



**Notice of a public meeting of
Area Planning Sub-Committee**

To: Councillors Hollyer (Chair), Crawshaw (Vice-Chair),
Cullwick, Fisher, Galvin, Craghill, Melly, Orrell, Waudby,
Webb and Perrett

Date: Thursday, 15 April 2021

Time: 4.30 pm

Venue: Remote Meeting

AGENDA

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. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

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 13 April 2021.**

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting, please contact the relevant Democracy Officer, on the details at the foot of the agenda.

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.

3. Plans List

To determine the following planning applications:

- a) **The Jubilee, Balfour Street, York, YO26 4YU** (Pages 1 - 50)
[20/01498/FUL]
Alterations and conversion of part of first floor and all of the roofspace of the public house building to 3no. self-contained apartments and retention of public house on ground floor and altered function room on first floor (resubmission). [Holgate Ward]
- b) **52 Broadway Cafe, 52 Broadway, York,** (Pages 51 - 70)
YO10 4JX [20/02157/FUL]
Enlarge cafe's outdoor seating area and erection of timber shelter. [Fishergate Ward]
- c) **Site To The Rear Of 5 Cherry Lane, York** (Pages 71 - 100)
[21/00121/OUT]
Outline application for the erection of 1no. detached dwelling with means of access (resubmission) [Dringhouses and Woodthorpe Ward]

4. Urgent Business

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

Democracy Officer:

Sarah White

Contact details:

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- Email: sarah.white@york.gov.uk

For more information about any of the following please contact the Democracy 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.

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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

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COMMITTEE REPORT

Date: 15 April 2021 **Ward:** Holgate
Team: West Area **Parish:** Holgate Planning Panel

Reference: 20/01498/FUL
Application at: The Jubilee Balfour Street York YO26 4YU
For: Alterations and conversion of part of first floor and all of the roofspace of the public house building to 3no. self-contained apartments and retention of public house on ground floor and altered function room on first floor (resubmission).
By: Mr Dominic Woodward
Application Type: Full Application
Target Date: 6 April 2021
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Consideration of this application was deferred from the 30 March 2021 meeting of the Sub-Committee to allow for compliance with the Local Government Act 1972 in respect of publication of the report.

1.2 The application property is a vacant public house located in the Leeman Road area of the city. The property is a substantial detached building of traditional construction with accommodation located over three floors as well as a large cellar. It sits in a relatively prominent position on the corner of Jubilee Terrace and Balfour Street. To the east (side) of the building is a grassed curtilage formerly used as a beer garden. To the rear (north) is a hard-surfaced parking/storage area.

1.3 The property is currently laid out with bar/lounge areas on the ground floor and a large function room with bar on part of the first floor. A manager/landlords flat (two/three bedrooms) is located in part of the first floor and in the roof space.

1.4 It is proposed to convert part of the first floor and all of the second floor/roofspace to create three self-contained flats. Two would contain 1 bedroom and one would contain two bedrooms. The ground floor and cellar is proposed to remain in pub use. The existing first floor function room with a vaulted roof would be horizontally sub-divided with a new lower ceiling introduced. The upper part of the function room and roof space would become a self-contained flat. The remaining

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floor space below would remain as a function room with a new staircase introduced from the lobby of the bar area. The internal height of the function room would be 3 metres. In respect to the external space, the area of grassed beer garden immediately to the side of the main pub building would remain as a beer garden. The rear part of the beer garden is proposed to become a parking and turning area for the flats. A total of three car parking spaces are indicated for the flats. The car park area will also be used for external storage for the public house and to access the doors above the cellar.

1.5 In respect to external changes to the building the following is proposed:

- The creation of a third dormer on the south elevation. Two of the dormers will be designed to function as small covered balconies.
- Removal of the outbuildings and offshoots within the yard area.
- Insertion of 5 roof lights in the roof.
- Removal of the external staircase and provision of external door in the east elevation and the south elevation.

1.6 It should be noted that the scheme has been revised from when it was first submitted in August 2020. The main change is the retention of part of the function room on the first floor and the provision of a new internal staircase to serve this. Consultation took place in respect to the original proposals and the later revision to the scheme to reduce the number of flats to 3 and retain part of the function room. Since this consultation minor changes have been made to the drawings, including to the bin storage location and function room staircase design. The impact of these changes did not justify re-consultation.

1.7 The application has been brought to committee at the request of Cllr K. Taylor due to concerns regarding the negative impact the proposal will have on the availability of community facilities in the local area.

1.8 In February 2021 the property was included on the provisional local list of non-designated heritage assets.

Recent Planning History

1.9 In December 2017 a certificate of lawfulness for the proposed use of part of the first floor and the second floor as ancillary guest accommodation for the pub (17/02670/CPU) was granted. The drawings indicated that the ceiling of the function

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room would be lowered to create living accommodation above. No external changes were proposed. A certificate of lawfulness does not assess the merits of a proposal but only considers whether the works could be undertaken without the need to apply for planning permission.

1.10 In May 2018 planning permission was refused (16/00862/FUL) for the conversion of the first and second floor of the public house building to 4 self-contained apartments and the retention of a reduced size public house on part of the ground floor. In the course of assessing the application the proposal had been revised from a scheme to convert all of the building to 6 flats. The refused scheme did not retain any parts of the function room or beer garden in pub use. The application was refused under delegated powers for the following reason:

“The change of use of a large part of the internal and external areas of the building/site from public house use to four flats is considered to be an unnecessary loss of valued and important social, recreational and cultural facilities. Furthermore the loss of such space would not be a modernisation that is considered necessary or beneficial to sustain the public house use for the local community. The proposal conflicts with guidance in the National Planning Policy Framework with particular regard to promoting healthy communities (Paragraph 70), relevant guidance in the City of York Publication Draft Local Plan 2018 (Policies D3, HW1 and DP3) and policy C3 in the City of York Draft Local Plan 2005.”

1.11 The applicant appealed against the decision. On 30 October 2019 following an Informal Hearing the appeal was dismissed. The reason for the dismissal of the appeal related to the detrimental social impact that the loss of the function room and beer garden would have on the local community.

2.0 POLICY CONTEXT

National Planning Policy Framework

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

2.2 The National Planning Policy Framework (‘NPPF’) is a material consideration in the determination of this planning application. Key policies / sections of the NPPF are as follows –

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- Section 4 Decision making
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities.
- Section 11 Making effective use of land
- Section 12 Achieving well-designed places
- Section 16 - Conserving and enhancing the historic environment.

2.3 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 2018 Draft Plan took place in December 2019. The plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.4 Key relevant 2018 Draft Plan Policies are as follows –

- HW1 Protecting Existing Facilities
- HW7 Healthy Places
- D1 Placemaking
- D3 Cultural Provision
- D11 Extensions and Alterations to Buildings
- D2 Landscape and Setting
- D6 Archaeology
- D8 The significance of non-designated heritage assets.
- CC2 Sustainable Design and Construction of New Development
- ENV4 Flood Risk
- ENV5 Sustainable Drainage
- T1 Sustainable Access

2.5 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. It does not form part of the statutory development plan and its policies carry very limited weight. Appendix E to the 2005 Draft Local Plan outlines car and cycle parking standards for development and specifies that a maximum of 1 car parking space should be provide for each one or two bedroom dwelling along with one cycle parking space for each.

3.0 CONSULTATIONS

CYC Highway Network Management

3.1 No objections. There is adequate space within the parking for cars to park and manoeuvre to leave in a forward gear. The modest number of parking spaces is such that it is not considered there would be an unacceptable conflict with deliveries to the public house.

CYC Emergency Planning Co-ordinator

3.2 Does not object from a flood rescue perspective as the building is unlikely to be quickly inundated with water and notes that first floor has a large function room that could be occupied more intensively. If the application is approved a condition should be included that requires a communal first floor window to serve as means of escape.

CYC Public Protection

3.3 Do not object providing sound proofing measures are undertaken in accordance with the noise assessment and a sound limiting device is provided in the function room. Conditions should also be included regarding delivery/collection hours, noise transfer, the insulation of external windows and restricting use of the beer garden to 10pm.

CYC Design, Conservation & Sustainable Development- Conservation Officer

3.4 Historic England considered the building for statutory listing in 2016 but concluded that whilst the quality of the exterior was high, the interior lacked the originality and qualities required for the listing of late nineteenth century public houses in their Listing Selection Guide

3.5 In respect to the upper floors they commented that the *“function room remains but with the exception of a chimneypiece this is exceptionally plain, and the original seven bedrooms have been reconfigured.”*

3.6 In February 2021 the building was added to the provisional local list originally compiled by the York Open Planning Forum in consultation with officers of the Council and now managed by York Civic Trust. The entry includes the description: *Opened in 1897 to the designs of nationally-renowned, York-based architect, Walter Brierley, for the Tadcaster Tower Brewery, The Jubilee public house offers strong design and architectural qualities. It was purpose built as a public house for the emerging Leeman Road community with strong railway-industry connections, and*

also offered accommodation. Offering a designated and attractive 'function room' on the first floor, The Jubilee holds high communal significance in having been at the heart of the community since for over a century.

3.7 Walter Brierley was the architect of highest renown in the city during the late nineteenth century and early decades of the twentieth. Consider that The Jubilee is of exceptionally high architectural quality, particularly within the Leeman Road character area, and unusual within the city for adopting the Queen Ann style. The historic layout of the building remains legible, and the original staircase and unusual function room of five bays spanning the building frontage with an open cathedral trussed ceiling with ventilation from little Classical dormers are surviving features of significance. The material quality of the building is exceptional.

3.8 The Local Heritage List for York Supplementary Planning Document Consultation Draft June 2013” contains criteria for the identification of non-designated heritage assets. This document is not adopted but it provides a useful framework for the identification of non-designated heritage assets which have status under para.197 of the NPPF, and the criteria are incorporated into the Draft Local Plan policy D8 “the significance of non-designated heritage assets”, which is a material consideration in determining current planning applications. Neither the NPPF nor the Planning Practice Guide require non-designated heritage assets to be adopted.

3.9 I am satisfied that the building clearly merits the identification on the provisional local list as a non-designated heritage asset and therefore the effect of the planning application on the significance of the structures should be taken into account in determining the application.

3.10 The alterations to the interior and exterior of the building will inevitably harm the architectural and historical heritage significances of the building due to the effects on the design, residual plan form and historic fabric, but it is notable that Historic England did not consider that the interior was well-preserved. However, as the building is not a statutory listed building (a national designation) the internal alterations do not require consent and therefore their effect is of limited relevance to assessing the application on architectural or historical grounds. The external alterations are harmful to the original design of the building, but the harm could be reduced by sensitive detailing and construction. Recommend conditions covering works to new and existing windows, doors and roof lights. The outbuilding range should be retained if possible.

3.11 If the external alterations are made with sufficient quality the harm to the architectural character of the building and its contribution to the local townscape will be low. With regards to the contribution that the building makes as a physical focal

point, the application would not have an effect. The degree to which the changes to and reduced public accessibility to the building would harm its communal value would depend on the future viability/sustainability of the public house.

CYC Flood Risk Management

3.12 No objections subject to conditions relating to surface water drainage and flood safety and resilience.

4.0 REPRESENTATIONS

Environment Agency

4.1 Do not object providing the application complies with the submitted Flood Risk Assessment.

Holgate Planning Panel

4.2 No objections

York Campaign for the Protection of Real Ale (CAMRA)

4.3 The applicant has been unwilling to work with the community and the scheme is cynical and profit driven. The reduced size of the function room and restraints placed on its use undermines its value. Living accommodation is essential to a community pub. The ground floor is poorly laid out. The proposal will lead to noise complaints. The proposed pub could be unviable and see an application for a change of use to residential accommodation. A commercial kitchen is important when maximising revenue. The vandalised ground floor must be restored by the applicant. The limited proposal for pub use should be opposed in favour of a scheme that retains the whole building.

Neighbour Notification and Publicity

4.4 47 Letters have been received from neighbours in respect to the current planning application. The scheme was re-consulted upon following revisions showing the retention of part of the function room. These changes have not resulted in any support for the proposals.

4.5 A number of the first round of objections raised concerns regarding the ground floor room being described as the function room with the first floor space being lost. This issue is no longer relevant in the light of the provision of a function room on the first floor. The comments that have been submitted are listed below:

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- The whole building and external areas should remain in pub use.
- The loss of community provision conflicts with advice in the National Planning Policy Framework.
- The York Central development will increase custom for a historic pub.
- The area is a densely populated 'island' and is short of community facilities. The building could provide a range of social, artistic, charity and recreational functions and could be a catalyst for bringing the community together. There is a big local appetite for a community hub.
- Want a large community building rather than a small pub – space is at more of a premium with social distancing.
- The pub could function in a similar way as The Golden Ball in Bishophill.
- The proposal will exacerbate parking problems in the area. Concerns regarding the impact on safety of school children and bus routes. The pub should have parking for staff and visitors. Cycle parking should also be provided for customers.
- To be viable and attractive to investors the pub needs staff accommodation.
- There is no provision for a smoking area.
- The building has been left to degrade. It has been poorly secured and vandalised. The kitchen has been removed along with the attractive Victorian fireplaces.
- It is an asset of community value.
- The petition signed by 1000 people supporting the dismissal of the previous appeal relating to the loss of much of the pub shows the level of community support for the pub and community use. A group of local residents have formed a group with the goal of a community buy-out of the property. The owners should work with the local community to bring it back into use. The owner has refused to sell or lease out the building. There were previous offers made to keep the building entirely as a pub.
- A kitchen is an essential feature in most modern pubs.
- The loss of the pub's yard area will reduce the functionality of the pub.
- Changes such as the addition of roof lights, additional dormer and introduction of Juliette balconies in the dormers will detract from the appearance of the attractive historic building.
- There is no provision for the pool room that was integral to the previous operation.
- The function room shares a wall with a proposed flat and also a flat is located above. This will inevitably generate complaints which will impact on the range

of activities that can take place in the function room. Activities in a function room are normally noisy.

- The function room no longer includes a bar.
- The route to bring food from the kitchen/lounge area to the bar is past the toilets.
- The occupants of the flats and function room will share the stairwell.
- There is no cycle parking for visitors.
- The bar area is too small.
- The use of the beer garden will be restricted by the proximity of residential accommodation.
- The building has been vacant too long and is an eyesore.

Jubilee Community Pub Group

4.6 The building is an Asset of Community Value. The proposal is not a 'sustainable modernisation for the benefit of the community'. It would be an unnecessary loss to the community. The building in its entirety is valuable and offers flexibility in its use. The new layout diminishes its use. The bar size is reduced, the staircase to the function room is less accessible and attached to the bar and lacks the grandeur of the existing. The reduction in height and size of the function room lessens its value. The use is not fully compatible with the proposed flats. The flats will also impact on use of the beer garden. Many of the proposed works are repairs resulting from the building being uncared for over recent years. The landlord's accommodation is valuable for staff and if not used by staff could serve numerous alternative functions of the community. There is no local support for the proposals. The need to fit out the pub is a clear obstacle to future occupiers. The demolition of outbuildings undermines viability. Allowing a flat to be occupied before the pub is repaired and altered creates perception that it is the pub that is the 'agent of change'. Consider that the Inspector's reference to the loss of space that could be let should not be restricted to the function room and garden. It is the pub as a whole that is significant to what can be provided for the community. The area is an island that will be further cut off by proposed works at the Railway Museum. The building is needed to help meet the needs of the local community. The building should remain in community use even if it is not used as a pub. A community benefit society has been established and is well supported. They have sought to meet with the owner to discuss purchasing the building but requests have been declined.

York Civic Trust

4.7 The report should make reference to the building's status as a non-designated heritage asset on York's Local Heritage List (*The report has now been updated*). It is very important to local heritage as well as being the only Asset of Community Value in the area. Paragraph 197 of the NPPF relating to non-designated heritage assets is relevant to the application and the views of the council's conservation officers should be sought.

It has high architectural value as a handsome building and was designed by nationally-renowned architect, Walter Brierley, who was York's preeminent architect of his day. The interiors of The Jubilee are of significant architectural value and would be at great risk if the extent of the proposed conversion to residential use is permitted.

The proposed changes would severely diminish the building's interior quality and undermine its future viability as a pub. To convert the public house to residential, either fully or significantly (as has been presented in this application and in the one of 2016) would lose the embodied communal heritage value of this non-designated heritage asset.

The applicant should work with the local community to retain a viable and needed pub. The York Central scheme does not indicate the inclusion of a pub or bar and could deliver 2,500 homes.

The committee should take heart from the dismissal of the previous appeal against the refusal of the previous scheme for residential development at The Jubilee. In addition, proposals to demolish the Carlton Pub were refused at Committee against officer advice and the appeal was dismissed with reference made to it being on the Local Heritage list.

Cllr R Baker

4.8 Object. The changes will lead to noise complaints from the use of the function room. The lack of manager's accommodation undermines the viability. Need clarity on future use of the beer garden. There is strong local support for the retention of the pub.

Cllr D Heaton

4.9 Object. The Jubilee has huge potential as a community venue. The proposal will eventually lead to all of the pub being converted to residential use. The

amended function room would be much restricted in use due to the proximity with living accommodation. There is huge local support for its retention as a pub and community venue.

Cllr K. Taylor

4.10 Object. There is a commitment from local people to work together to bring the pub back into use. Work is on-going building a business case and raising funds. The proposal conflicts with the NPPF and Local Plan policies that support the retention of established community facilities and services. The proximity to the flats will curtail use of the function room. The use needs living accommodation and staff parking. Not convinced of the applicant's desire to provide a pub use. A change to residential should be a last resort after the Jubilee has been given a chance to succeed.

5.0 APPRAISAL

5.1 The key issues in assessing the application are:

- Impact on neighbours living conditions
- Quality of accommodation
- Flood risk
- Highway and Parking Issues
- Sustainability
- Loss of community facilities
- Viability and Implementation
- Heritage

Impact on neighbours living conditions

5.2 NPPF paragraph 127 states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and landscaping;
- c) are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place;

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- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space); and
- f) 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.

5.3 Policy D1 of the 2018 Draft Plan (Placemaking) expects development proposals to improve poor existing urban and natural environments, enhance York's special qualities, better reveal the historic environment and protect the amenity of neighbouring residents. Development proposals that fail to make a positive contribution to the city or cause damage to the character and quality of an area, or the amenity of neighbours will be refused.

5.4 It is not considered that the physical changes would have a negative impact on existing neighbours' living conditions. The introduction of an external door to better link the pub with the beer garden will potentially increase activity within the beer garden and noise from inside the pub should the access door remain open however the beer garden is an existing facility. Public Protection state that they received noise complaints regarding the use of the beer garden in 2012, 2013 and 2016. It is considered reasonable in the context of the insertion of the side door to condition that the beer garden is not used after 10pm at night. In addition, it should also be conditioned that the new door serving the garden should be self-closing.

Quality of accommodation

5.5 NPPF paragraph 127 states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for future users.

5.6 The three flats are of an adequate size to meet the occupants' needs. The key consideration is the relationship of the flats with the existing beer garden and the altered function room. In respect to the beer garden it is considered that the relationship would be similar to that which currently exists between the beer garden and the existing flats to the rear and side. To minimise conflict it should be conditioned that habitable windows are double glazed or have secondary glazing. A condition relating to the management plan for the site would help to avoid conflicts between the pub use and flats. The times that deliveries and use of the yard in relation to the pub can take place would need to be conditioned.

5.7 The key consideration in respect to the living conditions within the flats is their relationship with the first floor function room and ground floor bar. One flat would be located on the same floor as the function room. In the second floor/roofspace one flat would be located above the function room and the other one above the proposed first floor flat. The applicant has submitted a noise impact assessment. It concluded that improvements can be made to insulation such that noise from music during live events would not be expected to affect the amenity of residents. The City Council's Public Protection Team have considered the assessment. They are satisfied that the proposals would allow the function room to remain in use for live music and other similar events. To help reduce the risk of conflict with residents they have requested a condition stating that all electronically amplified music emitted from the premises shall be played or reproduced through loud speakers and a tamper proof noise limitation device. It is not considered that this would impact significantly on the range of uses that the function room could be put to.

5.8 The provision of 3 flats (where 1 exists) in an accessible location is beneficial. However, it is not considered that the modest gains in housing supply would outweigh any significant loss of valued community facilities that can serve the existing local population.

Flood risk

5.9 Policy ENV4 of the 2018 Draft Plan requires development not to increase flood risk on or off site. Policies relating to flood risk are contained in chapter 14 of the NPPF. In respect to decision making the NPPF states that the proposal should meet the requirements of a site specific flood risk assessment.

5.10 The existing pub and living accommodation is in flood zone 3 (high flood risk). The uses of a public house and self-contained residential accommodation are in the same flood risk category (more vulnerable). As the proposal is for a change of use and does not propose caravans, camping etc. the proposal is not subject to the sequential or exception tests. It must though still meet the requirements for site specific flood risk assessments. The Environment Agency has seen the applicant's submitted flood risk assessment and consider that the assessment is in accordance with the requirements of the National Planning Policy Framework. A condition can be included relating to flood risk/resilience matters in respect to physical design, safe escape and flood warning. Details of the additional external hard surfacing can be conditioned to avoid increasing surface water run-off from the site.

Highway and Parking Issues

5.11 Chapter 9 of the NPPF states that in assessing applications it should be ensured that:

- Opportunities to promote, and facilitate access to sustainable transport included where appropriate.
- Give priority first to pedestrian and cycle movements.
- Minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.
- Be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- Safe and suitable access for all users.
- Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 111 requires an assessment of impacts on the network, when development will generate significant amounts of movement.

5.12 Paragraph 109 of the NPPF also states, “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

5.13 Three parking spaces are proposed in the parking area. Although the space is relatively tight it is considered adequate to allow vehicles to turn and exit in a forward gear. Bin storage and an individual cycle pod for each flat is proposed.

5.14 The applicant has indicated that the parking area can also be used for deliveries and bin storage in relation to the pub. Lorries delivering food and drink would need to park to the side of the pub on Balfour Street and roll barrels to the cellar hatch. It would be envisaged that the rear yard would only be essential for the delivery of kegs to the cellar and the number of deliveries to the yard each week or month would be relatively low. Although there would occasionally be some inconvenience to vehicles entering or existing the parking spaces the low number of parking spaces (3) is such that overall the impact would be modest. Highway

Network Management are satisfied that the proposal will not create Highway Safety concerns.

Sustainability

5.15 Policy CC2 of the 2018 Draft Plan “Sustainable Design and Construction of New Development” requires applications for the change of use of buildings to residential to achieve BREEAM very good standard. The applicant is in agreement with a condition being included relating to this matter. The dwellings would be located close to the city centre and have suitable storage for cycles and recycling bins.

Loss of community facilities

5.16 Chapter 8 of the NPPF relates to promoting healthy and safe communities. Paragraph 91 (a) states that decisions should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact. Paragraph 92 (c) states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day to day needs.

5.17 Policy HW1 in the 2018 Draft Plan relates to Protecting Existing Facilities. This policy includes reference to Public Houses. The fourth criterion of the policy states that, in the case of commercial facilities their loss will not be supported unless evidence is provided that demonstrates the facilities are no longer viable. Supporting text at 6.8 states that a loss of local facilities that residents depend upon has the potential to erode community cohesion and exacerbate social isolation. It further states that although a loss of facilities would affect all residents, groups likely to be particularly affected by loss of amenities include the elderly, those with reduced mobility and those on low income, all of whom may struggle to travel to use alternative facilities. The policy is similar in intent as paragraphs 91 and 92 of the NPPF which would have greater weight in decision making.

5.18 It is considered that issues relating to the loss of community facilities is the key consideration in assessing the proposal. This is the reason that the previous application was refused and dismissed at appeal.

5.19 In assessing the current application regard must be had to the Planning Inspector’s decision letter dated 9 October 2019 as a material planning consideration.

5.20 There is no doubt that the vast majority of objectors feel that none of the pub should be changed to incorporate 3 self-contained flats. The numerous reasons why this is considered to be so are listed in the representations. The petition signed by around 1000 people (that was submitted at the time of the earlier appeal) indicates the level of local support for the retention of the pub. The property is listed as an Asset of Community Value. Furthermore, a number of residents have established a group to actively work towards purchasing or leasing the whole building/site for a community focussed pub/venue.

5.21 The application for 4 flats and retention of the public house on the ground floor was refused in May 2018 under delegated powers. In refusing the application it was emphasised that it was considered that it was the pub as a whole including the external space, living accommodation and function room that made it particularly viable and of value to the local community. This was reiterated in the Local Planning Authority's appeal statement. At the appeal hearing on 9 October 2019 the Inspector considered the issue of whether the retention of the upper floor manager's accommodation was necessary to ensure the successful running of the Public House. At the hearing were local councillors, local residents, a representative of CAMRA, a successful publican and a prospective purchaser of the building. Those people present were given the opportunity to comment on the proposed loss of the Manager's accommodation and other space. It was made clear to the Inspector that it was considered that the Manager's accommodation was essential in respect to making the Pub use financially viable and for convenience and security. It was stated that such accommodation was an integral part of a neighbourhood pub.

5.22 Although the Inspector dismissed the appeal, he did not state that all of the building or curtilage needed to remain in Public House use. His decision letter included the following statements:

- There is nothing sufficiently compelling, some logistical and security issues aside that seem eminently possible to overcome, that would lead me to conclude that a reduced sized public house could not operate viably and thus successfully.
- The appeal scheme would be acceptable in other areas such as the living conditions of existing and future occupiers, design and access as well as the appeal site being accessible by means other than the private car.

- Whilst it might be stretching it to suggest that the loss of the floor space and facilities on offer at the Jubilee would impinge on the ability of the community to meet its day to day needs, this should not devalue what it can offer and how that can be of benefit to incumbent and future residents on a socially inclusive level.
- The appeal scheme would seek to provide a public house when there is a public house existing. The loss in this case however would be what the Jubilee has to offer that is not readily available locally, mainly in the shape of the additional lettable space it can provide as well as a sizable outdoor space. In this respect it is not just the sale of drinks to passing or regular patrons to consider. The provision of usable floor space for functions, socially connected sports teams or meetings for local groups can act as a focal point for a community otherwise bereft of such provision and a good quality outdoor space would be beneficial to a business in the summer months.
- The social impact of the loss of the facilities on offer would, for the reasons I have set out, be detrimental to the local community in the manner I have explained.

5.23 It is considered that the above statements are unambiguous in setting out the Inspector's view that a smaller pub is viable and would be viable without the manager's accommodation. The reason for dismissing the appeal centred on the scheme leading to the loss of the function room and the loss of the beer garden. The Inspector's concerns related to the social impact of the loss of the facilities.

5.24 Clearly objectors and the Local Planning Authority may disagree with the conclusions of the Inspector and continue to feel that all of the pub and its curtilage should be retained in public house use, however it is considered that the Inspector's reasoning should be given significant weight. The decision was recent (October 2019) and at that time the Inspector was well aware of the strong opposition to the proposals and that there were parties interested in purchasing the public house with the intention of retaining it in its entirety. The issue of whether it is possible to disregard the statements made in the Inspector's decision and refuse the application on the grounds of the loss of the Manager's accommodation (and other concerns not opposed by the Planning Inspector) has been considered by the Council's Legal department. It has advised that regard should be had to the importance of consistency in decision making and therefore a practical test for the decision maker

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is to ask itself whether, if it decides this application in a certain way, is it agreeing or disagreeing with some critical aspect of the decision in the previous appeal. Where there is disagreement, then adequate reasons should be given to explain departure from it. Otherwise, there is a risk of a successful challenge to the decision.

5.25 In the light of the appeal decision it is considered in assessing the current application the key issue is whether the scheme overcomes the previous reason for refusal and appeal decision concerns specifically relating to the loss of the function room and the loss of the beer garden. These issues are considered below:

Function room

5.26 The function room currently has a vaulted ceiling. Access to the room is via a staircase located at the central lobby of the public house. It has a small relatively makeshift bar in the corner. The only toilets in the Public House are on the ground floor. The application proposes to install a lower ceiling in the function room, allowing a flat to be located in the roof space above. The ceiling would be located above the existing tall windows in the room and would be around 3m above the floor level. Access to the function room would be via a new staircase off the lobby at the rear of the premises. The provision of the staircase and new entrance would mean that the floor area of the function room would be reduced from 12m x 6m to approximately 9.5m x 6m. The overall reduction in floor space would be from 72sqm to 57sqm. The proposed scheme indicates a full height cupboard within the room. This is included in the floor space calculations given it would not need to be provided.

5.27 It is not considered that the access arrangements would significantly impact on the quality of provision. The users of the function room would still need to use the toilets on the ground floor. It is not currently a wholly self-contained venue as people accessing or existing the function room need to travel through the bar area of the pub. The additional height within the function room is part of its character and gives a greater feeling of spaciousness, however, the proposed 3m ceiling height would not be so low as to make the room feel cramped and would be more practical in respect to maintenance and heating. In considering the acceptability of the changes to the ceiling, some regard is also given to the fact that the Pub is not a listed building and as such *internal* alterations can be undertaken without planning permission providing the use remains in the same use, or ancillary to the use (Public House). Significantly, the applicant is willing to accept a condition that the function

room remains as a single undivided space capable of hosting functions and retains the internal ceiling height indicated on the approved drawings.

5.28 The current function room is served by a single staircase. Building Regulations would normally restrict the capacity of a first floor room served by a single staircase to 60 people. In respect to assessing the maximum capacity of the existing and proposed altered function room for various events, Approved Document B of the Building Regulations 'Fire Safety: Buildings other than Dwellings' uses a figure of 1sqm per person for dining areas and 0.5m per person for standing (for example, dancing or watching live music). The relative *theoretical* gross maximum capacity of the function room based purely on floor area (and not taking account of the capacity limitations resulting from the access) would be 72 existing and 57 proposed if used for dining and 144 existing and 114 proposed for dancing. The 'theoretical' figures are the maximum and the standing capacity would be reduced were space also needed for, for example a bar or performers etc. Based on the above, it is considered that the impact of the changes on the current capacity of the function room would be relatively modest for most events. It would be expected that for 'typical' pub related events such as for live music and dancing, the capacity would still remain around 60. The room could also accommodate 60 people for events where people sit in rows such as a public meeting or watching a sporting event on TV.

5.29 In respect to fire safety it should be noted that if a further staircase were provided from the room the capacity could be increased. It is difficult to envisage a practical arrangement where this could be achieved for the proposed layout. In respect to the existing layout the provision of a new external door from the function room leading to an associated Building Regulations compliant external staircase would allow the capacity to be increased beyond 60.

5.30 In respect to noise levels, as set out previously the Council's Public Protection officer is satisfied that noise insulation can be provided that when coupled with a tamper proof noise limitation device would ensure that the normal uses of the function room would be compatible with the living conditions of the occupants of the proposed flats.

5.31 The original drawings with the current application did not include the first floor function room and showed the pool room and adjacent Bothy (with widened associated opening) as a function room. In respect to practicalities this ground floor space can be self-contained and in respect to access has the benefit of being on the

ground floor. Although not a replacement for the first floor function room it is a relatively large room and would be a space suitable for meetings, exhibitions and smaller gatherings.

5.32 On balance it is considered that the proposed changes to the existing function room would not have a significant impact on the local community's ability to meet its day-to-day needs. Fire regulations mean that the current capacity would not typically be reduced for the vast majority of pub related events that would take place in the space such as parties or live music. The changes would also have a fairly limited impact on day-to-day community events such as classes, clubs, meetings and children's parties that would normally attract less than 60 people. For larger seated events it would be expected that the local church could be used. It would be for the operator of the pub to decide how they wanted to use the various spaces, however, it is considered that the proposed ground floor and first floor layout is such that the building would still be capable of being used for the vast majority of day to day events and activities as well as drinking and informal socialising.

Beer Garden

5.33 A beer garden would remain with the pub and for the use of the pub. A new external door is proposed from a lobby area of the Pub to the garden. Currently the only way to access the garden is via the service yard or around the building and as such the changes will enhance access to the outdoor space. The area of the garden will be reduced a little as the northern part is proposed for car parking and storage, however, the garden is still capable of meeting the normal needs of the pub. Because of the proximity to existing flats it is not considered to be a beer garden suited to particularly intensive use.

5.34 In the future if needed the garden could be used for community purposes such as a break out area for coffee mornings or toddler groups. The changes are not considered to reduce the ability of the community to meet its day to day needs.

Viability and Implementation

5.35 In his decision letter relating to the dismissal of the previous appeal at the site the Inspector stated that, "The appellant has every intention of investing in the fit out of the public house element in the scheme, being willing to accept conditions imposed on a planning permission." The current proposals for the pub are superior to the previous dismissed scheme in respect to the amount of space available to customers. It is noted that there is not a kitchen, though this could be

accommodated by a future operator. The retention of a function room and beer garden would also aid viability. The pub also retains a large cellar area. The applicant has accepted a condition that the remaining pub areas be repaired and fitted out as a shell. The fit out of the shell would need to be completed before the second flat is occupied. The future occupier would need to install a bar area, toilets, install carpets, decorate the walls and provide furnishing etc. It cannot be guaranteed that anyone will occupy the remaining pub space, however, it would be unusual for the works to be undertaken and the developer not to seek a financial return from its occupation.

5.36 The applicant has also agreed that should planning permission be granted a S106 agreement would be signed ensuring that the yard area shared with the flats will remain accessible to the public house irrespective of the ownership of the yard area. This is important as the yard is used for storage and deliveries and is also the exit point from the ground floor escape door serving the proposed altered function room.

Townscape and Heritage

5.37 The building is not listed or located in a Conservation Area, however it is a well-proportioned substantial corner building important to the historic form of the inner city residential area.

5.38 NPPF paragraph 127 states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and landscaping;
- c) are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space); and
- f) 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.

5.39 Policy D1 of the 2018 Draft Plan (Placemaking) expects development proposals to improve poor existing urban and natural environments, enhance York's special qualities, better reveal the historic environment and protect the amenity of neighbouring residents. Development proposals that fail to make a positive contribution to the city or cause damage to the character and quality of an area, or the amenity of neighbours will be refused.

5.40 The building was added to the local list of non-designated heritage assets in February of this year. The text contained next to the listing states that *“Opened in 1897 to the designs of nationally-renowned, York-based architect, Walter Brierley, for the Tadcaster Tower Brewery, The Jubilee public house offers strong design and architectural qualities. It was purpose built as a public house for the emerging Leeman Road community with strong railway-industry connections, and also offered accommodation. Offering a designated and attractive 'function room' on the first floor, The Jubilee holds high communal significance in having been at the heart of the community since for over a century”*.

5.41 The Local Heritage List for York Supplementary Planning Document Consultation Draft June 2013 contains criteria for the identification of non-designated heritage assets. This document is not adopted but it provides a useful framework for the identification of non-designated heritage assets which have status under paragraph 197 of the NPPF, and the criteria are incorporated into the emerging Local Plan policy D8 “The significance of non-designated heritage assets”, which is a material consideration in determining current planning applications. Neither the NPPF nor the Planning Practice Guide require non-designated heritage assets to be adopted. The Planning Practice Guide states that “There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes and conservation area appraisals and reviews. ...In some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications (Paragraph: 040 Reference ID: 18a-040-20190723)”.

5.42 It is considered that the building clearly merits the identification on the provisional local list and a non-designated heritage asset under criteria for architectural, townscape, historical and community significances, and therefore the effect of the proposals on the significance of the structures should be taken into account in determining the application.

5.43 Paragraph 184 of the NPPF advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so

that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 192 advises that in determining planning applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to a viable use consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 197 advises that 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. Paragraph 191 states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

5.44 Policy D8 of the Draft Local Plan relates to non-designated heritage assets and states that the significance of non-designated heritage assets and their settings should be assessed in development proposals against the following criteria, namely the:

- special architectural or vernacular interest
- townscape and landscape significance
- historic interest
- artistic significance
- archaeological significance
- age and rarity
- community significance

Development which would remove, harm or undermine the significance of such assets, or their contribution to the character of a place, will only be permitted where the benefits of the development outweigh the harm having regard to the scale of the harm and significance of the heritage asset.

5.45 It is considered that subject to appropriate conditions on the quality of external alterations and additions to the building the changes would have a modest impact on the attractiveness of its exterior appearance. It will remain a well-proportioned, well detailed and substantial building. The interior will clearly be substantially altered. The demolition of the outbuildings and off-shoot in the yard is not considered to have a significant impact on its architectural interest. In considering the acceptability of the main internal changes (re-configuration of the ground floor, new staircase and lowered ceiling of the function room) significant regard should be given to the fact that as the building is not statutory listed building works can be undertaken without the need to submit listed building consent. Planning permission is needed only where works change the use of the building - accordingly the ground floor interior can be changed and internal staircase inserted without the need to submit a planning application. The works to the function room only need consent in respect to the creation of the self-contained flat above. The lowering of the function room ceiling in isolation would not need planning permission. The building will in all intents and purposes retain its appearance as a prominent public house in a high density residential area. It is noted that as the interior of the building has previously been altered and many original features lost the impact of the interior changes on its historic significance is limited. It is not considered that the external changes would have a material impact on the historic significance of the building.

5.46 The building is a heritage asset, though it is non-designated and as such internal works can be undertaken without the need for listed building consent. It is considered that the main intact element of architectural significance is its exterior. It is considered that subject to conditions regarding alterations and additions, the impacts will be modest and not so impactful to justify refusal when taking account its non-designated heritage status. The building will still remain a prominent and attractive local landmark. In respect to the heritage of the building and how it co-exists with the local built environment and local population, it is important that if viable, it remains as a public house. Issues relating to the future viability of the pub are considered elsewhere in the appraisal.

6.0 CONCLUSION

6.1 In assessing the proposal it is considered that significant weight should be given to the content of the Inspector's recent decision letter relating to the dismissal of the previous mixed use scheme at the site. The decision did not indicate that a smaller pub was unviable, the loss of manager's accommodation unacceptable, or that the use was incompatible with the proposed upper floor residential uses. The reason the appeal was dismissed related to the loss of the beer garden and loss of the function room and the impact that this would have on 'social inclusion'.

6.2 The current scheme as revised retains a first floor function room, which though smaller in size would, because of national fire safety restrictions, normally have the same maximum capacity as the existing. There would also be an improved access to a reasonable sized beer garden. In respect to the actual floor area of the building, relatively little space that has historically been accessible to the local population will be lost and conditions can be included to help ensure that this remains the case.

6.3 The future style or ownership of the Pub is unknown, however, it is considered that should the managers seek to operate it in a way that focuses on a 'community model', adequate space (including that for storage) remains available for this approach to be taken. Furthermore, the changes are not considered to undermine the ability to adapt the building for other community uses should a pub use prove unviable.

6.4 The building was added to the local list of Heritage Assets in February 2021. It is considered that subject to conditions controlling the quality of external alterations, the impacts on the exterior would be modest and the building would remain an attractive local landmark.

6.5 Having regard to the reasoning in the Planning Inspector's recent decision letter, it is considered that that the scheme overall would be compliant with the policies of the NPPF including those relating to the protection of community facilities and non-designated heritage assets.

7.0 RECOMMENDATION: Approve subject to conditions and to a legal agreement under s106 of the Act to ensure that the Public House retains access to the yard for those purposes essential to sustain its use.

1 TIME2 Development start within three years

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

Proposed Floor Plans 02035-210 Revision C received on 12 March 2021.

Proposed Elevations 02035-201 Revision B received on 12 November 2020.

Proposed Site Plan 02035-110 Revision D received on 19 February 2021.

Ceiling heights shown on Proposed Sections 02035-212 received on 12 November 2020.

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

3 Prior to the occupation of any of the proposed flats, a building survey of the internal and external areas shown on the approved plans indicated to remain in public house use and a report clearly documenting all of the repair, adaption and improvement works that are needed to create well-functioning internal and external areas and a durable shell fit-out ready for re-occupation as a public house shall be submitted to and approved in writing by the Local Planning Authority. The survey and written report shall be undertaken by competent persons.

The repair and improvement works shall include:

- Public house cleared of rubbish. Debris and soiled carpets removed with floor made good for any new flooring of the operators' choice.
- All electrical and gas installations on site made first fix ready and suitable level of provision provided for each space. Unfit or dangerous fixtures and fittings removed.
- Cellar area flooding/broken pipework resolved and then cleared and area made ready for safe and efficient provision of kegs and beer lines.
- All vandalised fixtures and fittings e.g. built in seating areas removed and area left as blank canvass ready for operator fit out.
- New stairs, ceiling and associated doors and utilities provided to function room.
- All walls skimmed where required.
- Windows and doors that have been vandalised to be repaired/replaced like for like. Boards used for boarding up removed.
- Cellar doors made fully functional.
- Site cleared of rubbish and fly tipping.
- Out buildings demolished and cleared and all external brickwork and any openings made good.
- Beer garden area cut back and cleared as necessary.
- Insertion of a new door leading directly from the pub to the beer garden.
- New staircase and re-designed function room.
- Provision of new walls, doors, toilet fittings and washing fittings in accordance with approved plans.

Reason: To preserve a viable Public House on site.

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4 Prior to the occupation of more than one of the approved flats the proposed repair, adaption and improvement works listed in the building survey as approved referred to in condition 3 needed to create well-functioning internal and external areas and a durable shell fit-out ready for re-occupation shall be completed and a verification report by competent persons that demonstrates that the works have been completed in a satisfactory manner in accordance with the report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To preserve a viable Public House on site.

5 Details of the reduction in carbon emissions of the residential sections of 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% unless it can be demonstrated that this is not viable 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

6 Details of new and replacement external surfacing, including details of drainage, shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the related works. The surfacing shall be provided in accordance with the approved details.

Reason: To avoid any increase in flood risk and ensure the materials are an appropriate quality

7 Elevation details of the new structures to be erected in the parking and service area shown on the approved site plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the first flat. The structures shall be provided in accordance with the approved details prior to the occupation of the first flat and thereafter retained as approved.

Reason: To protect the appearance of the non-designated asset and ensure the functional use of the site and provision remains for refuse, recycling and cycle storage.

8 The infill brickwork shall match the existing brickwork in all respects ie, bonding, size, colour and texture of bricks and the colour and finished treatment of mortar joints.

Reason: To ensure that the finished appearance is to the satisfaction of the Local Planning Authority.

9 Notwithstanding the submitted details, prior to their provision large scale drawings shall be submitted to and approved in writing by the Local Planning Authority of the following elements of the scheme:

- New dormer window and changes to existing dormer windows.
- New roof lights that shall be a top-hung 'conservation design' including vertical glazing bar.
- New external doors and surrounds including associated lintels and reveals.
- New boundary treatments and gates.
- Alterations to/and or replacement of existing windows that shall where practical retain the existing sash openings with the provision of secondary glazing.

The works shall be completed in accordance with the approved details.

Reason: To protect the appearance of the non-designated heritage asset.

10 The parking, storage, access and manoeuvring areas shown on the parking and service areas to serve the flats and public house shall be laid out in accordance with the approved plans prior to the occupation of the first flat and notwithstanding

the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) these areas shall remain laid out in accordance with the approved plans and shall be kept free of obstruction and not used for any purpose other than for parking, storage, access and manoeuvring.

Reason: To ensure the functional use of the site and provision remains for refuse, recycling and cycle storage.

11 Delivery vehicles to the public house and waste removal vehicles to the public house shall be confined to the following hours:

Monday to Friday 08:00 to 18:00 hours

Saturday 09:00 to 13:00 hours and not at all on Sundays and Bank Holidays

Reason: To protect the amenity of occupants of the nearby properties from noise.

12 Prior to the re-occupation of the Public House a management plan shall be submitted to and approved in writing by the Local Planning Authority setting out how and when the yard will be used in association with the pub and how deliveries will be managed in a way that minimises disruption to occupiers of the proposed flats. Thereafter deliveries shall operate in accordance with the management plan as approved.

Reason: To reduce conflict with residential occupiers and ensure the efficient functioning of the shared parking and delivery area.

13 The beer garden shown on the approved plans shall only be used for purposes of the Public House and purposes ancillary to the Public House and shall not be used for any other purpose, including access in association with the occupation of the flats.

Reason: To support the effective operation of the public house.

14 The beer garden shown on the approved plans shall not be used by customers between the hours of 22.00 and 09:00.

Reason: To protect neighbours' living conditions.

15 The new external door to the beer garden shall be self-closing and shall remain as such.

Reason: To protect neighbours' amenity.

16 Notwithstanding the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, no part of the public house shown on the approved plans shall be converted to ancillary living or sleeping accommodation.

Reason: To protect the remaining pub areas for use by the community.

17 Notwithstanding the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification the function room shown on the approved plans shall remain as a single undivided space capable of hosting functions and shall retain the internal ceiling height indicated on the approved drawings.

Reason: To protect the space for community use.

18 All sound attenuation measures detailed in the submitted noise assessment [Nova Acoustics (ref 5314TC dated 26/11/20)] shall be fully implemented prior to the occupation of the first flat and permanently retained thereafter. Prior to the occupation of the first flat a report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates that the predicted noise levels for internal rooms in all of the flats has been achieved.

Reason: To protect the amenity of people living in the new property from noise associated with the ground floor use and in accordance with the National Planning Policy Framework

19 No development shall take place until a detailed scheme of noise insulation

measures for protecting the approved residential accommodation from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works 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.

20 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 in writing. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment as approved and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be 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.

21 All electronically amplified music emitted from the premises shall be played or reproduced through loud speakers and a tamper proof noise limitation device. The device, the levels set and the installation shall be approved in writing by the Local Planning Authority before the use hereby approved commences. Thereafter the approved levels, equipment, installation, position and type of speakers shall be maintained in accordance with the approved details and at no time shall they be modified without the written approval of the Local Planning Authority.

Reason:- To safeguard the amenity of neighbouring properties.

22 The development shall incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A) within the garage space (or parking area) if desired. The applicant shall identify the proposed location for a future Electric Vehicle Recharge Point within the development curtilage and ensure that any necessary trunking/ducting is in place to enable cables to be run to the specified location.

Reason

To ensure future electric vehicle charge points can be easily added to the property in line with the NPPF and CYC's Low Emission Strategy.

- Any future Electric Vehicle Charging Points need to be professionally installed. The installation process routinely involves wall mounting a charge point on an exterior wall or garage and connecting it safely to the mains electricity supply. All electrical circuits/installations shall comply with the electrical requirements in force at the time of installation
- In the UK, there is a government-grant scheme available to help reduce the cost of installing a home EV charge point. For more information on the scheme see the OLEV website
<https://www.gov.uk/government/collections/government-grants-for-low-emission-vehicles>
- The above requirement does not preclude the installation of Electric Vehicle Charge Point from the outset, if desired.

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- Details of passive provision to be included within household pack for first occupant, to include location of proposed Electric Vehicle Recharge Point, trunking/ducting provided and details of distribution board location and capacity

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 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 Prior to the commencement of development details setting out how the following flood risk measures will be addressed shall be submitted to and approved in writing by the Local Planning Authority:

Physical Design Measures

Safe Escape

Flood Warning

The works shall be undertaken and the property operated in accordance with the approved details.

Reason: To minimise the impacts of potential flooding.

25 Prior to the demolition of outbuildings and internal alterations to the public house, a photographic record and description of the elements of the building to be changed or removed shall be submitted to the Local Planning Authority in

accordance with recording methods that have been agreed in writing with the Local Planning Authority.

To comply with Policy D8 of the Draft York Plan 2008 that relates to the recording of non-designated heritage assess.

8.0 INFORMATIVES:

Notes to Applicant

1. Development Informative

The developer's attention should also be drawn to the following which should be attached to any planning approval as an informative:

- The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".
- Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link. https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites
- All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturer's instructions.
- There shall be no bonfires on the site.

2. 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 an

Application Reference Number: 20/01498/FUL

acceptable outcome:

Revised drawings received showing retention of part of function room and area of beer garden.

Contact details:

Case Officer: Neil Massey

Tel No: 01904 551352

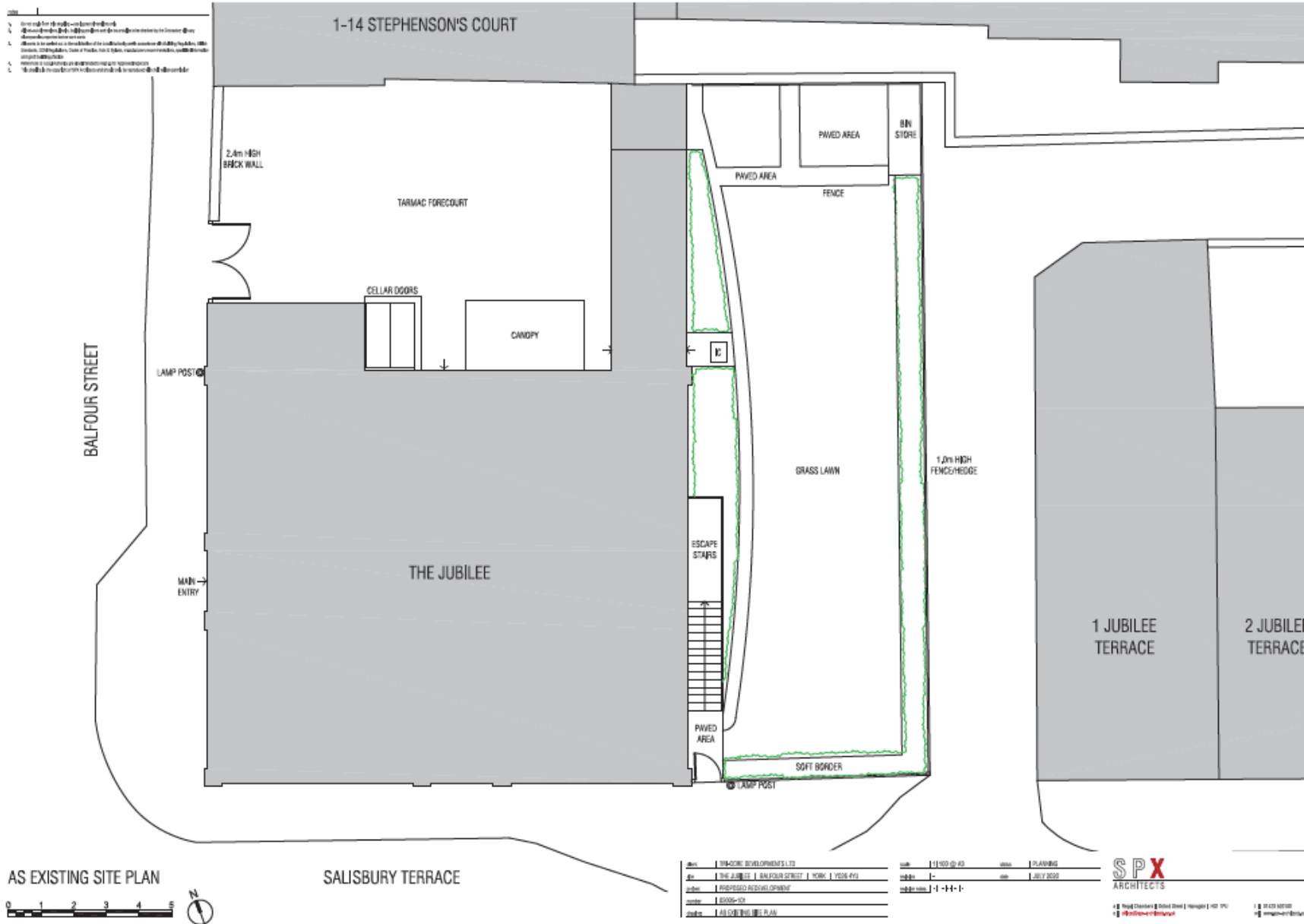
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Area Planning Sub-Committee

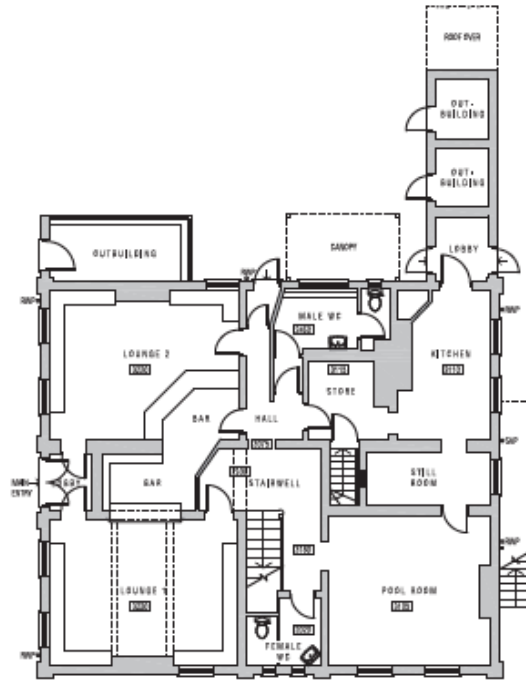
20/01498/FUL

The Jubilee Balfour Street

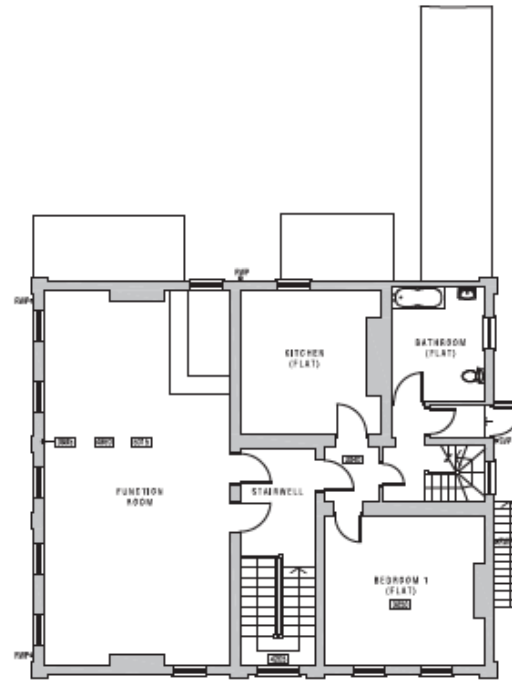


- 1. To be used for information only
- 2. Not to be used for construction purposes
- 3. Not to be used for planning purposes
- 4. Not to be used for legal purposes
- 5. Not to be used for any other purpose

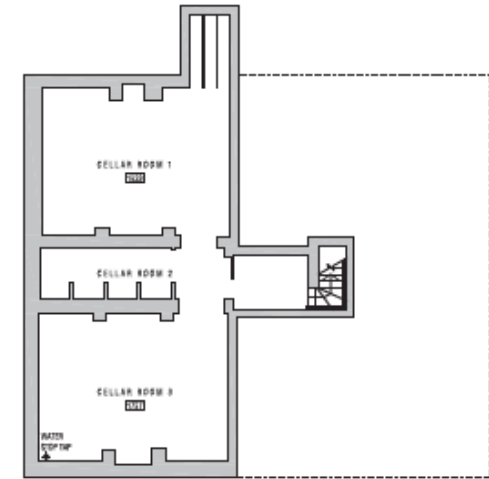
As existing floor plans



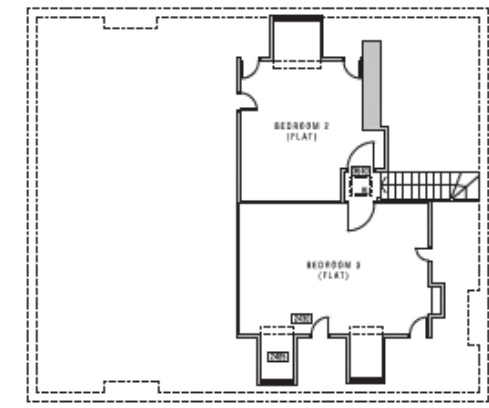
AS EXISTING GROUND FLOOR PLAN



AS EXISTING FIRST FLOOR PLAN



AS EXISTING BASEMENT PLAN



AS EXISTING SECOND FLOOR PLAN

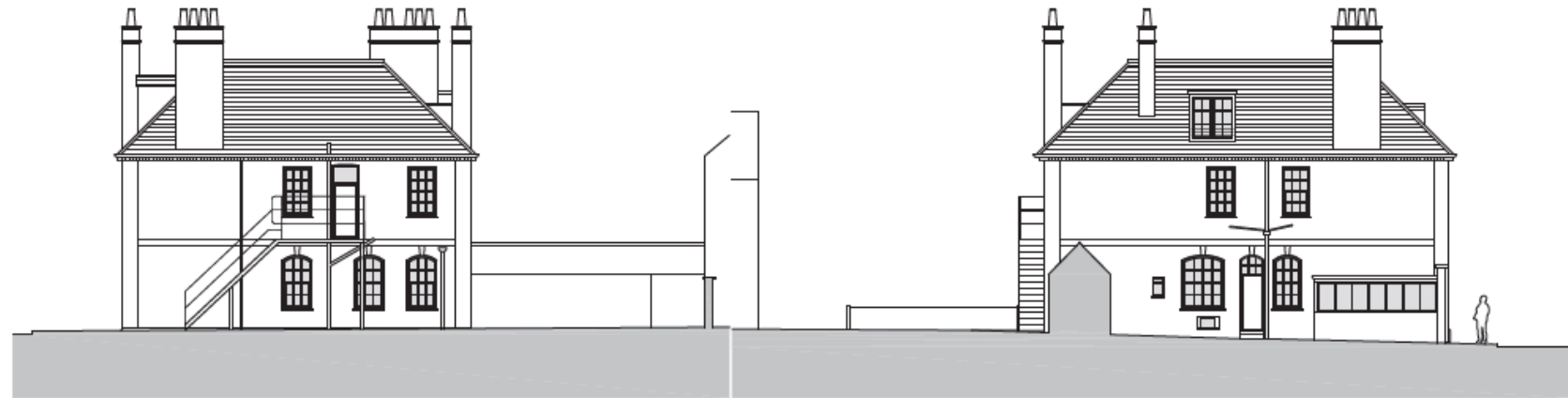
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15/04/2021	AS EXISTING FLOOR PLANS

As existing elevations



AS EXISTING WEST ELEVATION

AS EXISTING SOUTH ELEVATION



AS EXISTING EAST ELEVATION

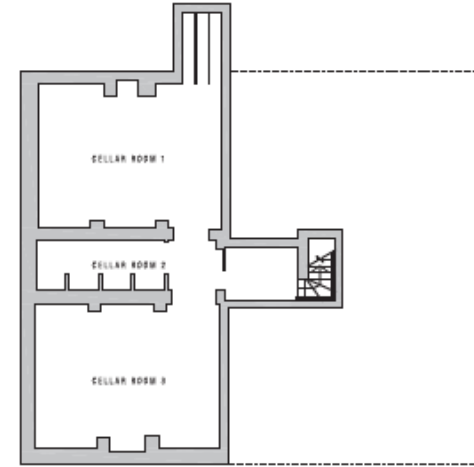
AS EXISTING NORTH ELEVATION

MATERIALS KEY	
• SLATE ROOF	• RED BRICK SETTING COURSE
• LEAD FLASHINGS	• STONE WINDING & BORN BURNINGS
• LEAD CLAD CORRUGATED	• TERRAZZO MARBLE
• BLACK UPV'S MAINWATER & POLY WATER GOODS	• TERRAZZO COVERS
• RED BRICK WALLS	

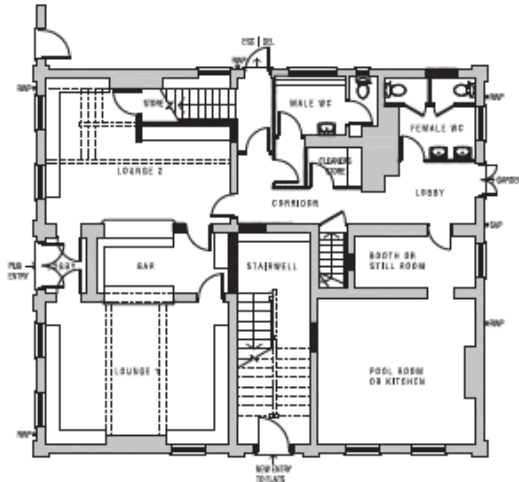
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DRG NAME	AS EXISTING WEST ELEVATION	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS
DRG NO.	1/2021/0001/002	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS
DRG NAME	AS EXISTING SOUTH ELEVATION	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS
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DRG NAME	AS EXISTING EAST ELEVATION	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS
DRG NO.	1/2021/0001/004	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS
DRG NAME	AS EXISTING NORTH ELEVATION	DATE	15/04/2021	SCALE	1:50	PROJECT	REPLACEMENT OF ROOF & EXTERIOR WORKS

As proposed floor plans

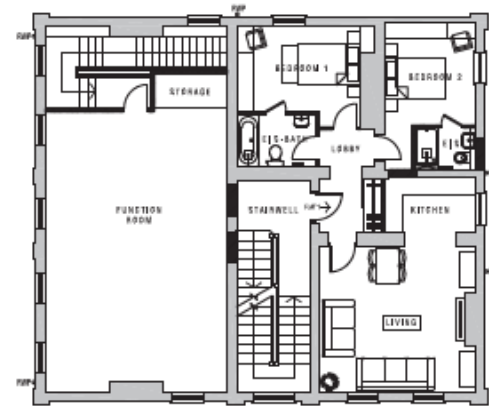
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- 5. Proposed Development
- 6. Proposed Development
- 7. Proposed Development
- 8. Proposed Development



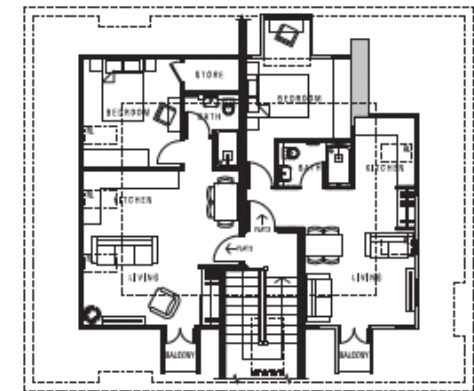
AS PROPOSED BASEMENT PLAN



AS PROPOSED GROUND FLOOR PLAN



AS PROPOSED FIRST FLOOR PLAN



AS PROPOSED SECOND FLOOR PLAN

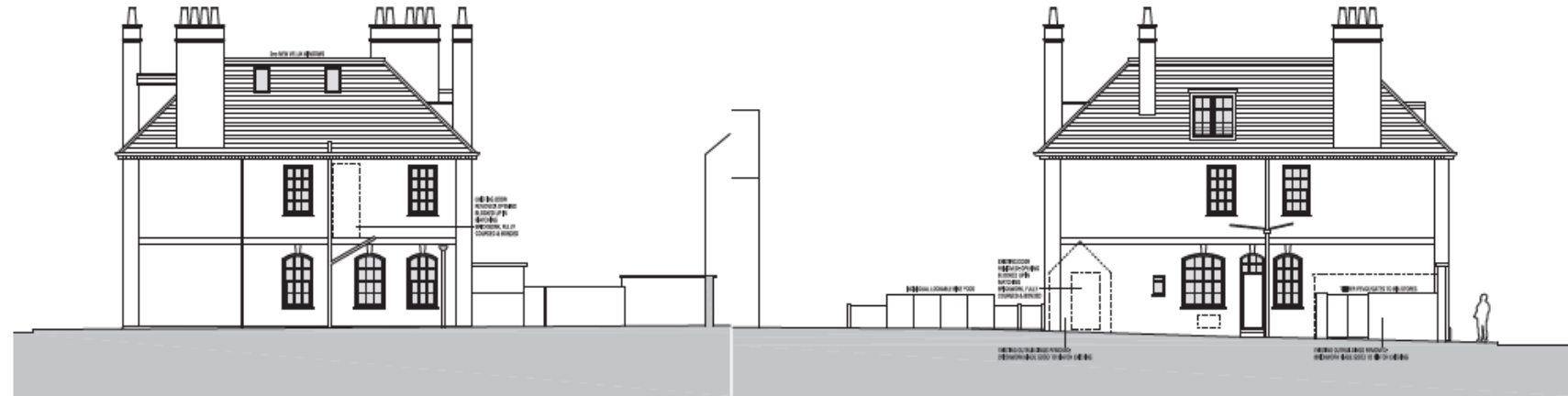
Prepared by: [Name]	Checked by: [Name]	Approved by: [Name]	Scale: 1:100
Date: [Date]	Date: [Date]	Date: [Date]	Date: [Date]
Project: [Project Name]	Client: [Client Name]	Location: [Location]	Site: [Site Name]

As proposed elevations



AS PROPOSED WEST ELEVATION

AS PROPOSED SOUTH ELEVATION



AS PROPOSED EAST ELEVATION

AS PROPOSED NORTH ELEVATION

MATERIALS KEY	
• SLATE ROOF AS EXISTING	• BRICKWORK BLOCKED UP IN MATCHING RED BRICK
• LEAD FLASHINGS AS EXISTING	• RED BRICK STRETCH COURSE AS EXISTING
• LEAD CLAY CHIMNEYS TO MATCH EXISTING	• STONE FINISH TO OVER SUBSTANCES AS EXISTING
• BLACK UPVC RAINWATER & POLL WATER GOODS	• TIMBER FINISH TO MATCH EXISTING
• RED BRICK WALLS AS EXISTING	• TIMBER DOORS TO MATCH EXISTING

Client: [REDACTED]	Date: [REDACTED]	Scale: [REDACTED]	Drawn: [REDACTED]	Checked: [REDACTED]
Project: [REDACTED]	Location: [REDACTED]	Site: [REDACTED]	Author: [REDACTED]	Reviewer: [REDACTED]
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As proposed and as existing cross-sections





Function Room





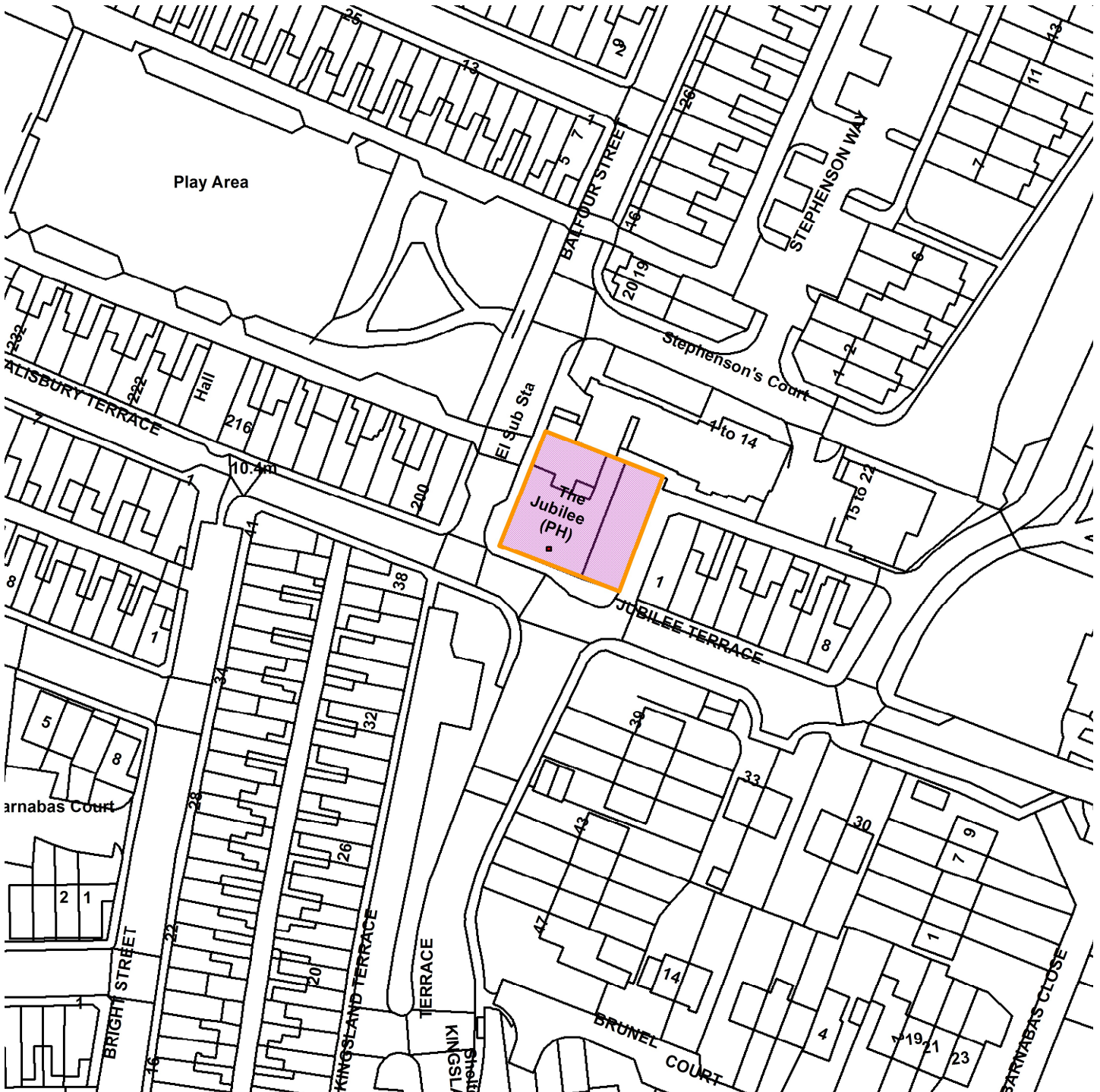
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The Jubilee, Balfour Street, YO26 4YU

20/01498/FUL



GIS by ESRI (UK)



Scale : 1:991

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	25 February 2021
SLA Number	

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COMMITTEE REPORT

Date: 15 April 2021 **Ward:** Fishergate
Team: East Area **Parish:** Fishergate Planning
Panel

Reference: 20/02157/FUL
Application at: 52 Broadway Cafe 52 Broadway York YO10 4JX
For: Enlarge cafe's outdoor seating area and erection of timber shelter.
By: Mrs Theresa Burn
Application Type: Full Application
Target Date: 1 January 2021
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application property is a small café attached to the side of a hairdressers in a small shopping parade at Broadway, Fulford. It is located at the end of the parade adjacent to a semi-detached dwelling. The current application is to erect a 2.9m high 6m x 3m timber shelter on the hard surfaced land in front of the café. The application states that the shelter's style is based on a building typical of Viking times. It could provide space for around 16 covered seats for customers, however the agent has stated that they would be willing to accept a condition that capacity is restricted to 10 people. The drawings indicate that double doors would be located within the front and side of the shelter and a roller shutter opening adjacent to the existing shop frontage. Revised plans have been submitted indicating the retention of the external bin storage at the front of the café building and bi-fold doors to the front of the proposed shelter. A revision to the application form was also submitted stating that the ownership of the land where the shelter is proposed to be located is unknown and is not owned by the applicant. The shelter is intended to be in place for at least 5 years rather than being a temporary structure providing additional space during the Pandemic. It has been indicated that the shelter could also be used to house a car when not in use by customers.

Sub-Committee Call-in

1.2 Cllr D'Agorne has requested that the application be considered by the area sub-committee because of the level of local interest in the application.

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Recent Planning History

1.3 The café is within the same ownership as the attached hairdressers and associated residential accommodation occupied by the owners of these two properties. The café building was granted consent in 2017 (Planning Permission reference 17/01573/FUL). The permission included condition 4 which stated that: “None of the other space within the building or within the garden or courtyard and pavement to the front or rear of the building shall be used by customers. The reason for the condition was to protect neighbour amenity.

1.4 Following the original consent for the café, the following permissions have also been granted:

1.5 18/00446/FUL - Variation of condition 2 of permitted application 17/01573/FUL to alter design of shop front.

1.6 18/01858/FUL - Variation of condition 3 of permitted application 18/00446/FUL to allow for retention of outdoor seating area. This permission granted consent for 1 table and two chairs immediately to the front of the cafe. Condition 1 of this permission provides “No other outdoor space to the front or rear of the building shall be used by customers eating or drinking.”

1.7 18/01968/FUL - Erection of retractable awning to front

1.8 19/00216/FUL - Installation of 3 no. roof lights to side elevation of cafe (retrospective). The roof lights were erected on the side roof slope facing the neighbouring property. Consent was granted to retain the roof lights subject to a condition that they remain fixed shut. The reason for the condition was to avoid noise from the use impacting unacceptably on neighbours living conditions.

2.0 POLICY CONTEXT

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

2.2 The National Planning Policy Framework (‘NPPF’) sets out the Government’s overarching planning policies. The NPPF is a material consideration in the determination of this planning application. Key policies / sections of the NPPF are as follows –

Section 4 Decision making

Section 6 Building a strong, competitive economy

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Section 8 Promoting healthy and safe communities.

Section 11 Making effective use of land

Section 12 Achieving well-designed places

2.3 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. The plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. Of relevant to this application, the evidence base includes the Retail Study Update 2014.

2.4 Key relevant 2018 Draft Plan Policies are as follows –

D1	Placemaking
CC2	Sustainable Design and Construction of New Development
R2	District and Local Centres and Neighbourhood Parades.

2.5 The Development Control 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, although the weight that can be afforded to them is very limited. The retail policies of the 2005 plan have been superseded by the Retail Study Update (2014) and the 2018 Draft Plan.

2.6 Key policies in the 2005 Plan are as follows:

GP1	Design
GP4	Sustainability
S6	Control of Food and Drink Uses.

2.7 Policy GP1 requires development proposals to respect or enhance the local environment, be of a design that is compatible with neighbouring buildings and the character of the area. Local Plan policy S6 relate to the extension, alteration or development of premises for food and drink uses. The policy includes a number of criteria when assessing proposals including any likely impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.

3.0 CONSULTATIONS

CYC Public Protection Unit (PPU)

3.1 This application includes a wooden structure that would act as a barrier between the residents adjacent to the area, however, the doors will be openable on two sides and no details of the sound insulation properties of the structure's material has been given. I would therefore recommend that the applicant commissions a noise impact assessment, by a qualified acoustician to assess the noise breakout from customer's voices and the activities of the business from the new structure and assess the likely impact on the residents at 54 Broadway and the closest residential property opposite the premises on Broadway.

3.2 Report should consider children's and parents/carers raised voices too.

3.3 If this is not done then I would advise that the application be refused due to insufficient information.

CYC Flood Risk Management

3.4 The scheme is unacceptable as it does not indicate how water will be discharged and as such concerns exist that water will discharge from the new structure directly on to the neighbouring property and also off the roof to the public highway.

CYC Highways Network Management

3.5 We are unable to support the proposed application in its current form.

3.6 The proposed building and opening doors would impinge on the area in which pedestrians' access the shops from the east. Though the forecourt is not adopted highway, there is a presumption that highway rights are established over at least part of the land to be occupied by the development. Section 31 of the Highways Act 1980 makes a presumption that, if the public at large have been using a way as of right for 20 years, the way will be deemed to have been dedicated as highway.

3.7 It is the opinion of the Highway Authority that the proposed building and doors, do not allow a reasonable width for pedestrian activity to the side of the service road at a point where pedestrians are expected to access from the adopted highway onto the guided pedestrian shop access way.

3.8 For a positive response, we would require a suitably wide (say 2.5 - 3m) unobstructed width (i.e. no doors) measured from the access road kerb, this would require a reduced floor plan.

3.9 It is noted that the proposed building is to be suitably sized and used as a garage. Whilst the need for a parking place could be argued to be necessary (as it is observed that the current area is utilised in this way); we would not require this for the following reasons:

- Any car would require access by driving over the adopted highway tactile crossing adjacent which should not be encouraged;
- The size of the garage, would lead to obstruction of pedestrian access (see above);
- There is insufficient room to accommodate the café furniture to allow car access.
- The loss of one parking space is not deemed significant

3.10 We recommend that any doors capable of swinging on to open/ public areas are built to swing in to the building (or be roller shutter type), and not out on to the forecourt. This aligns with section 153 of the Highways Act 1980. Cycle parking should also be provided along with details of where bins will be left for collection.

4.0 REPRESENTATIONS

Neighbour Notification and Publicity

4.1 A total of 106 letters of support have been received and 8 letters of objection.

4.2 The following issues have been raised when supporting the proposal:

- The café is wonderful and the additional space will help the business to thrive.
- It will make the area more vibrant.
- Businesses need to think outside the box to survive in the pandemic.
- It is beneficial for local people without transport.
- It will benefit adjacent houses by screening the shops, noise and car fumes.
- The additional space is particularly important due to covid restrictions.
- The proposal is not too big and is cosy and pleasant.
- The café has brought the community together and is particularly important for those people who live/work on their own and helps mental health. There are few places to sit and have a coffee in Fulford.

- There is a step leading into the café and the proposal will improve facilities for wheelchair users as well as people with prams. The building will be warm in winter.
- Is a great use of a private driveway.
- The existing Gazabo is hard work to put up and take down each morning.
- The proposed building is attractive and sympathetic to the area/York.
- The extra customers will support other businesses.
- The Gazebo did not obstruct pedestrians.

4.3 The following issues have been raised when objecting to the proposals:

- Concerns regarding the impact development, including the doors would have on pedestrian safety through restricting the width of the pavement and causing people to go on the road – particular concerns regarding the impact on children and those with mobility problems. Will seats also spill out from the shelter on to other parts of the path? The Gazebos that have been located there made it difficult for people to pass and remain off the road.
- The proposal will further increase on-street parking. The customers, owners and staff of the hairdressers and café park on nearby streets causing inconvenience. The land should remain as parking for visitors.
- The development will lead to the loss of the pavement as a public space.
- The building would be an eyesore and would detract from the street. In scale and appearance it would look like a timber garage. The novelty of the unauthentic Viking building would soon wear off. It conflicts with the established building line.
- The building and its use would harm the amenity of the neighbouring house. Loss of privacy and noise impact. Will lead to development along most of the front and rear garden boundary. Concerns in regard to fire safety. The proposal was approved as a modest enterprise. The Gazebos have been tolerated in the light of the temporary demands of the pandemic.
- The area of land where the building is proposed is not owned by the applicant so how can they build on it? All owners of the premises on the parade have a legal right of unobstructed access across the land.

5.0 APPRAISAL

KEY ISSUES

5.1 The key Issues in assessing the application are:

- Principle of development
- Design

Application Reference Number: 20/02157/FUL

- Residential Amenity
- Highways and Parking
- Drainage and Flood Risk

Principle of development

5.2 The NPPF sets out the government's planning policies for England and how these are expected to be applied.

5.3 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives. Paragraph 14 advises that at the heart of the NPPF there is a presumption in favour of sustainable development.

5.4 Section 6 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. Other sections of the NPPF that are relevant to this application include: section 9: Promoting sustainable transport; section 11: Making effective use of land and section 12: Achieving well-designed places.

5.5 The café is part of a row of buildings utilised for commercial uses that is defined in the 2014 retail study as a Neighbourhood Parade. Neighbourhood Parades typically cater for the day to day functions of the local population. The supporting text of Policy R2 (District and Local Centres and Neighbourhood Parades) of the 2018 Draft Plan states that it is important that the experience and quality of the shopping in district and local centres and neighbourhood parades is enhanced and maintained in order fulfil their role. It is considered that the enlargement of the café is in accordance with planning policies that seek to provide good quality local services and support healthy communities.

Design

5.6 NPPF paragraph 127 states that planning decisions should ensure that developments are (amongst other things), visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities) and should establish or maintain a strong sense of place;

5.7 Because of its proximity to the frontage and the canopy, the proposed structure will almost read as a front extension rather than a detached building. It is unusual to erect a large permanent structure forward of a premises in a retail parade. Typically

seating areas are in the open or under canopies. It is considered that it would appear incongruous and a little cramped so close to the existing shop front, neighbouring garden and footpath. The approach of using a timber design based on a Viking building is not considered to justify supporting the form of development.

Residential Amenity

5.8 NPPF paragraph 127 (f) states that planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.

5.9 When determining previous applications an attempt has been made to strike a balance allowing local business with community benefits to be established and thrive whilst protecting neighbours living conditions.

5.10 When the application for the café was approved in 2017 the officer's report concluded that the small scale was such that it was considered acceptable in respect to the amenities of people living in the adjacent house (54 Broadway). In weighing up the overall merits of the scheme some regard was given to the fact that it is providing a local service within an existing shopping parade that would seem to be welcomed by a number of residents, including, those who find it less convenient to access similar facilities further afield. Planning Permission 18/01858/FUL which permitted a table and two chairs to be sited outside also had regard to the benefits it brought to people with prams and those with limited mobility.

5.11 It should be noted that the tables and chairs that in the last year have been placed on much of the land to the front (often with associated gazebos) are in breach of condition 1 of planning permission 18/01858/FUL that states that, "Furniture in the outside seating area shall be restricted to 1 table and 2 chairs only and they shall only be located in the seating area as indicated in the red line shown on drawing number 18021/301C received 3 June 2019. No other outdoor space to the front or rear of the building shall be used by customers eating or drinking. Reason: To safeguard the amenity of the occupants of the adjacent properties."

5.12 Public Protection have requested a noise assessment so that the likely impact on neighbouring properties – particularly 54 Broadway, can be better understood. The applicants have stated that they are unwilling to undertake this and suggest that the proposal is acceptable because of a number of reasons, including, the use being restricted to the daytime, the restriction to 10 occupants, the existing background noise levels and the acoustic protection provided by the structure. It is considered given the proximity of the structure to number 54 Broadway, that it is reasonable to seek a survey to assess the noise impacts. The structure would only be around 5m from the living room window and around 10m from the rear garden. It also contains

large openings on three elevations as well as roof lights on the rear. Regard would need to be given to the level, duration and nature of noise.

5.13 It is also considered that the structure would detract from the outlook from number 54 Broadway and appear intrusive. It is well forward of the established building line, abuts much of the front garden and is prominent when viewed from the lounge. It is considered that it changes the setting and character of the home and front garden by a degree that is considered unreasonable.

5.14 When the case officer has undertaken site visits to the area, vans and cars have on occasion parked partly across the drive of number 54 Broadway. This is mainly in relation to short trips to the Parade, including deliveries. It would be expected that the sale of takeaway food and drinks at the café would generate some of the short term parking. Although the actual seating is likely to be used by people who would park more responsibly, it could increase parking levels on nearby streets. This may lead to greater temptation for people to park across the drive of 54 Broadway. It is considered that the nuisance and intrusion from such parking when coupled with the physical presence and activity associated with the shelter would impact additionally on the reasonable enjoyment and use of the property.

Highway Safety and Parking

5.15 Broadway like many neighbourhood Parades has relatively limited off-street car parking. The 2014 Retail study at 5.01 states that it is important that York has a hierarchy of centres that are able to adequately service the day to day retail and community needs of the local population in as close a proximity to their homes as possible and that it is important that centres thrive. Furthermore the report states that the creation of a network for centres to serve local needs is particularly important for less mobile and vulnerable members of the community.

5.16 The neighbourhood parade is often heavily parked with cars parking in front of shops as well as on adjacent streets. The cafe is located on land to the side of the hairdressers that was previously available for use by the hairdressers and associated enlarged living accommodation for car parking, bin storage and cycle parking. There is a small remaining yard area to the rear of the property, however, it is understood that pedestrian access to the space is now reliant on the goodwill of the owner of the neighbouring yard whose land must be crossed to access it. When the café was approved it was recognised that it removed off street parking and storage space, however, in considering this, regard was given to the associated benefits to the community. A small bin store has been provided at the front of the property abutting the raised brick wall.

5.17 The applicant has indicated that the new structure could also be used as a garage when not needed for customers, though this would be difficult to manage and it is likely that it would be convenient to keep tables and chairs in the structure overnight. The proposed new building would remove another daytime car parking space (and subject to its management by the owners one overnight space). It is not considered that the potential loss of one off-street parking space would raise significant parking concerns. The enlargement of the café would put additional parking pressure on nearby streets and it is noted that a number of people living in the area have stated that they are inconvenienced by parking associated with staff and visitor parking associated with the parade. Although the proposal would increase on-street car parking it is not considered that the overall harm caused to the amenity of residents in the wider area as a whole would justify refusal when balanced against the social and economic benefits associated with an enlarged café. It is also not considered that the increased parking demand would create highway safety concerns. It is considered however, that additional parking does negatively impact on some neighbours, particularly number 54 Broadway and the impacts do contribute to the negative factors associated with other issues of concern.

5.18 It is noted that concerns have been raised regarding the impact that the actual shelter itself would have on pedestrian safety. Revised plans that have been submitted indicate the gap between the open bi-fold doors and the kerb edge would be 1.63 metres. Highway Network Management have suggested a gap of around 2.5 – 3m should be retained to allow people to safely pass. Accordingly, it is considered that the proposal is unacceptable in respect to pedestrian safety as it will lead to people being forced on to the road and with particular concerns for those with limited mobility.

Drainage and Flood Risk

5.19 The structure is small in scale and located on a hard surfaced area. The agent has stated that water from the roof would eventually drain into the gulleys in the road. It is not considered that the proposal would have a material impact on wider flood risk. It is the case that no gutters are proposed on the structure and if this remained the case it would raise potential concerns regarding water draining on to the boundary wall and neighbouring garden. The structure is of a size and location that building regulations would be required and it is considered that drainage could be addressed at the building regulations stage. In addition, civil law would typically require that water from a roof is not discharged on to neighbouring land.

6. CONCLUSION

6.1 When granting consent for the café in 2017 its small size was a significant factor in allowing the use adjacent to a dwelling. In addition, regard was given to the applicant's willingness to accept a condition not allowing the use of land to the front for customers' tables and chairs. It was originally envisaged as a small scale initiative and in part an adjunct to the adjacent hairdressers that is also owned by the applicant.

6.2 It is recognised that the café has become a popular venue and helps to improve community cohesion and the wellbeing of those who visit. There would clearly be benefits to the owners and wider community if further customer space were available at the site. It is considered however, that the proposed enlargement would cause harm. Significant concerns exist in respect to harm to the living conditions of the occupants of 54 Broadway, harm to the appearance of the streetscene and harm to the safety of pedestrians using the narrowed pathway past the proposed structure.

6.3 The application fails to accord with the requirements of the NPPF and policies D11, T1 and R2 of the Draft City of York Local Plan 2018.

7.0 RECOMMENDATION: Refuse

1 The proposed shelter would abut the front garden of 54 Broadway. In the absence of a noise impact assessment submitted by the applicant, concerns exist that noise from people using the structure would harm the reasonable living conditions of occupiers of the home and garden of number 54. Furthermore, the structure would appear intrusive when viewed from the lounge and front garden of the property and the expansion would further increase the prevalence of parking across the home's driveway. It is considered that the impacts are such that the proposal is unacceptable and would conflict with Central Government guidance regarding how an area functions contained within paragraph 127 (a) and (f) of the National Planning Policy Framework, and the fourth bullet point of policy D11 and the fourth bullet point of policy R2 of the Draft City of York Local Plan 2018.

2 The proposed shelter would be located immediately in front of the existing shop front and conflict with the established building line in Broadway. It is considered that it would appear cramped in its setting and incongruous. As such, it is considered that the proposal conflicts with Central Government guidance regarding appearance and local character contained within paragraph 127 (b) and (c) of the National Planning Policy Framework, and the first bullet point of policy D11 of the Draft City of York Local Plan 2018.

3 The proposed shelter would, when the doors are open, leave a gap of only 1.63m to pass on the adjacent footpath. It is considered that more than one person passing, including, those pushing prams could be forced to step onto the roadway. This is considered to be unacceptable in respect to the safety and convenience of pedestrians. As such the proposal conflicts with Central Government guidance regarding safety and accessibility contained within paragraph 127 (f) and paragraph 110 (a) and (c) of the National Planning Policy Framework, and policy T1 of the Draft City of York Local Plan 2018.

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 an attempt to achieve an acceptable outcome:

Concerns were expressed to the agent regarding the impact of development on the streetscene, neighbour amenity and pedestrian safety on 15 December 2020.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

Contact details:

Case Officer: Neil Massey
Tel No: 01904 551352

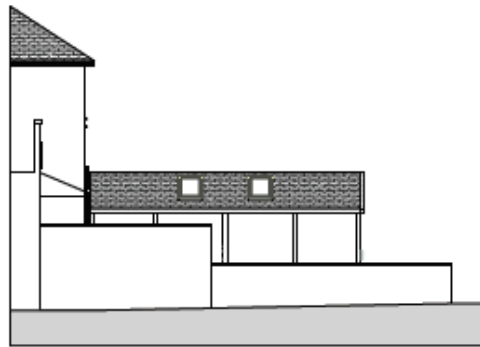


Area Planning Sub-Committee

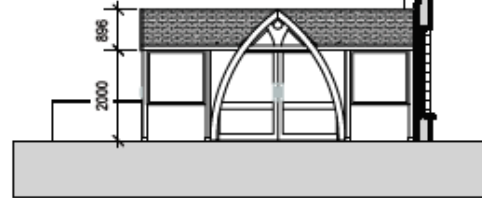
20/02157/FUL

52 Broadway

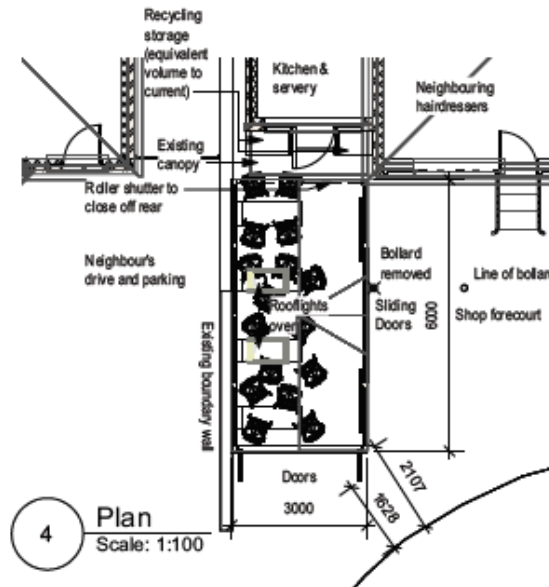
2 Street Elevation
Scale: 1:100



1 East Elevation
Scale: 1:100



3 West Elevation
Scale: 1:100



4 Plan
Scale: 1:100

Rev	Date	Nil
Revision Notes		
Drawing Number		
2020-BCS52-21		
023		Rev
Drawing Title		
As Proposed with revised doors		
Drawing Date		
14/10/2020		This Print/PDF 05/12/2020
Drawn By		
PWL Babby		
Sheet Size		
A3		
Project Name		
Proposed covered cafe terrace		
Project Address		
Broadway Coffee Shop, 52 Broadway, York YO10 4JX		
Client		
Theresa Burn		









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52 Broadway Cafe, 52 Broadway YO10 4JX

20/02157/FUL



GIS by ESRI (UK)



Scale : 1:876

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	01 April 2021
SLA Number	

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COMMITTEE REPORT

Date: 15 April 2021 **Ward:** Dringhouses And
Woodthorpe

Team: West Area **Parish:** Dringhouses/Woodthorpe
Planning Panel

Reference: 21/00121/OUT
Application at: Site To The Rear Of 5 Cherry Lane York
For: Outline application for the erection of 1no. detached dwelling with
means of access (resubmission)
By: Crossways Commercial Estates Ltd
Application Type: Outline Application
Target Date: 17 March 2021
Recommendation: Approve

1.0 PROPOSAL

1.1 The proposal is for the construction of 1 detached dwelling on a 0.9 Ha site. The house will sit adjacent to the access with a detached triple garage. The eastern end of the site will remain as undeveloped paddock. The application is in outline with all matters, excluding access, reserved. Access will be taken from a new junction where Cherry Lane meets St Edwards Close.

1.2 The site is an undeveloped field adjacent to the Knavesmire. It is accessed via Cherry Lane which leads off Tadcaster Road, past the Holiday Inn Hotel, and down to a small car park serving the Knavesmire. The bottom half of the lane becomes very rural in character being narrow with high hedges on the Southern side. These hedges form part of a Site of Importance for Nature Conservation (SINC) with intermittent TPO trees within the hedgerow. To the North is a residential area formed of large individual detached properties in large plots.

1.3 To the East the site abuts the Knavesmire while to the South it shares a boundary with the racing stables. An access from the stables to the Knavesmire runs close to this boundary. The paddock to the South of the boundary is also a SINC. A vehicle maintenance shed has recently been granted permission (19/02730/FUL) within the stables site and close to the application boundary.

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Site history

1.4 Application 19/02729/OUT for 5 detached houses was refused as a result of the impact of the proposal on the green corridor and the open and undeveloped setting of the racecourse.

2.0 POLICY CONTEXT

2.1 Emerging Local Plan (Submission draft 2018)

DP2 Sustainable Development

DP3 Sustainable Communities

SS1 Delivering Sustainable Growth for York

H2 Density of Residential Development

H10 Affordable housing

D1 Placemaking

D2 Landscape and Setting

D6 Archaeology

GI1 Green Infrastructure

GI3 Green Infrastructure Network

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

ENV5 Sustainable Drainage

T1 Sustainable Access

2.2 Development Control draft Local Plan (including 4th set of changes) 2005

H4A Housing Windfalls

GP1 Design

HE10 Archaeology

HE11 Trees and landscape

L1c Open space

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

Design, Conservation and Sustainable Development (Archaeology)

3.1 The site is just outside Dringhouses Area of Archaeological Importance. The site has not been disturbed by development and has been in agricultural use since at least the medieval period. It is possible that late prehistoric-Roman evidence of land use (e.g. field systems) may exist on the site. Further archaeological evaluation of the site is required and can be secured via planning condition.

Public Protection

3.2 Conditions recommended for electric vehicle charging, construction environmental management plan (CEMP) and land contamination.

The applicant has submitted a noise impact assessment to demonstrate the impact of the surrounding commercial activities on the proposed residential dwellings. The report concludes that standard double glazed units within the development will be sufficient to ensure that internal noise levels can be achieved.

Design, Conservation and Sustainable Development (Landscape)

3.3 The practicalities of implementing a site access are the same for this single dwelling as for the previous refused scheme of 5 dwellings. Highways would in principle accept the use of a product such as Geo-web around the TPO tree at the site entrance. Condition regarding tree protection recommended.

Design, Conservation and Sustainable Development (Ecology)

3.4 A small section of the hedgerow SINC will be removed to achieve access to the site. Given the small size of the SINC, this will have an impact on the hedgerow and the potential for an alternative access should be considered. (Officer note – the access is identical to that on the previous application. That application was not refused on issues relating to loss of the hedge.)

Conditions recommended.

Highways Network Management

3.5 No objection in principle as long as the access can be delivered without harm to the tree and conditions are imposed requiring detailed design of the junction to be agreed and a road safety audit to be undertaken.

EXTERNAL CONSULTATIONS

Yorkshire Water

3.6 Condition recommended for separate systems of foul and surface water drainage.

Ainsty Internal Drainage Board

3.7 The Board notes that the applicant intends to use an existing surface water drain. This drain appears to, in turn, connect into the Knavesmire Culvert. The Board's understanding of the Knavesmire Culvert is that it then discharges into the River Ouse further south and does not enter a Board maintained watercourse, or any ordinary watercourse in the Board's district. On this basis, the Board would have no comments to make. However, should these details change the Board would wish to be re-consulted.

Woodthorpe and Dringhouses Planning Panel

3.8 The Panel object to the scheme and raise concerns about the safety of the access.

4.0 REPRESENTATIONS

4.1. One letter of objection has been submitted. The issues raised include:

- The character of Cherry Lane will be spoilt
- The single large house will make little contribution to housing supply
- Issues with visibility at junction

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- Loss of the open field and impact on wildlife

5.0 APPRAISAL

5.1 Main Issues

- principle of development;
- design;
- highways and parking;
- drainage;
- trees;
- ecological issues;
- sustainability.

LEGISLATIVE AND POLICY CONTEXT

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

National Planning Policy Framework

5.3 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material planning consideration in the determination of this application.

5.4 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives.

5.5 Paragraph 11 states planning decisions should apply a presumption in favour of sustainable development and that for decision taking this means where there are no relevant development plan policies, granting permission unless:

i. the application of policies in the NPPF

that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF take as a whole.

Publication Draft Local Plan 2018

5.6 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 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).

It is considered that given the stage of preparation of the emerging plan, nature of objections and consistency with the NPPF that all the policies listed in para. 2.1 above should be given moderate weight except H10 which should be given limited weight.

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

- City of York Housing Needs Update (2019)
 - Strategic Housing Land Availability Assessment and Appendices (2018)
 - Strategic Housing Land Availability Assessment and Annexes (2017)
 - City of York Strategic Housing Market Assessment Update (2017)
 - City of York Council Strategic Housing Market Assessment (2016)
 - City of York Council Strategic Housing Market Assessment Addendum (2016)
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2005 Development Control Draft Local Plan

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

PRINCIPLE OF DEVELOPMENT

5.9 A larger site including the current application site was considered through the Local Plan site selection process however as a result of concerns about impacts on the hedgerow SINC, character of Cherry Lane and the open aspect of the Knavesmire this larger site was not allocated. A small area of land approximately equal to the current application site area was considered suitable for development if existing trees and hedgerows could be retained and it could be developed in a manner which retained the rural character of Cherry Lane. The site was not included as an allocation in the draft Local Plan as it was not required to meet the Council's agreed level of housing need for the Plan.

5.10 The site has now come forward as a windfall greenfield site. Section 11 (Making effective use of land) of the NPPF encourages the use of previously developed land first and gives substantial weight to this but does not preclude the use of greenfield sites. Paragraph 11 of the NPPF lays out the presumption in favour of sustainable development. Paragraph 8 identifies that there are 3 objectives to achieving sustainable development –economic, social and environmental. These are not criteria against which every decision can or should be judged (paragraph 9).

5.11 The area is predominantly residential in character up to the Knavesmire. The site is unallocated (other designations related to the hedgerow SINC and adjoining Stables Pastures SINC are covered below) and in a sustainable location. The Council does not have a 5 Year Housing Land Supply and as such, provided the proposal is otherwise acceptable, the provision of residential development on the site is acceptable in principle.

DESIGN

5.12 The application is in outline with all matters excepting access being reserved. The indicative site plan shows a single large detached property with detached triple garage set towards the western end of the site close to the access point. Access comes in at the North West corner of the site and runs perpendicular to Cherry Lane along the western edge of the site to the garage. Approximately a third of the site will be occupied by the property and gardens with the remaining two thirds (closest to the racecourse) being left as paddock.

5.13 The site is approximately 0.9Ha in area. Policy H2 of the emerging Local Plan (eLP) sets housing density levels for different zones within the city. The site would fall within a zone where a housing density of 50 units/Ha is suggested. The policy does however note that housing density should be informed by the local character of the area. The site sits within an area where housing density is low. St Edwards Close is characterised by large properties in significant sized plots with large gardens up to the racecourse. The character of Cherry Lane also changes from the junction with St Edwards Close to one of a more rural lane with hedgerows and glimpses of undeveloped land. As such it is considered that the proposed low density development is appropriate to the character of the area and complies with policy H2 of the draft Local Plan as it preserves local character by retaining the open character to the racecourse of neighbouring properties.

5.14 The property indicated is two storey with brick and slates or tiles being the proposed materials. These materials are considered in keeping with the general character of the area and details would be agreed at reserved matters stage. Given the sensitivity of the site in views from the Knavesmire it is considered appropriate to condition that the dwellings are no more than 9m in height as this is the scale which has been assessed in photomontages provided of the development from the Knavesmire.

HIGHWAYS AND PARKING

5.15 Details of the new junction have been agreed to ensure safety for all road users. Cherry Lane becomes a single track road after the junction and is well used as access to the Knavesmire. There is no footpath on this section of the road which is used by vehicles, pedestrians and horse-riders. To address this safety issue the

road has been realigned and a speed control table introduced. The detail of this will be controlled via condition.

5.16 It is recognised that the property has a triple garage and a minimum of 3 additional parking spaces which would be in excess of guidance parking levels. Paragraph 106 of the NPPF states that maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network or for optimising the density of development. On this site it has already been noted that low density development is appropriate. The level of parking also reflects the scale of the properties and will help to ensure that visitor parking does not spill out on to Cherry Lane or St Edwards Close.

TREES AND LANDSCAPE

5.17 Properties on St Edwards Close are set back from the Knavesmire and, along with the site, give a sense of green space and tree cover which contributes to the attractive setting and character of Micklegate Stray. The tree cover is visible across the Stray and contributes therefore to its character and setting and provides local distinctiveness. Denser residential areas to the south of the application site are strongly defined and tightly formed and give a harder edge to the stray.

5.18 The development is compatible with retention of the existing tree cover around the perimeter of the site and includes additional tree and shrub planting along the southern boundary where vegetation is lacking. Additional planting is also proposed to the racecourse boundary and Cherry Lane to reinforce the existing and provide screening. The existing and proposed planting would help to mitigate the visual impact of the proposed development and the distance of the property from the racecourse boundary further helps to ensure there is minimal impact on views from the racecourse.

5.19 Cherry Lane would retain its character due to the existing/ proposed vegetation and scale of development proposed. The loss of openness on the other side of the hedge would be apparent at the site entrance so there would be a slight change in visual amenity for those using Cherry Lane but further down the site would remain as pasture, and therefore unaltered in character.

5.20 The proposal does not require the removal of any of the individually surveyed trees on site of which 3 are covered by TPO. The distance between existing trees

and the proposed development is considered acceptable in terms of outlook and root protection. A short section of hedge (approximately 7m or 4%) will be removed to facilitate the site access. The hedgerow is a designated SINC and its integrity would be preserved into the future through the production and implementation of a Habitat Management Plan. The TPO hornbeam at the access point would be protected and a no-dig cellular system is proposed for the road construction at this point to protect tree roots.

5.21 Draft Local Plan policy GI4 recognises the value of trees and hedgerows to biodiversity, the contribution they make to the quality of a development and how they can help it be assimilated in to the landscape. This development has been shown to benefit from retained tree and hedgerow cover and new planting which will provide screening of the development, enhance residential amenity and ecological benefits. As such the proposal is considered to comply with policy GI4.

ECOLOGICAL ISSUES

5.22 Draft Local Plan Policy GI2 requires that development avoids loss or significant harm to SINC. Given that the proposal is for removal of only 4% of the hedgerow and that the SINC would benefit from a management plan going forwards it is considered that the proposal complies with policy GI2 in this matter.

5.23 The site to the South is also a SINC and is so designated for its neutral grassland. This site connects through to the Stray which is managed under a Higher Level Stewardship for nature conservation.

5.24 These areas and the site itself are all part of the Knavesmire/Hob Moor District Green Corridor. Draft Local Plan Policy GI3 seeks to maintain and enhance the integrity and management of York's green infrastructure network, including its green corridors and open spaces. The Local Biodiversity Action Plan gives the following information about green corridors:

'In 2009 a series of strategic Green Corridors were identified through Natural England's Yorkshire & Humber Green Infrastructure Mapping Project, which aimed to link together to create an overall structural network for the region. For York this work was consolidated in the Local Development Framework (LDF) Core Strategy Green Corridor Technical Paper (2011).

These corridors are not identified exclusively for wildlife however, and they accommodate a whole range of Green Infrastructure functions such as flooding, recreation and heritage. Depending on how many functions were present, a category for each corridor was determined. This was based on the number of functions present, the corridor size and local knowledge of initiatives and likely opportunities for interventions. The strategic approach to the work meant that the functions provided within the corridor had to be significant to be considered in the corridors. The corridors are hierarchical and have been identified as being of;

- i) Regional importance, where they link with corridors in neighbouring authorities.*
- ii) District (City) importance, where they provide links across and within the City and to other corridors.*
- iii) Local importance, where they link areas within a particular part of the city.*

In terms of wildlife, these corridors are not necessarily contiguous but may consist of a series of open space 'stepping stones' separated by otherwise less hospitable habitat.

The aim of developing a strategic Green Corridor Network, which represents a consensus of where there is a concentration of Green Infrastructure, is to help target enhancement to where it is likely to be the most effective. They are not meant to be exhaustive or be used as fixed boundaries.

The network does not have to be continuous open space but can be a series of sites or stepping stones. Even in the countryside, not every habitat that wildlife is adapted to exists as continuous network. The essential element is that the spaces are not so far apart as to reduce the ability of species to move between them. As such, the aim of enhancing any corridor is to improve the ability of wildlife to move from one site to another. This can be by improving the quality of existing sites, linking sites together with a more wildlife friendly (more porous) corridor or providing additional sites in between to reduce the distances that need to be covered.'

5.25 Green corridors are intended to indicate a concentration of green infrastructure to help target enhancement where it is likely to be the most effective. They are not meant to be exhaustive or be used as fixed boundaries. Policy GI3 of the draft Local Plan requires that development maintains and enhances the integrity and management of York's green infrastructure network including its green corridors. The proposed development would not significantly affect the integrity of the green corridor. The new native species planting on the southern boundary will help to

maintain habitat connectivity with adjacent sites. For these reasons it is considered that the proposal will maintain York's green infrastructure network and therefore complies with policy GI3.

AMENITY ISSUES

5.26 The layout shows a large house in a significant plot. Amenity for residents will be good. There are no existing properties in such close proximity that the proposal would impact on their amenity through overlooking, overshadowing or over-dominance.

5.27 The site sits to the North of the stables for the racecourse. A storage shed has recently been given permission within the paddock adjacent to the site. A noise assessment has been undertaken to consider issues of noise impact from the stables on future residents. The report concludes that standard double glazed units within the development will be sufficient to ensure that internal noise levels can be achieved.

DRAINAGE

5.28 Drainage can be dealt with via condition.

SUSTAINABILITY

5.29 A condition has been recommended to ensure the proposal complies with policies CC1 and CC2 of the emerging Local Plan. The developer suggests that sustainable measures such as electric vehicle charging, high levels of insulation and reduced water consumption will be included in the scheme at reserved matters stage. The proposed planning condition will ensure that appropriate additional measures are included.

6.0 CONCLUSION

6.1 The site has been considered through the Local Plan process and the majority of the Eastern side of the site has been assessed through that process as not suitable for development as a result of a likely adverse impact on the SINC hedgerow, character of Cherry Lane and open aspect to the Knavesmire. The area of the current site was considered appropriate for development providing trees and hedges

were protected and the development reflected local character. It was not allocated within the draft Local Plan as there was not a need for the site to meet the level of housing need agreed by the Council for the Plan. However the Council does not currently have a 5 year housing land supply and the proposal would result in a new dwelling which is a small but not insignificant benefit of the scheme.

6.2 The scheme, as submitted, has been assessed as maintaining the integrity of the hedgerow SINC. A condition requiring a management plan will ensure its future maintenance. Evidence submitted with the application also indicates that the property will have a very minimal impact on views from the Knavesmire as a result of the scale of the dwelling, the tree cover and distance from the racecourse of the development. The layout has been designed to move the development away from Cherry Lane, the Stables SINC and the Knavesmire and issues raised during the Local Plan process are thereby considered to be overcome.

6.3 Given the benefits of the scheme in providing housing while preserving the adjacent SINC, it is considered that the previous concerns about impacts on the green corridor and views from the racecourse are overcome. The proposal is considered to meet relevant policy in the NPPF and emerging Local Plan and is recommended for approval subject to conditions.

7.0 RECOMMENDATION: Approve

1 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission and the development hereby permitted shall be begun before:

the expiration of two years for the date of approval of the last of the reserved matters to be approved.

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) (England) Order 2015.

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 works, and the development shall be carried out in accordance with the approved details:

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Details to be submitted: appearance, landscaping, layout and scale of the proposed development to be carried out.

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 (Development Management Procedure) (England) Order 2015.

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

Location plan Y81.1215.01

Vehicle tracking LCL-AWP-00-GF-DR-0007-P1

Illustrative site layout Y81.948.03

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

4 The total number of dwellings shall not exceed 1 and that house shall be no greater than 9m in height.

Reason: In the interests of visual amenity and the character of the area.

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

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

Reason: So as to achieve a visually cohesive appearance.

6 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 commencement of above ground works and the approved means of enclosure 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.

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7 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-5 stages of work. Each stage shall be completed and approved by the Local Planning Authority (LPA) before it can be approved/discharged.

A) No archaeological evaluation (geophysical survey or trenching) or development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

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

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site
- provision has been made for analysis, dissemination of results and archive deposition has been secured
- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in situ.

8 The development shall incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A) within the garage space (or parking area) for the property as required. The applicant shall identify the proposed location for a future Electric Vehicle Recharge Point within the development curtilage and ensure that any necessary trunking/ducting is in place to enable cables to be run to the specified location.

Reason: To ensure future electric vehicle charge points can be easily added to the the property in line with the NPPF and CYC's Low Emission Strategy.

9 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with these approved details.

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

10 No removal of hedgerows or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to the commencement of the removal of any hedgerow, trees or shrubs.

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

11 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.

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- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The approved LEMP shall be implemented in accordance with the approved details.

Reason: In the interests of biodiversity and in accordance with policy GI2 of the draft Local Plan.

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

Reason: In the interests of biodiversity and in accordance with policy GI2 of the draft Local Plan.

13 LC1 Land contamination - Site investigation

14 LC2 Land contamination - remediation scheme

15 LC3 Land contamination - remedial works

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16 LC4 Land contamination - unexpected contam

17 HWAY13 Access to be improved

18 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

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

19 The development shall not come into use until the junction with the public highway has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

20 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Change of alignment of Cherry Lane

Reason: In the interests of the safe and free passage of highway users.

21 A three stage road safety audit carried out in line with advice set out in GG119 Road safety audit (formerly HD 19/15), and guidance issued by the council, will be required for the proposed new access to the development. Reports for Stages 1 and 2 must be submitted to and approved in writing by the LPA prior to works commencing on site. The Stage 3 report must be submitted to and approved in writing by the LPA prior to occupation. The development shall be carried out in accordance with the approved details.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

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

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

23 The dwelling hereby approved shall achieve the following measures:

- At least a 19% reduction in Dwelling Emission Rate compared to the target fabric energy efficiency rates as required under Part L1A of the Building Regulations 2013).

- A water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

- A reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations.

Prior to first occupation of the dwelling details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

24 Prior to occupation, a "lighting design strategy for biodiversity" for the driveway and outside of the property shall be submitted to and approved in writing by the local planning authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy, and these shall be maintained thereafter

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in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To ensure that the introduction of artificial light does not mean that protected species active at night (bats) are not disturbed or discouraged from using areas of existing habitat.

25 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants 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 agreed in writing by the Local Planning Authority.

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

8.0 INFORMATIVES:

Notes to Applicant

1. Control of Pollution

i 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 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

ii. The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

iii. Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link.

https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites

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iv. All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

v. There shall be no bonfires on the site.

2. Ecological surveys

Application(s) for reserved matters shall include an up to date (no more than 2 years old) Preliminary Ecological Appraisal and any further necessary habitat or species surveys as recommended by the appraisal.

Contact details:

Case Officer: Alison Stockdale

Tel No: 01904 555730

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Area Planning Sub-Committee

21/00121/OUT

Site To The Rear Of 5 Cherry Lane

Proposed Residential Development at Cherry Lane, York



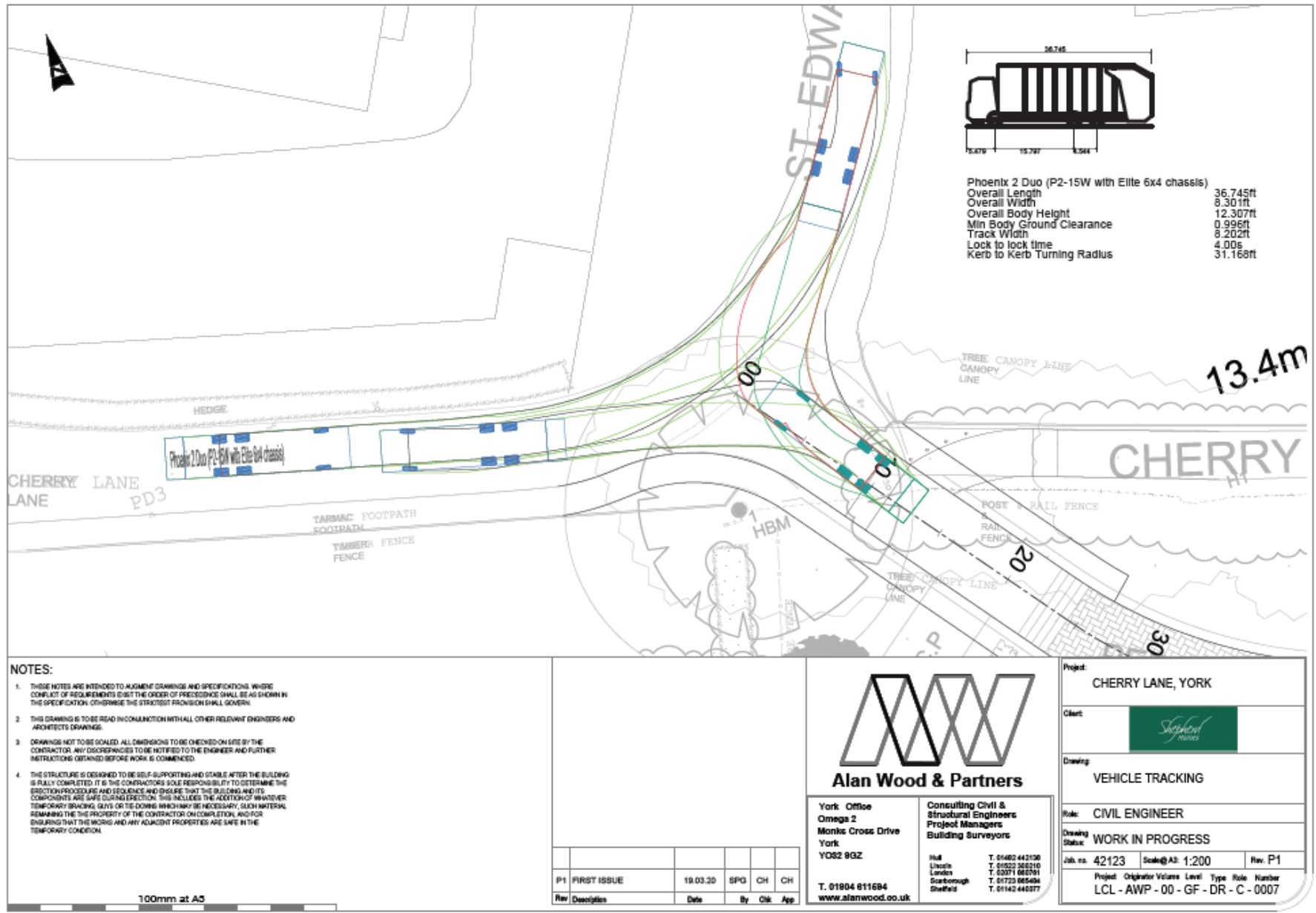
Illustrative Site Layout in Context



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PROJECT: Cherry Lane, York
 DRAWING: Illustrative Site Layout
 CLIENT: Crossways Commercial Estates Ltd.
 DATE: 07.01.21 SCALE: 1:1000@A3
 DRAWN BY: YB1.945.04 CHECKED BY: -
 DESIGNER: PB APPROVED BY: P.J.R.

NO PART OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT PERMISSION IN WRITING TO THE ARCHITECTS' COMPANY NAMED



Site access



Site from
access



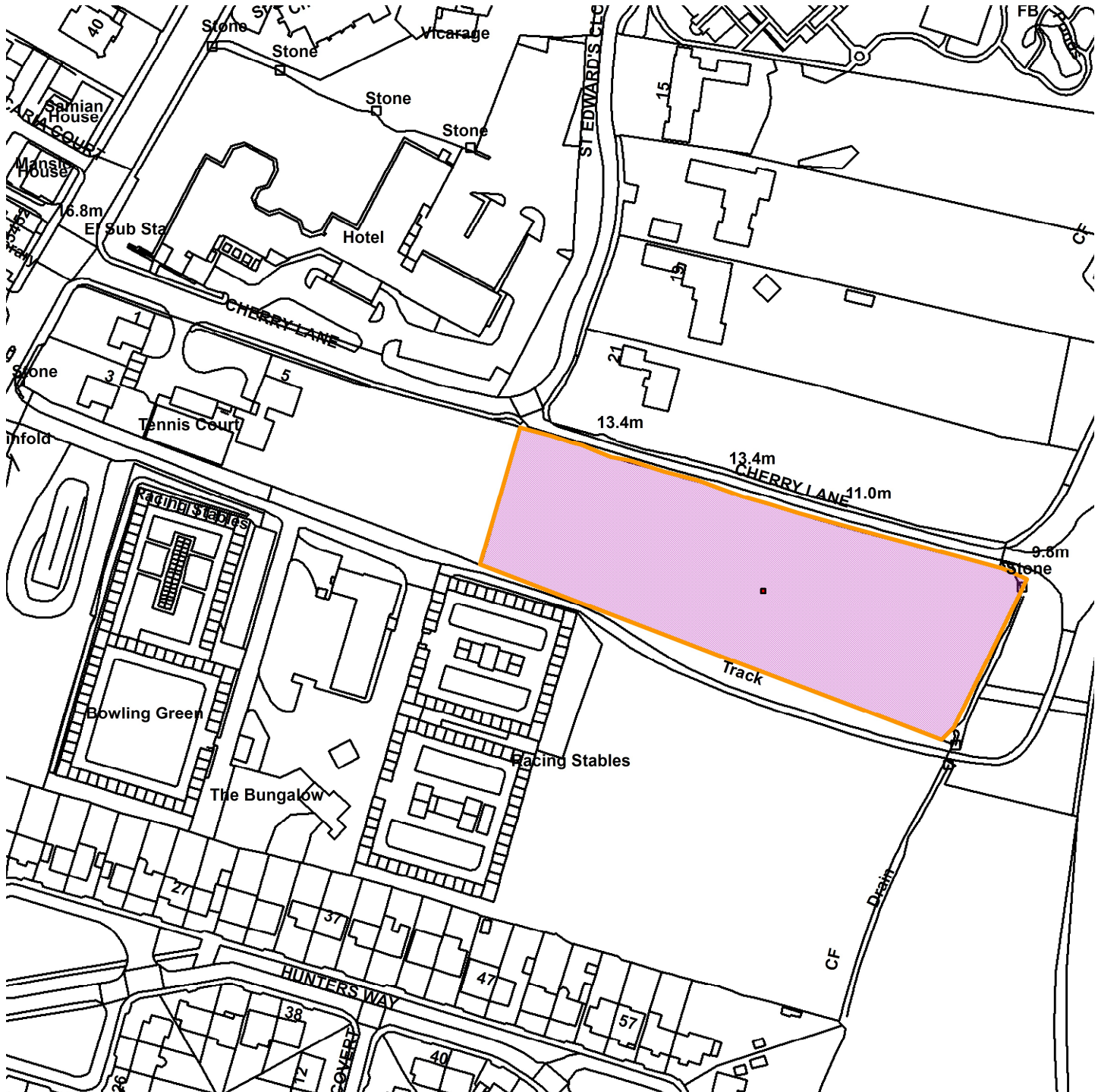
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Site To The Rear Of 5 Cherry Lane York

21/00121/OUT



GIS by ESRI (UK)



Scale : 1:1893

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	31 March 2021
SLA Number	

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