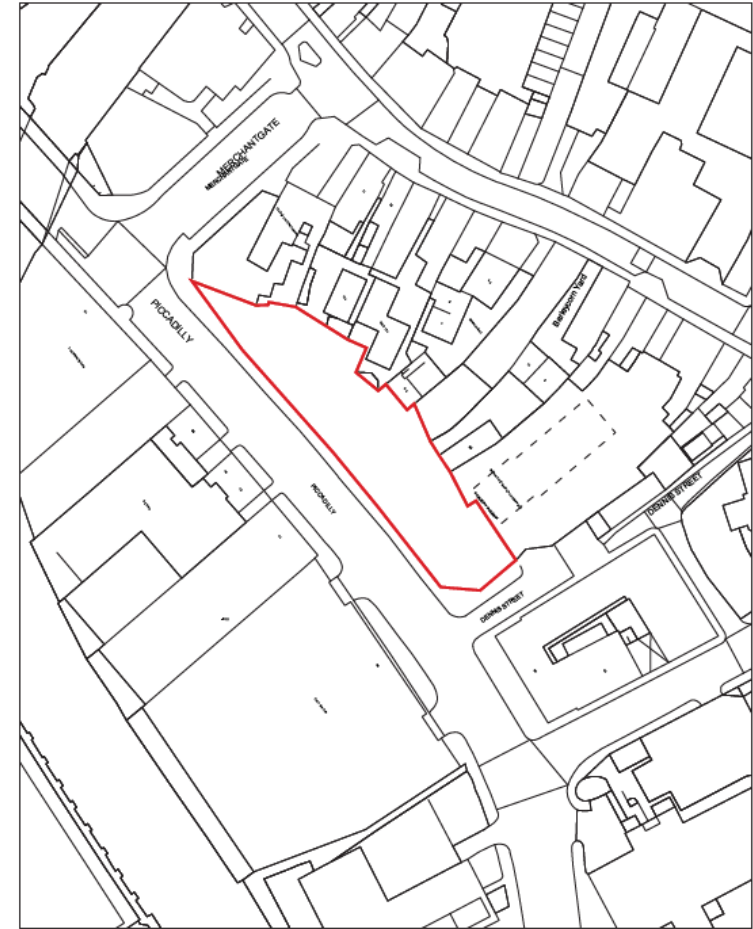
View from South East



Site Location Plan & Site Block Plan



1 Existing Site Location Plan
Scale: 1:1250



2 Existing Site Block Plan
Scale: 1:500



Revision History		Description
Rev	Date	
-	08.03.20	Planning Issue

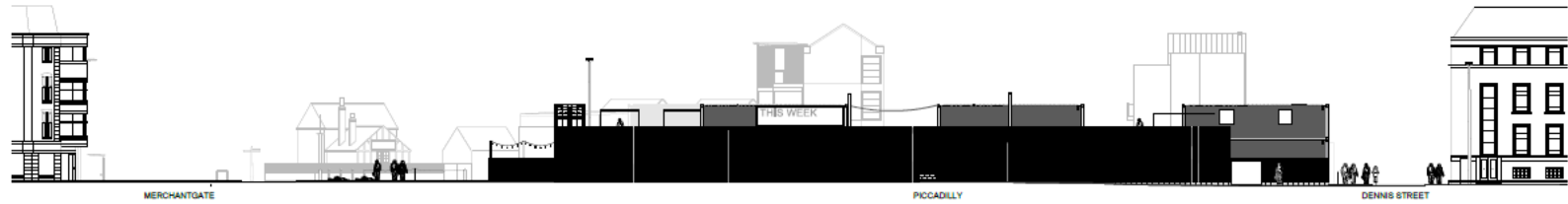
Orientation & Scale

SCHEMATIC DRAWINGS ARE TO BE EXCLUDED FROM THE DRAWING. THE CONTRACTOR/ARCHITECT IS RESPONSIBLE FOR CHECKING ALL DIMENSIONS AND COORDINATE ANY DISCREPANCIES.

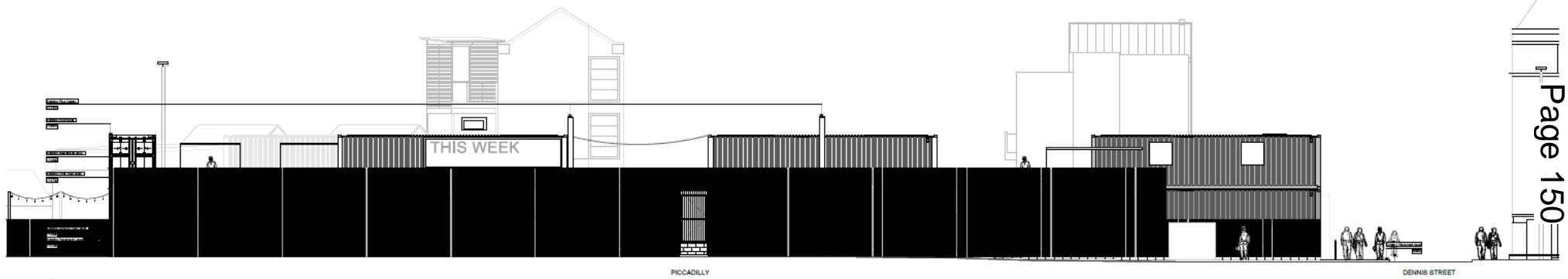
Project
Spark York
Drawing Title
Site Location Plan & Site Block Plan
Drawing No.
100

Drawn by
GRH
Date
08.03.20
Scale
1:1250@ A1

Proposed Piccadilly Elevation



1 Existing West Elevation (Context)
Scale: 1:200



2 Existing West Elevation
Scale: 1:100



Revision History		
Rev	Date	Description
-	08.03.20	Planning Issue
P2	15.03.20	Drawing revised as per planning officer's comments

Orientation & Scale

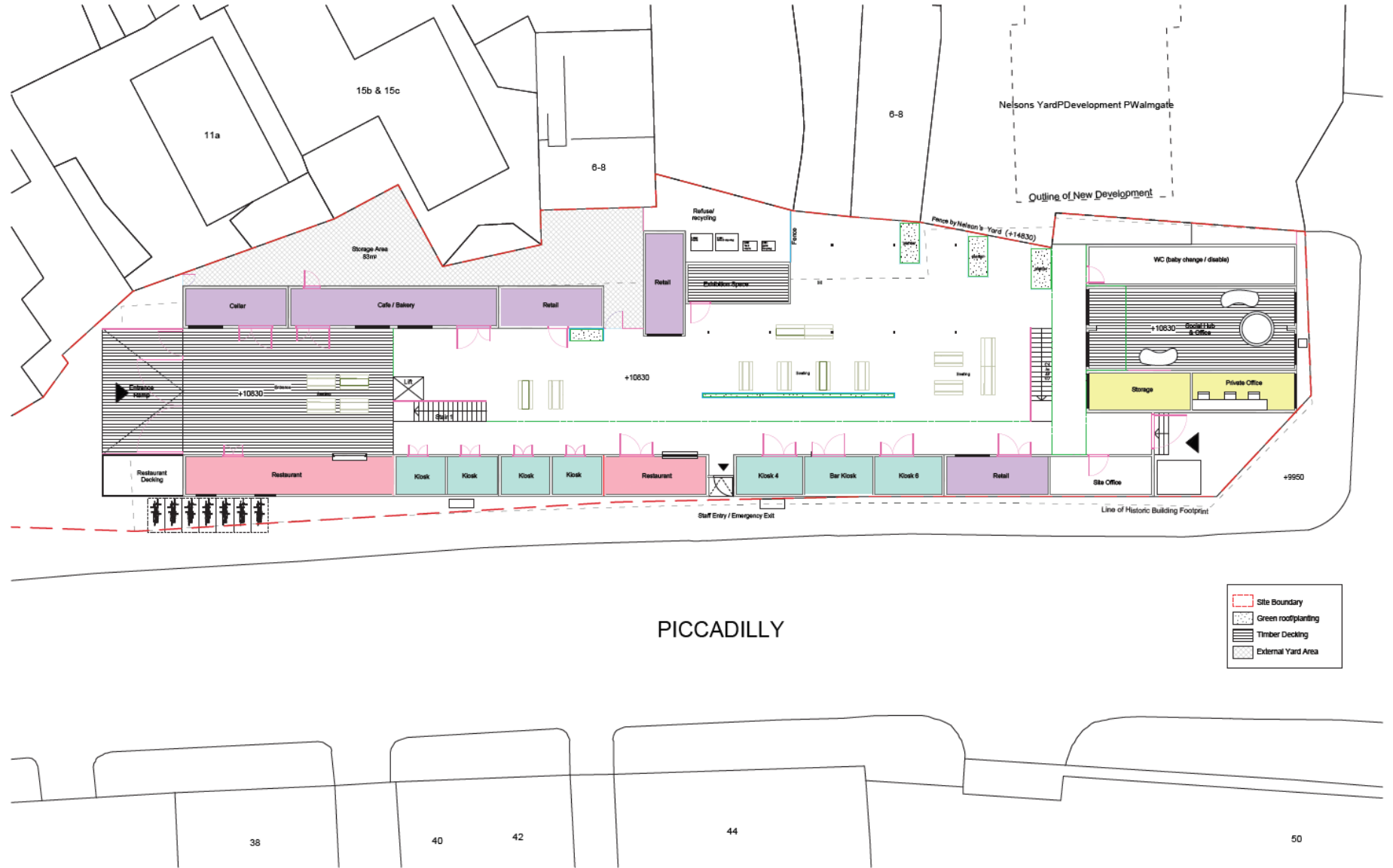
0 10 20 30 40 50 M

NO DIMENSIONS ARE TO BE EXCEEDED FROM THE DRAWING. THE CONTRACTOR/MANUFACTURER IS RESPONSIBLE FOR CHECKING ALL DIMENSIONS AND CARRYING ANY CORRECTIONS.

Project
Spark York
Drawing Title
Existing West Elevation
Drawing No.
104

Drawn by
GRH
Date
08.03.20
Scale
1:100 @ A1

Proposed Ground Floor



PICCADILLY

- Site Boundary
- Green roofplanting
- Timber Decking
- External Yard Area



Rev	Date	Description
-	08.03.20	Planning Issue
P2	15.03.20	Drawing revised as per planning officer's comments

Orientation & Scale

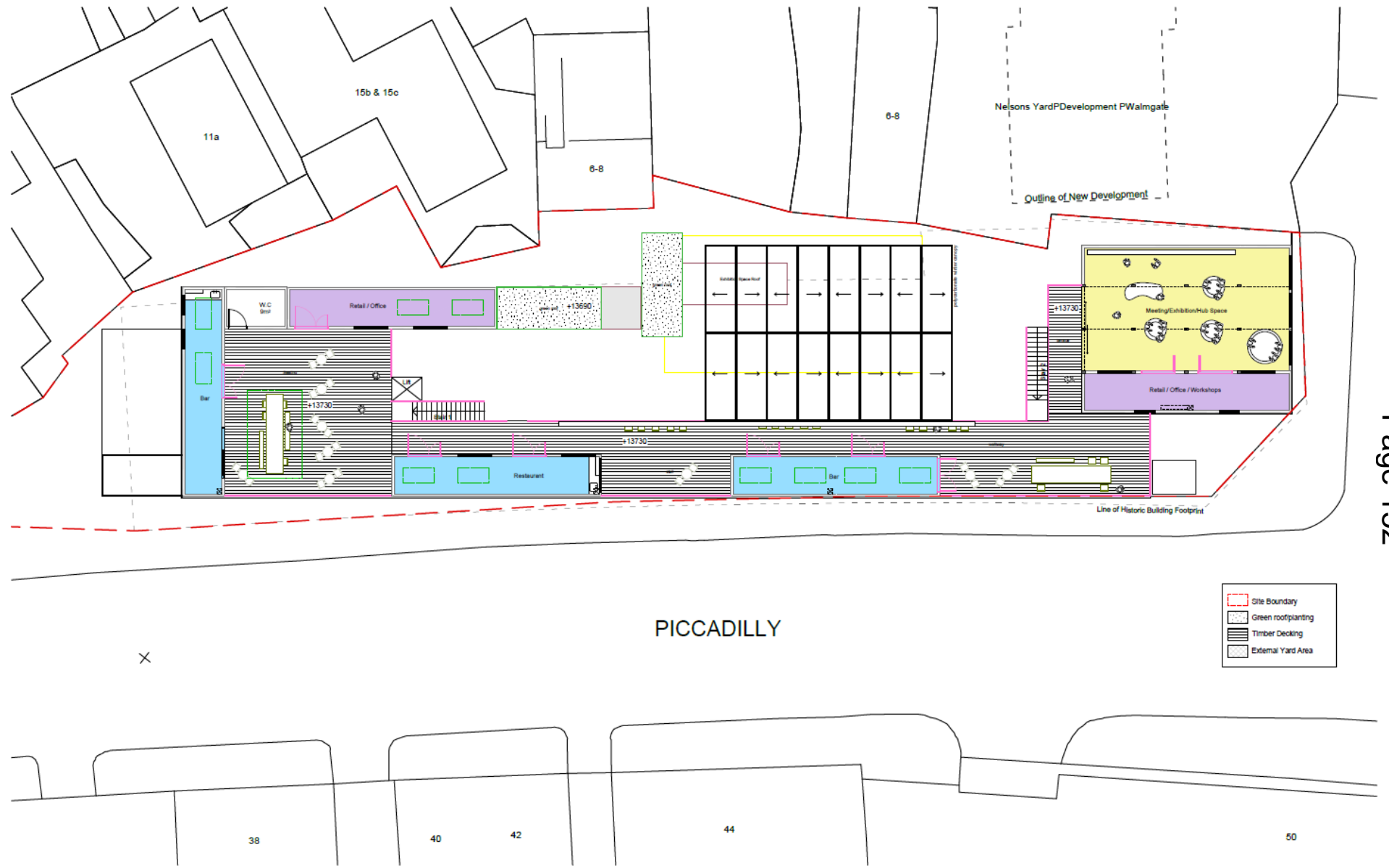
0.0 1.0 2.0 3.0 4.0 5.0 6.0 M

ACCOMMODATION AND SERVICES TO BE PROVIDED BY THE CONTRACTOR AND RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND CONSENTS.

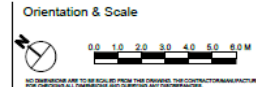
Project
Spark York
Drawing Title
Existing Ground Floor Plan
Drawing No.
101

Drawn by
GRH
Date
08.03.20
Scale
1:100 @ A1

Proposed First Floor



Revision History	Description
Rev: - Date: 09.03.20	Description: Planning Issue



Project: Spark York
 Drawing Title: Existing First Floor Plan
 Drawing No.: 102

Drawn by: GRH
 Date: 08.03.20
 Scale: 1:100 @ A1

19/02293/FULM - Axcel Group Limited, 36 - 44 Piccadilly, York

Partial demolition of existing building and construction of 3 to 5 storey hotel with ancillary restaurant/bar, landscaping and retention of the Banana Warehouse facade (resubmission)

Piccadilly Elevation



Piccadilly Elevation (2)



Banana Warehouse Façade



Piccadilly Elevation (3)



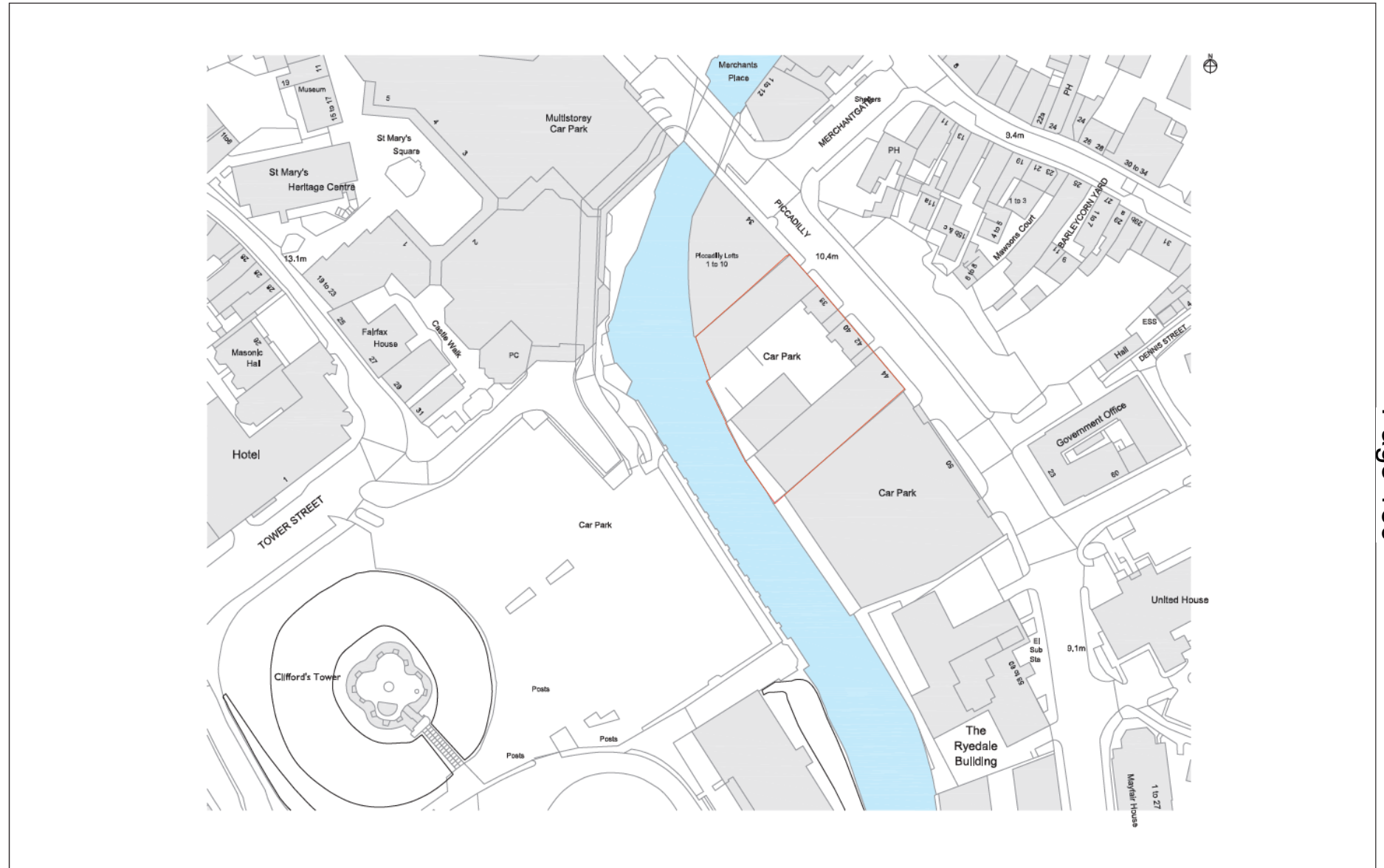
River Foss Elevation



Application site and
neighbouring hotel site
from Clifford's Tower

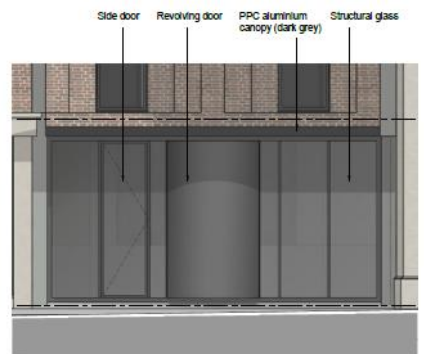


Site Location Plan



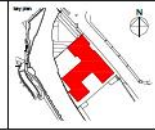
 <p>Comprehensive Design Architects 16 Moray Place Edinburgh EH3 5DT T: 0131 225 1111 www.cda-group.co.uk</p>	<p>CONSTRUCTION DESIGN AND MANAGEMENT REGULATIONS 2013</p> <p>This drawing to be used in conjunction with CDA's Standard House and High Assessment of work/contract method (SDM) before starting.</p> <p>Works to be marked out in accordance with the Construction Phase plan prepared by the Principal Contractor.</p> <p>Registered Office: Comprehensive Design Architects (United Kingdom) 16 Moray Place EDINBURGH EH3 5DT © Comprehensive Design Architects Ltd. All rights reserved.</p>	<p>Notes</p> <ol style="list-style-type: none"> 1. Do not scale off this drawing 2. Drawing to be read in conjunction with the specification and all relevant drawing information 3. Contractor to check all dimensions on site. Comprehensive Design Architects to be advised of any discrepancies between the drawing and the conditions immediately. 4. Dimensions are in meters unless otherwise stated. 	<p>— PLANNING BOUNDARY</p> 	<p>Client: Axcel Group Banana Warehouse, York</p> <p>Date: 27.06.18 Scale: 1:500@A1 Author: RZ Checked: CM</p>	<p>PLANNING</p> <p>Drawing No: Site Location Plan</p> <p>Project No: BW-CDA-01-SW-DR-A-PL-0001 P4</p>
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Proposed North East Elevation




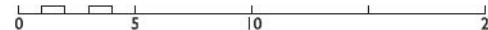

D1 - Canopy Entrance
1:50



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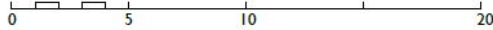

Proposed South East Elevation



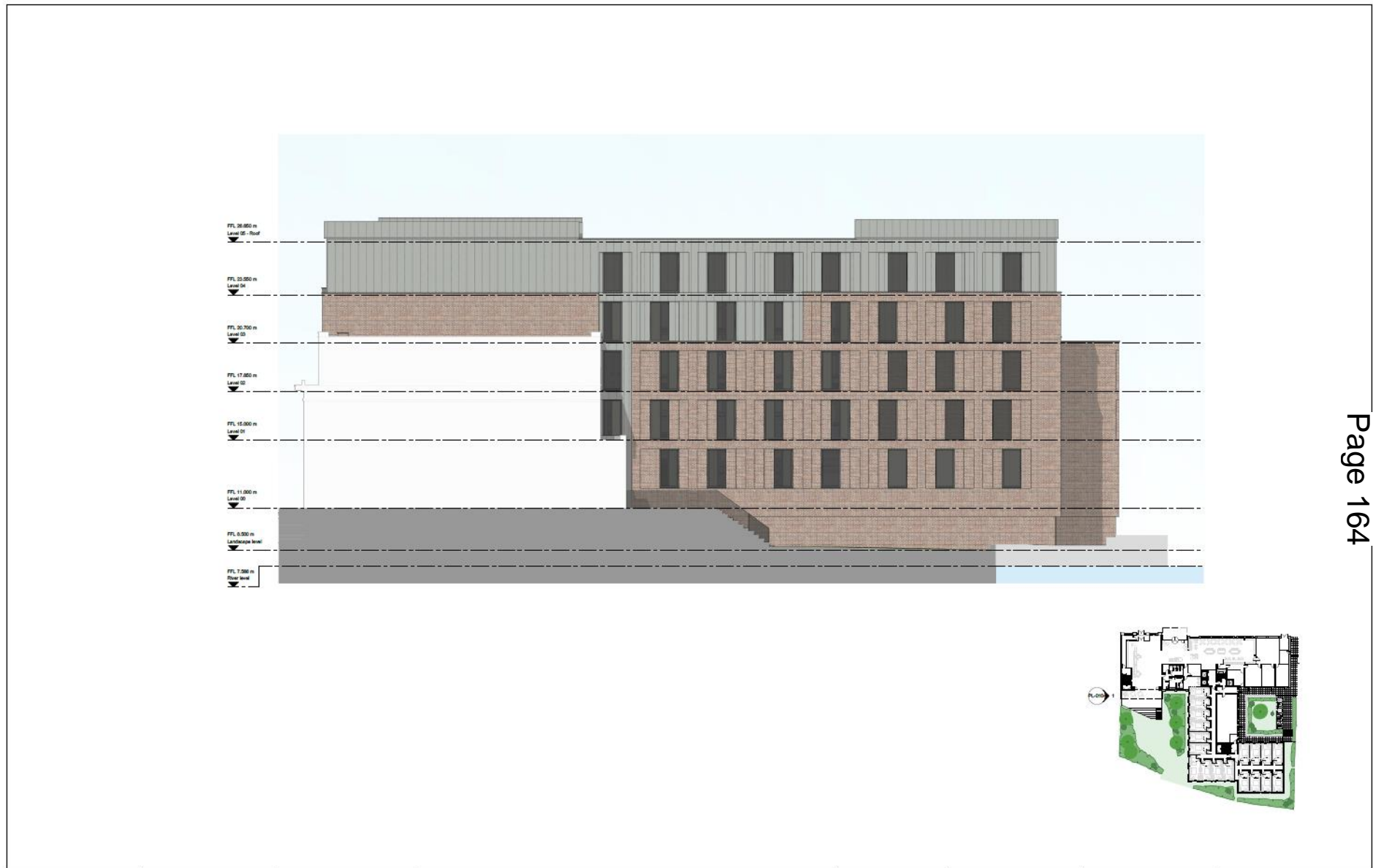
 <p>Comprehensive Design Architects 16 Money Place Edinburgh EH3 6DT T: 0131 225 1111 www.cda-group.co.uk</p>	<p>CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2016 This drawing is to be read in conjunction with CDA's Standard Contract and Site Assessment of Construction Method (SCM) and/or drawings. Works to be carried out in accordance with the Construction Phase plan prepared by the Principal Contractor.</p> <p>Registered Office: Comprehensive Design Architects Limited 16 Money Place Edinburgh EH3 6DT Registered in Scotland: SC211114 © Comprehensive Design Architects Ltd. All rights reserved.</p>	<p>Notes</p> <ol style="list-style-type: none"> Do not scale off this drawing. Drawings to be read in conjunction with the construction and all relevant drawing information. Contractor to check all dimensions on site. Comprehensive Design Architects to be advised of any discrepancies between the drawing and the conditions immediately. Approved drawings to be printed on blue or white paper unless otherwise stated. 			<p>date: 27.06.18 scale: 1:100@A1 drawing no: RZ checked by: CM approved by: E1737</p>	<p>client: Axcel Group project title: Banana Warehouse, York</p> <p>stage: PLANNING drawing title: Proposed South East Elevation</p> <p>drawing no: BW-CDA-01-ZZ-DR-A-PL-0105 sheet no: P2</p>
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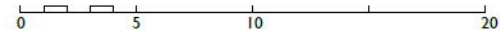
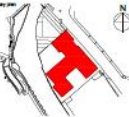
Proposed South West Elevation



 Comprehensive Design Architects 16 Moray Place Edinburgh EH3 6DT T: 0131 225 1111 www.cda-group.co.uk	CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2016 This drawing to be read in conjunction with CDA's Standard of Work and Risk Assessment of architectural practice (SOWAR) series drawings. Works to be carried out in accordance with the Construction Phase plan prepared by the Principal Contractor. Registered Office: Comprehensive Design Architects Limited 16 Moray Place EDINBURGH EH3 6DT Registered in Scotland: SC311114 © Comprehensive Design Architects Ltd. All rights reserved.	Notes 1. Do not scale off this drawing. 2. Drawing to be read in conjunction with the specification and all relevant drawing information. 3. Contractor to check all dimensions on site Comprehensive Design Architects to be advised of any discrepancies between this drawing and the conditions immediately. 4. Dimensions are in millimeters unless otherwise stated.			client: Axcel Group project title: Banana Warehouse, York date: 27.06.18 scale: 1:100@A1 drawn by: RZ checked by: CM	PLANNING drawing title: Proposed South West Elevation drawing no.: E1737 BW-CDA-01-ZZ-DR-A-PL-0103 P3
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Proposed North West Elevation



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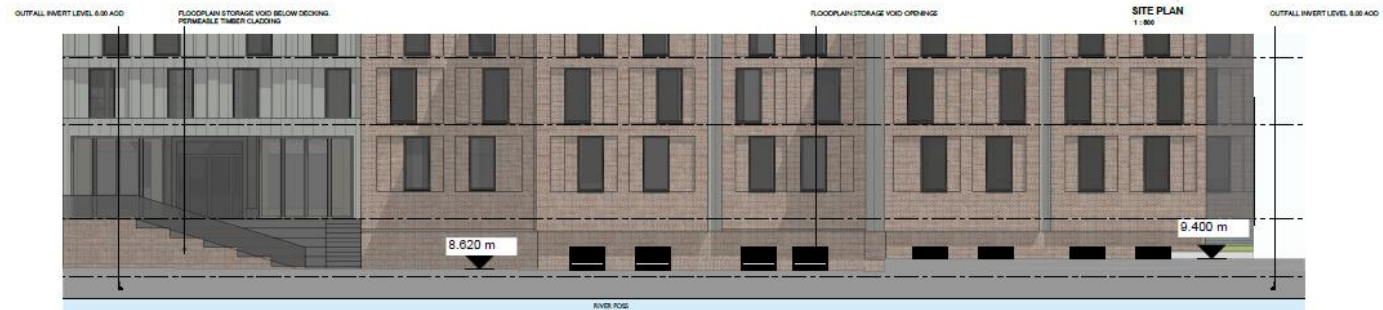
Side Wide Proposed Elevations



Elevation 1 - Proposed North East Elevation
1:200



Elevation 2 - Proposed South West Elevation
1:200



D1 - Existing Rear Wall Reconfiguration (Trees omitted for clarity)
1:100



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			<p>scale 1:200</p>			

Proposed Ground Floor



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Scale: 0 5 10 20

North Arrow: N

Client: Excel Group
Project: Banana Warehouse, York
Drawn by: JC
Checked by: CM
Date: 27.06.18
Scale: 1:100@A1
Sheet: RZ CM
Project No.: E1737
Project Name: BW-CDA-01-00-DR-A-PL-0004 P8

Proposed First Floor



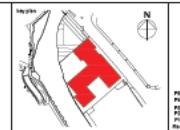
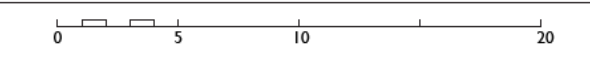
- LEGEND**
- FRONT OF HOUSE AREAS / PUBLIC ACCESS COMMON AREAS
 - BACK OF HOUSE AREAS
 - CORE / EMERGENCY EXITS
 - GUEST ROOMS
 - RISERS
 - PLANT ROOM AREAS
 - BIKE ROOM
 - TERRACE



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REV	DATE	BY	CHKD	DESCRIPTION
01	18.05.18	AM	AM	Issue for RFP submission
02	18.05.18	AM	AM	Issue for Design Development
03	18.05.18	AM	AM	Issue for Planning
04	18.05.18	AM	AM	Issue for Construction
05	18.05.18	AM	AM	Issue for Planning
06	18.05.18	AM	AM	Issue for Planning

Client: Axel Group
 Banana Warehouse, York

PLANNING
 Drawing No: Proposed First Floor Plan
 Date: 27.06.18 1:100@A1
 Scale: RZ CM
 Project: BW-CDA-01-01-DR-A-PL-0005 P5



Proposed Second Floor

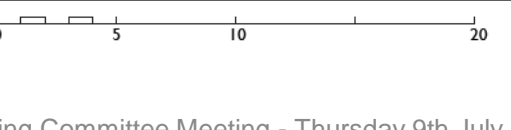


- LEGEND**
- FRONT OF HOUSE ARMS / PUBLIC ACCESS COMMON ARMS
 - BACK OF HOUSE ARMS
 - CORE / EMERGENCY EXITS
 - GUEST ROOMS
 - RENS
 - PLANT ROOM AREAS
 - BIKE ROOM
 - TERRACE

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Rev	Date	Description
01	18.05.18	Issue for RFP comments
02	18.05.18	Issue for Planning
03	18.05.18	Issue for Construction
04	18.05.18	Issue for Planning
05	27.05.18	Issue for Planning

Client: Axel Group
Project: Banana Warehouse, York
Date: 27.05.18
Scale: 1:100@A1
Drawn by: RZ
Checked by: CM
Issued for: E1737

PLANING
 Drawing title: Proposed Second Floor Plan
 E1737 / SW-CDA-01-02-DR-A-PL-0006 PS



Proposed Third Floor



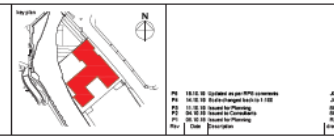
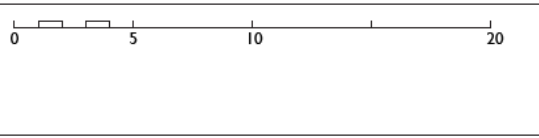
LEGEND

Yellow	FRONT OF HOUSE AREAS / PUBLIC ACCESS COMMON AREAS
Light Green	BACK OF HOUSE AREAS
Pink	CORRS / EMERGENCY EVITS
Light Blue	GUEST ROOMS
Light Green	MEETS
Light Blue	PLANT ROOM AREAS
Light Blue	ENGINE ROOM
Light Green	TERRACE

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Client: **Axcel Group**
 Project No: **Banana Warehouse, York**

Disc: **PLANNING**
 Drawing Title: **Proposed Third Floor Plan**
 Date: 27.06.16 1:125@A1
 Drawn by: RZ
 Checked by: CM
 Internal Ref: E1737
 External Ref: BW-CDA-01-03-DR-A-PL-0007
 Scale: PS



Proposed Fourth Floor



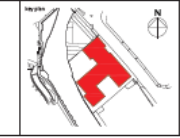
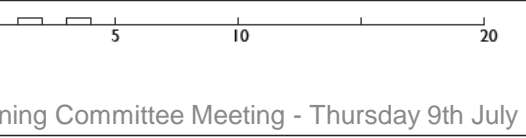
- LEGEND**
- FRONT OF HOUSE AREAS / PUBLIC ACCESS COMMON AREAS
 - BACK OF HOUSE AREAS
 - CORE / EMERGENCY EXITS
 - GUEST ROOMS
 - REARS
 - PLANT ROOM AREAS
 - ENGINE ROOM
 - TERRACE

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PD 18.10 Updated on per RPA comments PD 18.10 Issue for Planning PD 18.10 Issue for Planning PD 18.10 Issue for Planning PD 18.10 Issue for Planning	JAC JAC JAC JAC JAC	Date Date Date Date Date
--	---------------------------------	--------------------------------------

Client: **Excel Group**
 Location: **Banana Warehouse, York**

Project: **PLANNING**
 Drawing title: **Proposed Fourth Floor Plan**
 Drawing No: **54737**
 Date: **27.06.18**
 Scale: **1:100@A1**
 Drawn by: **RZ**
 Checked by: **CM**
 Project No: **BW-CDA-01-04-DR-A-PL-0008**
 Revision: **P5**



Proposed Roof Plan



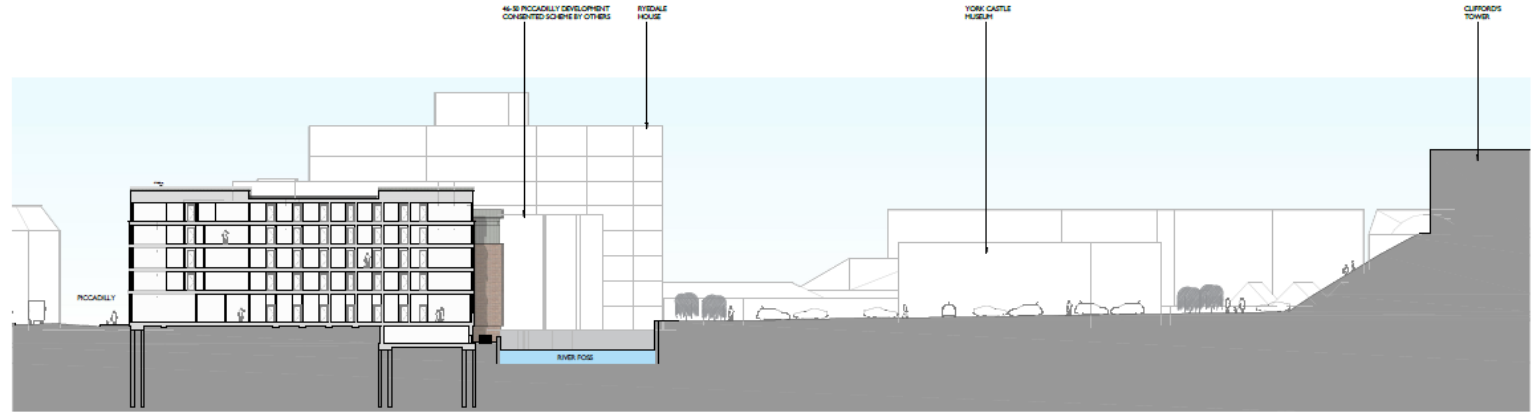
ROOF FINISHES

- FLAT ROOF SINGLE PLY MEMBRANE DARK GREY COLOR
- RITCHED ROOF ZINC CLADDING GREY COLOR



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Proposed Site Wide Section



Site Wide Section AA
1:300



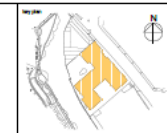
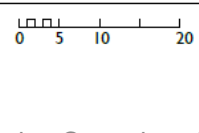
Site Plan
1:300



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REVISIONS

No.	Date	Description
01	27.06.18	Issue for construction
02	27.06.18	Issue for construction
03	27.06.18	Issue for construction
04	27.06.18	Issue for construction
05	27.06.18	Issue for construction
06	27.06.18	Issue for construction
07	27.06.18	Issue for construction
08	27.06.18	Issue for construction
09	27.06.18	Issue for construction
10	27.06.18	Issue for construction
11	27.06.18	Issue for construction
12	27.06.18	Issue for construction
13	27.06.18	Issue for construction
14	27.06.18	Issue for construction
15	27.06.18	Issue for construction
16	27.06.18	Issue for construction
17	27.06.18	Issue for construction
18	27.06.18	Issue for construction
19	27.06.18	Issue for construction
20	27.06.18	Issue for construction

Client: Axel Group
Project: Banana Warehouse, York
Date: 27.06.18
Scale: 1:300/500@A1
Author: RZ
Checked: CM

PLANNING
Drawing No: Proposed Site Wide Section AA
Drawing Date: 27.06.18
Drawing Title: BW-CDA-01-SW-DR-A-PL-0200 P4

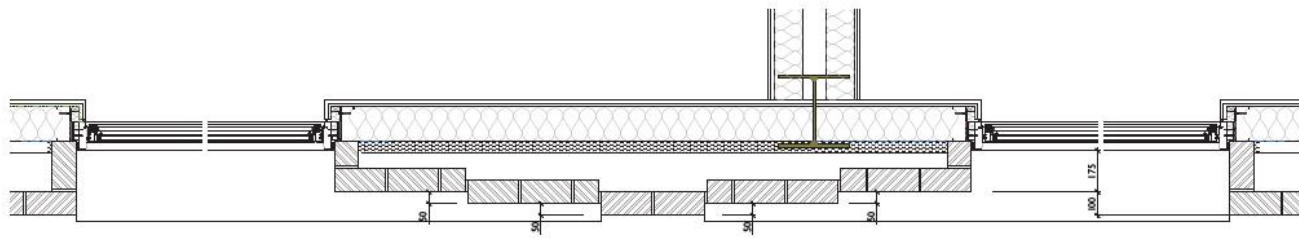
Proposed Façade Details



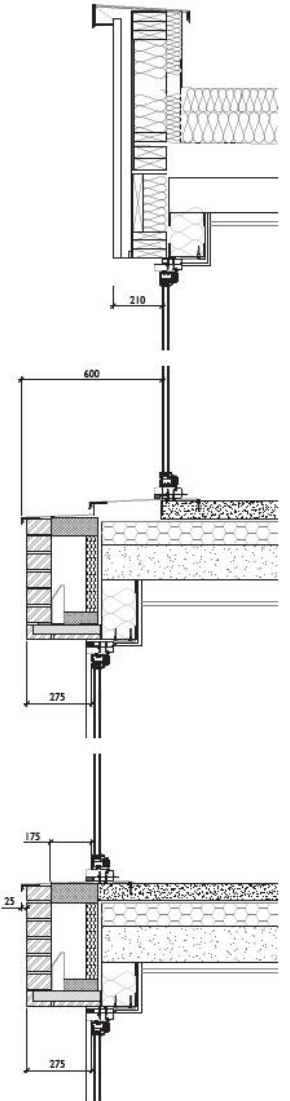
AERIAL 3D



FACADE EXTRACT 3D - PART SECTION



TYPICAL PLAN SECTION AA 1:10@A1



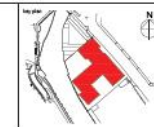
TYPICAL VERTICAL SECTION BB 1:10@A1



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PL 25.03.20 (used for Planning)
No. Date Description

client: **Arxel Group**
project: **Banana Warehouse, York**

status: **PLANNING**
drawing title: **Typical Building Façade Details Set back and recess dimensions**
date: 25.03.20
author: **VARIES@A1**
checked by: **JC**
drawn by: **CM**
revision: **E1737 BW-CDA-01-ZZ-DR-A-PL-0303 P1**

19/00078/OUTM - North Selby Mine, New Road, Deighton, York

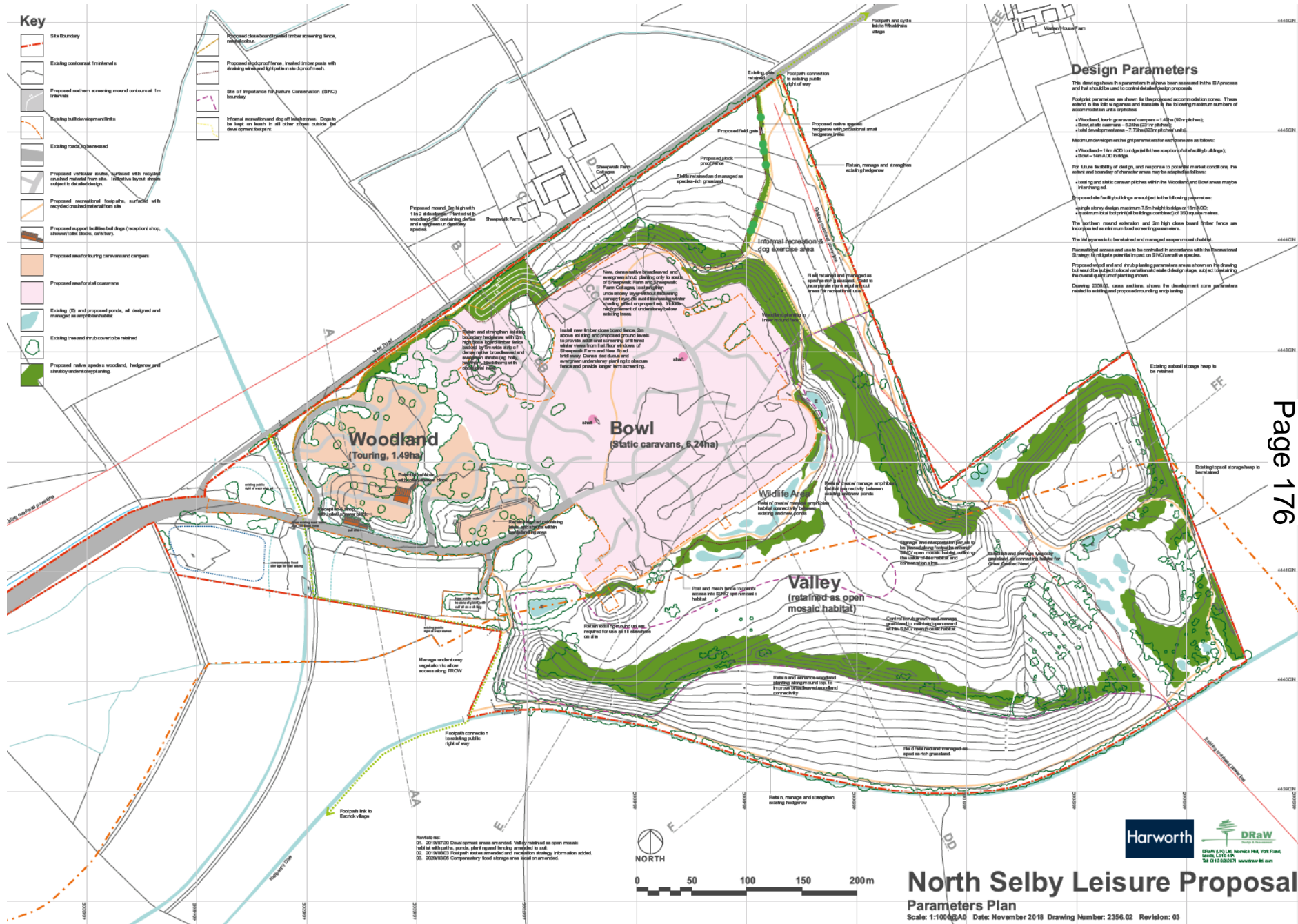
Outline application for redevelopment of the former North Selby Mine site to a leisure development comprising of a range of touring caravan and glamping uses, static caravans and self contained lodges with associated facilities (revised scheme)

Site Location Plan



Revision	
Project: North Selby Leisure Proposal	
Drawing Title: Red Line Boundary Plan	
Drawing Number: 2356.RL01	Revision:
Scale: 1:2500 @ A1	Date: December 2018
Drawn: ME	Checked: SW
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Parameters Plan



Recreation Strategy Plan

