



## Notice of a public meeting of

### Planning Committee B

**To:** Councillors B Burton (Chair), Cullwick (Vice-Chair), Baxter, Fenton, Melly, Nelson, Orrell, Vassie and Warters

**Date:** Thursday, 30 January 2025

**Time:** 4.30 pm

**Venue:** West Offices - Station Rise, York YO1 6GA

### AGENDA

**1. Apologies for Absence**

To receive and note apologies for absence.

**2. Declarations of Interest** (Pages 7 - 8)

At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see the attached sheet for further guidance for Members.]

**3. Minutes** (Pages 9 - 14)

To approve and sign the minutes of the last Planning Committee B meeting held on 16 December 2024.

#### **4. 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 are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is 5:00pm on Tuesday, 28 January 2025.**

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#### **5. Plans List**

This item invites Members to determine the following planning applications:

- a) **Land To The Rear Of 128 Fulford Road, York** (Pages 15 - 60)  
**[24/01403/FUL]**  
Erection of 3 no. dwellings (Use Class C3) with associated access and landscaping following demolition of garage. [Fishergate Ward]

**b) The Jubilee, Balfour Street, York, YO26 4YU (Pages 61 - 98)**  
**[23/02148/FUL]**

Conversion of former public house to form 6no. apartments with associated access, parking and bike stores and external alterations including dormer and the insertion of rooflights following demolition of outbuildings, canopy and external staircase. [Holgate Ward]

**c) Fulford School, Fulfordgate, York, YO10 4FY (Pages 99 - 126)**  
**[23/02384/FUL]**

Construction of a 3G Artificial Grass Pitch with perimeter fencing, acoustic fencing, hardstanding areas, storage container, floodlights, an access footpath, and modular changing room building. [Fulford and Heslington Ward]

**6. Urgent Business**

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

Democracy Officer:

Jane Meller

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

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### Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) <b>OR</b> Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) <b>OR</b> Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council	Committee Minutes
Meeting	Planning Committee B
Date	16 December 2024
Present	Councillors B Burton (Chair), Cullwick (Vice-Chair), Baxter, Coles, Fenton, Melly, Orrell, Vassie and Warters
Officers Present	Gareth Arnold, Development Manager Erik Matthews, Senior Planning Officer Guy Hanson, Design and Conservation Manager Sandra Branigan, Senior Lawyer

#### **43. Apologies for Absence (4.33 pm)**

None were received.

#### **44. Declarations of Interest (4.33 pm)**

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

Cllr Cullwick noted that he had an interest in Item 5a, Church House, he therefore withdrew from the meeting at the start of that item and took no part in the debate or decision making thereon.

#### **45. Minutes (4.33 pm)**

Resolved: That the minutes of the last meeting held on 28 November 2024 were approved as a correct record.

#### **46. Public Participation (4.34 pm)**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

**47. Plans List (4.34 pm)**

Members considered a schedule of reports of the Development Manager, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

**48. Church House, 10 - 14 Ogleforth, York, YO1 7JG  
[24/01140/FUL] (4.58 pm)**

Due to amendments to the running order of the agenda, this item was considered last. Members considered a full application for replacement windows throughout (retrospective) by Alexander McCallion.

The Development Manager gave a presentation on the application and confirmed that the revised NPPF included no revisions that were material to the determination of the application.

Public Speakers

Christina Funnell spoke in support of the application, noting the benefits of the thermally efficient windows for the building's occupants. She stated that she did not consider the aesthetics outweighed the cost to the charity of replacement.

Oliver Caroe, the architect for the applicant, spoke in support of the application. He described the existing street scene, stating that the windows had no meaningful bearing on the setting and noting the challenges presented by a low carbon retrofit.

In response to questions from Members he stated that the installed replacement windows, which were made of extruded aluminium, had a similar profile to Crittall windows and that they had compared both options. He stated that, in his opinion, the windows did not harm the building or setting.

Alexander McCallion, the applicant, spoke in support of the application. He highlighted the public benefit relating to their decision to address the climate emergency through the low carbon retrofit, noting the limited resources available to safeguard the future of the Minster.

In response to questions, he stated that the replacement windows were the best available within budget; they had been installed before the condition

had been discharged. He stated that Crittall-style windows were not as efficient and agreed that this was the main difficulty.

The Design and Conservation Manager responded to Members' questions and reported that the Church House was previously an industrial building, with large windows and thin profile frames. Although they could not be exactly replicated and maintain thermal efficiency, there were many replacement alternatives. Officers had not been provided the opportunity to discuss these options with the applicant. The thickness of the frames, that they were white, together with the loss of the slim, moulded profiles, particularly at the ground floor level, were the main areas for concern.

Members were advised that the costs and options for the applicant, should the application be refused, were not a consideration for the planning committee.

Following debate, Cllr Warters moved the officer recommendation to refuse the application. This was seconded by the Chair. On being put to a vote, Members voted two in favour and six against, therefore the motion fell.

Cllr Fenton subsequently proposed approval of the application, given that he did not consider that there was harm caused to the historic assets and conservation setting, and this was seconded by Cllr Baxter. Following a further debate, during which a condition relating to the outward window openings was discussed, a vote was taken and with Members voting six in favour and two against, it was therefore:

Resolved: That the application be delegated to the Development Manager to approve, following an investigation into the need or otherwise for a condition restricting the outward opening of the windows.

Reason: The proposal would not harm the character of the building, the character and appearance of the conservation area and the setting of listed buildings.

#### **49. Garages At Hawthorn Terrace South, New Earswick, York [23/01879/FUL] (4.34 pm)**

The Development Manager provided an update to the committee which altered the officer recommendation to defer, this was at the request of the agent for the applicant.

Cllr Cullwick proposed the updated officer recommendation, and this was seconded by Cllr Orrell. Members voted eight in favour and one against the motion and it was therefore:

Resolved: That the application be deferred.

Reason: To allow the applicant more time to present plans for solar energy provision.

**50. 7 Station Road, Haxby, York, YO32 3LS [24/01047/FUL]  
(4.37 pm)**

Members considered a full application for the erection of 2no. dwellinghouses to side following demolition of 3no. detached garages.

The Development Manager gave a presentation on the plans for the development and the Senior Planning Officer provided an update to the report which amended the wording of paragraph 5.10 to note that the proposed dwellings were approximately 0.5m closer to the boundary with Usher Lane than the previously approved scheme. There were no material revisions needed following publication of the revised National Planning Policy Framework (NPPF) but draft conditions 8 and 9 would now refer to paragraphs 192-195 of the NPPF. The applicant's agent was unable to attend the meeting, his written statement in support of the application was also included in the update.

In response to questions on the plans, officers confirmed the location of the cycle and bin storage. They also confirmed that the existing boundary wall was 1.5m high. The footprint of the previous application was also compared to the current application via the on-screen presentation to clarify the difference.

The wording of condition 7 was queried by members and it was requested that the word 'solely' be removed so that the storage was not restricted to cycles.

The Development Manager confirmed that heat pumps and solar panels were shown on the plans. There were no policies to ensure compliance with carbon reduction other than those included in the 2013 building regulations. It was noted that a condition relating to policy CC2 should have been in the report and would therefore need to be added.

Following a brief debate, Cllr Fenton proposed the officer recommendation to approve the application, and this was seconded by Cllr Baxter.

Members voted unanimously in favour, and it was therefore:

Resolved: That the application be approved, subject to the amendments included in the update and the inclusion of a condition to cover policy CC2.

Reason: The proposal comprised a revised resubmission of an earlier lapsed scheme for erection of two properties permitted in 1998. The design and layout of the proposal is felt to be acceptable following on from the earlier consent and as amended the proposal is felt to be acceptable in Highway terms. The location of the proposal is sustainable and the proposed drainage arrangements are acceptable. Subject to any permission being appropriately conditioned to secure the required biodiversity net gain the proposal is felt to be acceptable in planning terms and approval is recommended.

[4.53-4.58 pm, the meeting adjourned, and Cllr Cullwick left the meeting].

Cllr Fenton proposed that Cllr Orrell be appointed as Vice-Chair, in the absence of Cllr Cullwick. This was seconded by Cllr Baxter and with agreement from the committee, Cllr Orrell took over as Vice-Chair for the remainder of the meeting.

## **51. Planning Appeal Performance and Decisions (6.18 pm)**

The Development Manager presented a report which provided information on the planning appeal decision determined by the Planning Inspectorate between 01 July and 30 September 2024.

Resolved: That the report be noted.

Reason: To keep members informed of the current position of planning appeals against the council's decisions as determined by the Planning Inspectorate.

Cllr B Burton, Chair

[The meeting started at 4.32 pm and finished at 6.31 pm].

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**COMMITTEE REPORT**

**Date:** 30 January 2025      **Ward:** Fishergate  
**Team:** East Area      **Parish:** Fishergate Planning Panel

**Reference:** 24/01403/FUL  
**Application at:** Land To The Rear Of 128 Fulford Road York  
**For:** Erection of 3no. dwellings (Use Class C3) with associated access and landscaping following demolition of garage  
**By:** Mr Ian Tulloch  
**Application Type:** Full Application  
**Target Date:** 6 February 2025  
**Recommendation:** Approve

**1.0 PROPOSAL****THE SITE**

1.1 The application site is located to the rear of No.128 Fulford Road in the Fishergate area of the city. It comprises the roughly triangular shaped car park accessed off Grange Garth, to the rear of the former Priory Hotel (nos.126-128 Fulford Road) which has been converted into 3no. dwellings (21/02237/FUL) with a garage block at the rear, accessed through the application site.

1.2 The site includes large areas of hardstanding with smaller areas of vegetation including ruderal species, several small trees and shrubs with ivy extending along the boundaries and into the site. There is a second detached garage to the south of the site.

1.3 As originally submitted, the site included a large Balsam Poplar tree in the highway verge on Grange Garth in the ownership of the local planning authority. The tree had been assessed as being in poor condition, a Tree Inspection report of 11.10.2024, commissioned by CYC found that the tree was in urgent need of removal due to major trunk decay resulting in a very high potential for damage. The tree has now been removed. As such, the application site boundary was amended to not include land within the highway verge and this tree.

1.4 Also located within the site is the dismantled remains of two bays of the eight-bay magnesian limestone entrance arcade from the Theatre Royal when it was remodelled in 1879. These antiquarian remains have significant heritage value. It was required by condition to be rebuilt within the garden of No. 126 (of the former Priory Hotel) (condition 8 of planning permission 21/02237/FUL) or in the garden of the new dwelling to the side of No.126 Fulford Road (condition 8 of 23/00798/FUL).

1.5 The site is within a residential area. Fishergate neighbourhood parade lies to the north. The site is not within a conservation area but borders Fulford Road Conservation Area on its north-east boundary. New Walk/Terry Avenue Conservation Area is to the north-west. It is not considered to be within the setting of any listed building. The site is in flood zone 1 (low risk of flooding).

## **PROPOSAL**

1.6 The proposals have been amended since submission. The final scheme is for three four-bedroom terraced dwellings, constructed of red brick with slate roofs and lead sheet clad dormers to the front and rear. Each has an integral garage. Door lintels and window sills will be of reconstituted stone, with brick lintels over the windows. Door and window joinery will be in painted timber with the bi-fold garden doors in polyester powder coated aluminium. Each has a small rear /side garden with the frontage directly set to the internal courtyard from Grange Garth. The houses would be positioned to the south of the site, following demolition of the single garage. Site access would remain as existing from Grange Garth and include access to the triple garage to the rear of Nos. 126-128 Fulford Road.

1.7 Houses 1 and 3 have refuse and cycle stores within the gardens with House 2 having a larger garage with space for four bicycles. House 2's refuse storage is to the front, together with a collection point for the other two houses on refuse collection days.

## **RELEVANT PLANNING HISTORY**

1.8 In terms of the planning history of the site:

- Planning application withdrawn on 17.06.2024 following advice from the local planning authority that the proposed erection of 4no. dwellings was considered over-development with harm to neighbour amenity, and that planning permission was to be refused (24/00584/FUL). A Biodiversity Net Gain (BNG) assessment and metric was required as the site was not exempt.

1.9 The following is of relevance in relation to consideration of the proposals for the site:

- Planning permission was granted on 17.06.2022 for the conversion of the guest house (C1) being The Priory Hotel, 126-128 Fulford Road, York to form 3no. dwellings (C3), first floor extension to rear projection, creation of rear terrace, new openings and erection of garages and boundary walls to rear following demolition of rear ground floor elements (21/02237/FUL). The proposals include the erection of a two double-garage block for houses 1 and 2 and a single parking space for house 3 within the current application site. The garages would have a pedestrian entrance from the rear gardens of these properties. This planning permission has been implemented, although the

garage block is not as approved being constructed as a triple rather than two doubles and further into the site.

## **CALL IN**

1.10 Cllr Whitcroft, has called in the application for determination at planning committee should the recommendation be to grant planning permission. The planning reasons for the call-in include inappropriate design, loss of habitat and negative impact on bats. Concerns were also raised about the loss of the mature Poplar tree and its timing with the submission of the planning application.

## **2.0 POLICY CONTEXT**

### **Development plan**

2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.2 The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan. Fishergate Ward does not have an adopted neighbourhood plan. The following documents are material considerations.

### **Material considerations**

#### The National Planning Policy Framework (2024) (NPPF)

2.3 The revised National Planning Policy Framework was republished in December 2024 (NPPF) and its planning policies are material to the determination of planning applications. The NPPF sets out the Government's overarching planning policies. Paragraph 7-11 explains that the purpose of planning is to contribute to achieving sustainable development. Sections 2 (sustainable development), 5 (housing), 8 (healthy and safe communities), 9 (sustainable transport), 11 (effective use of land), and 12 (good design), 14 (climate change and flooding, 15 (conserving and enhancing the natural environment) are of particular relevance.

#### City of York Publication Draft Local Plan (2018 modified 2023)

2.4 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The plan has been subject to examination and is expected to be adopted in 2025. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. The following policies are of relevance:

- DP2 Sustainable development

- DP3 Sustainable communities
- H2 Density of residential development
- D1 Placemaking
- D2 Landscape and setting
- D6 Archaeology
- GI2 Green infrastructure
- GI4 Trees and hedgerows
- CC2 Sustainable design and construction of new development
- ENV3 Land contamination
- ENV5 Sustainable drainage
- T1 Sustainable access

## **Biodiversity Net Gain**

2.5 Biodiversity net gain of 10% is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) for every grant of planning permission, subject to some exceptions. This site is not exempt and as such must deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. The increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. A pre-commencement condition that a Biodiversity Gain Plan is submitted and approved is deemed to be imposed upon the grant of a planning permission by paragraph 3 Schedule 7A of the Town and Country Planning Act. The Biodiversity Gain Plan secures the delivery and maintenance of the 10% biodiversity net gain for 30 years.

## **3.0 CONSULTATIONS**

### **INTERNAL**

#### Design and Conservation (City Archaeologist)

3.1 The application site has moderate archaeological potential given its location on/close to the line of a Roman road and a known resource, specifically cemeteries, just to the north of this site. The site has not been subject to any archaeological investigation and has not been previously developed. An archaeological evaluation is required. This can be secured by condition.

#### Design and Conservation (Landscape Architect)

3.2 No objection to the proposed removal of the young Sycamore T1, mature Poplar T3, the Leyland Cypress hedge H7, or G8 group including Cherry and self-seeded Sycamore. None of these trees are worthy of a tree preservation order due to their structural condition, location or limited public amenity value. Other indicative vegetation is shown around the perimeter of the gardens. These landscape

elements would add value to the amenity of the scheme and should be secured under a suitably worded condition. An arboricultural method statement is also required to be secured by condition to protect the retained trees during construction works.

### Design and Conservation (Ecologist)

3.3 The revised BNG Metric and report is acceptable with the overall positive outcome of +87.99% biodiversity net gain achieved on site. (No comments received on the final revised version which achieves 28.35% BNG). Two conditions are advised including a lighting plan and to secure biodiversity enhancements. An informative referencing the legal requirement for BNG of 10% and submission of a Biodiversity Gain Plan is also advised.

### Flood Risk Management

3.4 No foul and surface water drainage details have been submitted. Foul drainage must be in accordance with the requirements of Yorkshire Water and surface water in accordance with our Sustainable Drainage Systems Guidance for Developers and the hierarchy of surface water disposal. The submitted Phase 2: Ground investigation provides evidence that Tier 1 of the hierarchy of surface water disposal and infiltration methods will not work on this site. A watercourse is remote from the site. Foul and surface water drainage details can be conditioned, details advised.

### Public Protection

3.5 All environmental impacts (noise, air quality, contaminated land and dust) have been considered. The submitted Phase 1 and 2 assessments by Arc Environmental confirmed that remediation works are required due to elevated levels of lead and PAHs found on site, conditions for these works are advised. Standard development informative and electric vehicle charging informative should be applied.

### Highways Development Control (HDC)

3.6 HDC object to the original submission on the grounds of unacceptable impact on highway safety, unless evidence can be provided that sufficient vehicle and pedestrian visibility splays are achieved at the site entrance, and that sufficient space is available within the development to enable vehicles to enter and exit and park in the proposed garages in a forward-facing direction using no more than two changes of gear to turn around. With only one car parking space per dwelling and no visitor parking, this could lead to overspill parking in the adjacent residents parking zone, so the site should be excluded from the Resident's Parking Zone R20 by condition.

3.7 The existing site plan does not show the existing garage and parking space as built. The planning permission 21/02237/FUL included two adjoining double garages at the rear of 126-128 Fulford Road but as built is one single and one double, extending further into the site.

3.8 Commenting on revised submissions, the absolute minimum working clear internal dimensions of a garage for parking of a vehicle are 3.2m by 5.5m, but this would not be classed as a parking space (6.1m by 4.1m is required). HNM can consider the proposals as being 'car free' with one space in each garage but they must be maintained as used for car parking by condition. Cycle parking must meet the minimum requirement of 4 spaces per dwelling (one per bedroom) and be suitably and adequately covered and secure.

3.9 Cycle parking as shown at the rear of Houses 1 and 3 for four bicycles meet these requirements but there is not sufficient space in the garage of House 2, nor access from the garden for a cycle store. A Bikehanger with integral rack could be provided outside the curtilage of House 2.

3.10 Tree 5's diameter is more than the 550mm width with thus an intermittent obstruction to visibility, but it is noted that the use of the site as a car park to a hotel had likely more vehicle movements than the proposed use and no accidents have been recorded over the last five years. Conditions are advised relating to surfacing, access details, parking details to be agreed and laid out, for the garage to be residential only, internal turning to be provided and vehicular splays to be protected. Conditions for a method of works statement and removal of the site from the resident parking zone are also advised.

## **EXTERNAL**

### Fishergate Planning Panel

3.11 No comments received.

### Yorkshire Water

3.12 No objections, although the submitted drainage plan requires amendments but this can be dealt with by condition. Conditions are advised including separate systems of drainage for foul and surface water, and for surface water drainage details. It is agreed that soakaways will not work on this site and that a watercourse is remote. Surface water discharges to the public sewer must have a minimum 30% reduction based on the existing peak discharge rate during a 1 in 100 year storm event. On site attenuation taking into account climate change will be required before any discharge to the public sewer network is permitted. If existing connected impermeable areas cannot be proven, surface water may discharge to public sewer via storage with a restricted discharge of 3.5 litres/second.

## 4.0 REPRESENTATIONS

### Publicity

4.1 Two general comments/objections were submitted in relation to concerns about the removal of the valued Balsam Poplar Tree, the requirement for further information and evidence on its need for removal. Concerns were raised over timing with the applicant reporting that their plans for the site were only viable if the tree is removed. An independent inspection of the tree and its health and use by bats is required separate to the applicant's.

4.2 Twenty-six neighbours / interested parties have objected to the proposed development, some several times, with the following issues raised:

### Design

- Over-development.
- Site is only suitable for a one or two, maximum two-storey dwelling away from site boundaries (as planning officer advised in relation to the withdrawn scheme).
- Three storey housing is too tall for the area. Should only be two storeys or dormer bungalows.
- The height of the eaves and ridges should be no greater than the two storey rear offshoots or the main dwellings on Grange Street.
- Design is out of character with the area.
- Proposed mews style housing on Galmanhoe Lane (by the same developer) is within the city walls and not suitable for Fishergate.
- Grange Garth is of semi and detached housing which is well spaced. Any residential development should reflect the context and design of existing residential buildings on Grange Garth or Grange Street.
- Foundations cannot be constructed within 3m of existing boundary walls.
- Proposals are contrary to Policy D1 Placemaking.
- Reduction required in the number of proposed windows to Grange Street and those remaining should all be obscure glazed.
- Windows should have anti-reflective glass to prevent excessive sunlight reflecting directly into properties.
- Harm to the character of the area generally and also the conservation area.
- The recommendation for House 3 to be reduced in height has not been followed.
- Dormers are excessive in size.

### Amenity

- The proposed houses have living areas at height that overlook residents on Grange Street.
- Loss of privacy.
- Loss of daylight.
- Loss of outlook.
- Over-bearing.
- Additional noise and activity from the significant number of new residents. The rear of residents' properties is currently quiet.
- Loss of openness.
- Lack of refuse storage.
- The gable end of House 3, at 10m in height and 2m off the boundary of Nos. 130 and 132 Fulford Road will result in significant loss of light to the gardens, living rooms and kitchens of these neighbours and will be overbearing.
- Separation distances between living areas should normally be 21m.
- The gable wall of House 3 will be only 3.7m from the window of the granny annex at 134 Fulford Road. Overbearing and loss of outlook for this property.
- The ground floors with bi-folding doors are only 5.6m to 7.05m off the shared boundary which is too close.
- Bedrooms on upper floors will overlook the neighbours at 5.3m separation.
- Separation distances of 18m from first floor windows and ground floor windows should be achieved. The drawings show them to be between 16-17m.
- Officer previously recommended that there should be a separation distance of 7m from bedrooms overlooking gardens and 12m plus from main habitable spaces to gardens. This is not achieved.
- The architect's separating distances are not accurate and not the nearest distance. People do not look out of windows in just a single direction and straight line.
- Windows are too large with loss of privacy.
- Construction noise.
- Plans do not show the kitchen extension at No. 14 Grange Street and there will be loss of privacy.
- The dormers should be replaced with rooflights.
- The proposal at No. 134 Fulford Road for conversion of the annex, was not permitted to have four windows on the rear extension, only the one existing, to respect privacy of neighbours. The same principle should be applied here. (References 21/02255/ERC and 22/00119/FUL).
- The gardens of the new houses are too small.
- The revised plans bring the housing closer to Grange Street.

### Highways and Access

- Increase in traffic congestion for Grange Street/Grange Garth area and at the dangerous junction with Fulford Road.

- Danger to pedestrians and cyclists as a result of the additional cars whether parked or exiting the site.
- Increased vehicle pollution.
- Objections to the proposed access from Grange Street by vehicles and for refuse collections. The developer has no legal right of access.
- Lack of onsite parking for four-bedroom properties.
- Overspill of cars onto the already congested surrounding streets.
- No space to manoeuvre for the new dwellings and the car parking space and garages of the former Priory Hotel.
- Poor access for the number of vehicles.
- Lack of bicycle storage.
- Garage size inadequate for parking of cars. Will be used for storage.
- The garage will likely be converted into a reception room in the future.
- The proposals remove the existing access to the rear of Nos. 130 and 132 Fulford Road. The garden walls have access gates and both 130 and 132 have prescriptive access rights which are blocked by the proposals. It also prevents access by emergency services in the event of a fire or statutory undertakers.
- There is not adequate manoeuvring space with the site.
- Highways safety concerns associated with the construction activity already within the vicinity of the site.

### Ecology

- Loss of the mature Balsam Poplar Tree and harm to visual amenity and the character of the area.
- In 2018, a neighbour sought Tree Preservation Orders for the Poplar, Oak and Horse chestnut within the highway verge. They were advised that this was not necessary but then the Priority Hotel removed the latter two. The developer is now proposing removal of the third and largest tree, being the Poplar. The neighbour does not support the removal.
- Loss of habitat for bats, birds and other wildlife.
- Question whether submitted bat report accurately records the bats roosting in the tree as it was a ground-based survey and did not properly assess fissures and cavities close to the pollarding at the top of the main trunk.
- Proposal does not adequately mitigate for the loss of habitat.
- A reduction in the number of houses proposed may mean the Balsam Poplar does not need to be removed to enable development.
- Removal of the tree may impact the foundations of the adjacent properties Nos. 1 and 6 Grange Garth.
- Site is not exempt from BNG.
- Tree stump should be removed by mechanical means not poison.
- Balsam Tree should be replaced by a semi-mature tree of the same species or comparable alternative, to be agreed with neighbours.

### Conservation/archaeology

- Archaeological investigation is required.
- The impact on the setting of the nearby conservation areas should be considered as a result of the inappropriate design.

-

### Other

- The proposed three houses will not contribute to the alleviation of the housing crisis as they are market housing.
- Inconsistency with other planning decisions regarding separation distances and privacy.
- Boundary heights should be restricted.
- Security concerns over new shared boundary with neighbours.
- Work already commenced on site. Noise, dust and congestion of the development at No. 134 Fulford Road is at times unbearable and there is now further construction proposed.
- Builders taking up all the resident parking spaces.
- Revised plans do not resolve the objections.

## **5.0 APPRAISAL**

### **KEY ISSUES**

5.1 The key issues are considered to be:

- Principle of development
- Design
- Amenity
- Landscaping
- Ecology
- Highways
- Drainage
- Environmental

### **APPRAISAL**

#### **Principle of development**

#### Policy

5.2 Section 2 of the NPPF states that the purpose of planning is to contribute to the achievement of sustainable development, including the provision of homes (...) and supporting infrastructure in a sustainable manner. This includes ensuring that a sufficient number of homes are provided and through fostering well-design, beautiful

and safe places. Effective use of land, whilst protecting and enhancing the natural, built and historic environment, should be sought. At the heart of planning, there is a presumption in favour of sustainable development.

5.3 Section 5 explains the government's strong emphasis on the need to significantly boost the supply of homes. Small and medium sized sites can make an important contribution to meeting the housing requirements of an area, as can windfall sites. Great weight should be given to the benefits of using suitable sites within existing settlements (para. 73).

5.4 Section 11 is on making effective use of land for homes and other uses, whilst safeguarding the environment and ensuring safe and healthy living conditions. Substantial weight should be given to the value of using suitable brownfield land and under-utilised land within settlements for homes, proposals for which should be approved unless substantial harm would be caused (para 125 (c)). Development should be of an appropriate density, making efficient use of land whilst maintaining an area's prevailing character and setting and securing well-designed, attractive and healthy places (para. 129). Applications should be refused that do not make efficient use of land in this context. A flexible approach should be applied to policies and guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site (para.130 (c)).

5.5 The Publication Draft Local Plan 2018 (modified 2023) policy DP2 'Sustainable development' states that development should conserve and enhance those elements which contribute to the special character and setting of the historic city by ensuring that development is in acceptable locations and of the highest standards in terms of urban design and detailing. Policy H2 'Density of Residential Development' requires an efficient use of land through good design and response to its context with 50 units/ha guide for a site within the York urban area.

### Appraisal

5.6 The republication of the NPPF in December 2024, increases the importance Government places on delivering housing development to meet the significant need. The application site is a brownfield site within the urban area in a very sustainable location being within walking distance of the city centre and all its amenities, in an established residential neighbourhood, within a short walk of Fishergate neighbourhood parade, local schools and the bus stops on Fulford Road into and out of the city. The principle of residential development in this location is considered acceptable.

5.7 The site is 0.086ha in size and applying the density guide of draft Policy H2 of 50 dwellings per hectare, this suggests the site could be capable of accommodating four dwellings. The applicant's withdrawn scheme was for four dwellings but this was not acceptable in terms of the proposed design due to the unacceptable impact

on neighbour amenity. The revised scheme has continued with a similar design of mews housing on the site but reduced it to three four-bedroom dwellings. The density guide provides guidance as to density with a site-specific assessment of the proposal required in each case.

## **Design and Amenity**

### Policy

5.8 The NPPF section 12 explains that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Developments should function well and add to the overall quality of the area, be visually attractive, be sympathetic to local character and history whilst not preventing appropriate innovation or change. They should establish a strong sense of place, using high quality building types and materials. They should create places that have a high standard of amenity for existing and future users (para 135). Existing trees should be retained where possible. Development that is not well designed should be refused (para.139).

5.9 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 ‘Sustainable communities’ requires high quality design, appropriate density, layout and scale whilst ensuring appropriate building materials are used. Development should be locally distinctive which relates well to the surrounding area and its historic character.

5.10 Policy D1 Placemaking requires development to be of an appropriate density and massing for its context, that it does not dominate its wider setting including other buildings and spaces, uses appropriate building materials, is of contemporary urban design, integrates parking and servicing within the development, and ensures design considers residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

5.11 Policy DP2 ‘Sustainable development’ states that development should limit environmental nuisance including noise, vibration, light, and dust from development. Appropriate waste and recycling provision should be supplied.

### Appraisal

5.12 The proposed housing is set back into the site and the vegetated frontage is maintained on Grange Garth. It is not considered that the proposals have any impact on the setting of the adjacent Fulford Road Conservation Area with the site being set behind the three storey terraces on Fulford Road and is not visible from within the Conservation Area.

5.13 The final revised proposal comprises a short line of terraced housing, described as 'mews' due to each house opening out onto the shared courtyard rather than having private space to the front. The three dwellings would be constructed from red brick with a natural slate roof, timber painted windows with brick heads and stone sills, timber doors and lead clad dormers. These are considered to be high quality materials (subject to approval of materials by condition on any permission). The terrace would be two storeys in height with attic accommodation served by front and rear dormers. The final design now shows the dormers set back from the eaves and within the roof rather than extending the first floor. This is an improved design.

5.14 Each dwelling would benefit from an integral garage which can accommodate a car. The garage of House 2 also provides storage for four bicycles. House 1 has small single storey projections to the rear and side. House 2 would have a single storey projection at the rear and House 3, a single storey projection to the rear and side. Floorplans show each dwelling having an open kitchen/diner at the rear and a separate lounge to the front at first floor. As the proposed first floor floorplans show a smaller room shown as a bedroom with ensuite bathroom to the rear, it would be expected that this layout would be maintained. This can be secured by condition. Three further bedrooms and house bathroom are shown in the roof served by the front and rear dormers.

5.15 The surrounding context is of residential development comprising more substantial two and three storey red brick terraces with slate roofs on Fulford Road, five of the eight dwellings bounding the site having rear dormers facing towards the application site. Each also has a reasonable rear yard/garden measuring between 13.2m to 20.6m to the site boundary from the principal rear elevation or 8.6m to 13.5m from the rear offshoot to the site boundary. The exception is the rear granny annex of 134 Fulford Road with its south-western elevation on the site boundary and a secondary window serving its first-floor lounge directly overlooking the site.

5.16 The red brick terraces, again with slate roofs and rear dormers on Grange Street bordering the site to the south also benefit from reasonable rear yards/gardens and two storey rear offshoots. The principal rear elevations of these terraces to the site boundary range from 17.2m to 18.5m, and from the end of the two storey rear offshoots a minimum of 7.5m off the boundary.

5.17 No.1 Grange Garth on the south-western site boundary is a modern detached dwelling. Grange Garth continues westwards and comprises detached and semi-detached 1930s suburban development. To the north, New Walk Terrace and Sandringham Street comprise Victorian and Edwardian high-density terraces. There is a mixture of house types in the vicinity and the proposed short line of terraced mews is considered suitable in this context in terms of design, scale and proposed materials. The housing is no higher than the surrounding residential properties on

Fulford Road and Grange Street, many of which also have attic accommodation and dormers.

5.18 The area comprises high density terraced housing where privacy levels in terms of domestic noise and over-looking is typically less than that of lower density suburban neighbourhoods. The proposed housing is offset within the site such that internal views from habitable rooms are not directly towards the neighbours but angled and oblique. Nevertheless, adequate separation is required between existing properties and the proposed, including views into private garden areas. As detailed above, the existing terraces have good sized rear amenity spaces. Whilst the proposed new dwellings have small gardens, the first floor and above is set back further than the ground floor footprint as shown on the proposed floorplans and elevation drawings. This creates greater separation distances than the ground floor floorplan indicates. With the ground floor overlooking mitigated by boundaries, separation distances are taken from the first floor of the new dwellings.

5.19 The first-floor bedroom window at the rear of House 1 has a separation distance of 6.7m to the nearest property boundary on Grange Street, being No.22, which then increases to 16.2m to the two-storey rear offshoot and 18.6m to the single storey infill. There are no windows on the end of the offshoot. No. 20 does benefit from windows at the rear, towards the site in its main habitable spaces at ground floor but distance to first floor bedroom of House 1 measures 17.9m and 9m to the rear garden wall. The first-floor bedroom window of House 2 secures a 7m separation at an oblique angle to the nearest property boundary of No. 18 Grange Street and 9.5m more direct to No.16 Grange Street garden boundary. Again the distance are increased to 18m to rear offshoots and over 25m to rear elevations. The distances are increased further from House 3 to the properties on Grange Street with a minimum of 10m achieved to the rear garden wall of No.16. In a higher density urban area these separation distances are acceptable.

5.20 During consideration of the application, concerns were raised over the proximity of House 3 to Nos. 130 and 132 Fulford Road, with its side gabled elevation just 3m off the boundary. The applicant has revised the proposals to increase the separation to c7m at first floor and above. This is now considered acceptable and would not appear overbearing nor oppressive for the neighbours. In terms of the impact on the granny annex of No. 134 Fulford Road, it was designed to be orientated towards its host with windows at first floor facing north-east and a single, secondary window on the south-west elevation at first floor. Occupants would not be overlooked within the annex, it is concluded that there would be no harm to the existing occupant's privacy. Any future resident of House No.3 would be aware of this window in the annex prior to purchasing/occupation as an existing situation with potential for overlooking from the granny annex.

5.21 Concerns have also been raised about loss of privacy and harm to amenity at No.1 Grange Garth. This detached dwelling benefits from having its front, west side

and rear gardens not bordering the site. There are no windows in the first floor of its side east side elevation that directly adjoin and thus overlook the site with small windows beyond the site boundary. Those on its front north elevation face north, not towards the site, and House 1 has just one small, angled window at first floor which will not cause any overlooking issues for this neighbouring property.

5.22 The use of the garden areas and ground floor spaces in this high-density urban area where neighbour's amenity spaces are not large, will already cause some noise and occasional disturbance as is typical in such urban neighbourhoods. The addition of three dwellings in this context is not unreasonable.

5.23 Each proposed house has a small garden as external amenity space for sitting out and relaxing. Existing boundary walls are to be retained with new boundaries between the new properties. Suitable and accessible refuse storage is provided with a collection point close to the site entrance on Grange Garth.

5.24 Overall, the final set of proposals is considered acceptable and will not cause harm to neighbour amenity when all factors have been considered (noise, overlooking, loss of privacy, loss of light, overbearing) as sufficient separation distances have been achieved and layouts of the new houses are considered acceptable. Suitable levels of amenity, including outside space, have been provided for the new residents.

## **Archaeology**

### Policy

5.25 The NPPF section 16 on the historic environment seeks to sustain and enhance the significance of heritage assets. Any harm to significance would require clear and convincing justification.

5.26 The Publication Draft Local Plan 2018 (modified 2023) policy D6 Archaeology protects archaeological features and deposits by requiring desk-based assessments, intrusive and non-intrusive surveys where necessary. Proposals will be supported where there is no harm, unless that harm is outweighed by public benefits considering the significance of the archaeology. Development can be supported where the impact of the proposal is acceptable in principle and detailed mitigation has been agreed.

### Assessment

5.27 The application site has moderate archaeological potential given its location on the line of/close to the line of a Roman road and the known resource in the immediate vicinity, specifically cemeteries just to the north of this site. The site has

not been subject to any archaeological investigation and has not been previously developed.

5.28 A watching brief was undertaken in 2022 during the excavation of foundations for a new garage to the rear of 126 Fulford Rd. Natural deposits (sandy clay) was encountered in parts c.1m below ground level. Sitting on top of the natural were horticultural and possibly earlier agricultural soils. The only features noted related to possible 19<sup>th</sup> century garden walls. At the same site earlier this year, an evaluation trench was opened on the footprint of a proposed dwelling. This did not reveal any archaeological features and confirmed 1.2m of horticultural soil on top of the drift geological deposits.

5.29 The below-ground impact of the proposal will relate to foundations for new builds and additional drainage for properties and attenuation if required. Any archaeological resource that exists on the site is likely to relate to Romano-British period possible including the Roman road itself and/or burials. Based on evidence from No. 126 any archaeological resource is likely to be buried at a depth of at least 0.8m beneath soils.

5.30 An archaeological evaluation is required. This is due to the undeveloped nature of the site, the size of the proposal and its location in proximity to other known archaeological features. An evaluation rather than a programme of monitoring will be a better way to check whether any resource exists on this plot. This method will allow any resource to be identified and excavated/avoided where appropriate ahead of construction starting. Whilst this can be conditioned, the applicant was advised that they may wish to do this prior to determination, but they advised they would undertake the work post decision. Therefore, an archaeological evaluation condition is recommended.

## **Landscaping and ecology**

### Policy

5.31 The NPPF at Section 15 advises that planning decisions should contribute to and enhance the natural and local environment through (amongst other factors) minimising the impacts on and providing net gains for biodiversity and remediating contaminated land where appropriate. Section 12 explains development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Trees make an important contribution to the character and quality of urban environments and can help mitigate and adapt to climate change. Opportunities should be taken to incorporate trees elsewhere in developments (paras. 135, 136.)

5.32 The Publication Draft Local Plan 2018 (modified 2023) policy D2 'Landscape and setting' supports development proposals that recognises the significance of

landscape features such as mature trees, hedges and historic boundary and other important character elements and retains them where they can be suitably managed and sustained. Proposed should include sustainable, practical, and high quality soft and hard landscape details and planting proposals. Lighting should be minimal and avoid light spill. Policy GI4 recognises the value of existing tree cover and hedgerows for their biodiversity value and the contribution they can make to the quality of development. Trees and hedgerows that make a positive contribution to the setting of a proposed development should be retained, but where loss is justified, suitable replacement planting should be secured.

5.33 Policy GI2 'Biodiversity and access to nature' requires the achievement of 10% net gain in biodiversity in accordance with the Environment Act 2021 contributing to the recovery of priority species and habitats and new habitat creation. Supporting text explains that net gains in biodiversity can be delivered by almost all development by following the principles of the mitigation hierarchy.

### Appraisal

5.34 Outside of the planning process, the developer initially approached the Council's tree officer to request that they remove the Balsam Poplar tree from the highway verge as it would allow more of the site to be developed. Development management officers were advised by colleagues that the tree was in a very poor condition and would need to be removed in the short term and therefore they had no objections to its removal. However, this also led to the Tree Officer commissioning their own assessment (October 2024) which found that the tree was dying, and the works to fell were very urgent as the very large tree had a very high potential for damage and harm. The tree has now been removed. The red line application site was amended to no longer include the tree and verge and plans and drawings updated. The Balsam Poplar Tree is therefore not discussed further as it is no longer part of the proposed development.

5.35 Specialist advice was received by the landscape architect who advised that the remaining trees, being the young Sycamore T1, the Leyland Cypress hedge H7, or G8 including Cherry and self-seeded Sycamore were worthy of retention. Indicative vegetation is shown around the perimeter of the gardens and would add value to the amenity of the scheme. Conditions are advised to secure an arboricultural method statement to protect the existing trees and for the submission of a detailed landscape scheme to be agreed and implemented. This will also help secure the legislative requirement for biodiversity net gain of 10%.

5.36 The applicant submitted a BNG Assessment report (updated December 2024) and small sites metric. These final reports identified that the vegetated gardens more than compensated for the loss of introduced shrub and derelict land which supported a range of encroaching vegetation. A final biodiversity net gain of 28.35% would be achieved. This is in accordance with Schedule 7A of the Town and

Country Planning Act 1990 which requires a statutory biodiversity net gain of a minimum of 10%. The Biodiversity Gain Hierarchy should be applied to avoid habitats of most value and where they cannot be avoided, they should be maintained on site. The application site does not contain habitats of special value that should be maintained and the landscape architect has confirmed no objections to the loss of the young trees and Leyland Cypress hedge to the north of the access. Their replacement with vegetated gardens as shown on the proposed plans is considered acceptable.

5.37 BNG is secured by a statutory pre-commencement condition, an informative on any decision notice will draw the developer's attention to this legal requirement. The habitats that form the baseline for the biodiversity of the site are to be retained through vegetated gardens, however as this is private garden land, it cannot be legally secured for 30 years. The landscape condition and a condition to remove some permitted development rights can however seek to ensure that the developer and future occupiers provide and maintain the soft landscaping in the gardens as proposed in the application.

5.38 Further conditions are advised on installation of lighting and provision of bat and bird boxes within the site. Whilst concerns were raised in relation to bats foraging and roosting in the Balsam Poplar tree, as its removal is outside of this application this is not now a matter for consideration in determining this application, but it is however reasonable to condition the provision of bat and bird boxes within the site to support biodiversity.

## **Highways and Access**

### Policy

5.39 Section 9 of the NPPF promotes walk, cycling and public transport use. In considering proposals, development should promote sustainable transport modes, and ensure safe and suitable access to the site is achieved for all users. Development should only be 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 (para. 116). Development should create places that are safe, secure and attractive which minimises the scope for conflicts between pedestrians, cycles and vehicles and be designed to enable charging of plug-in and other ultra-low emission vehicles (para.117).

5.40 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 'Sustainable communities' requires development to maximise the opportunities for walking, cycling and frequent public transport use by facilitating a modal shift from the car to more sustainable and healthier forms of travel. Policy T1 'sustainable access' states that development will be permitted where it minimises the need to travel and provides safe, suitable and attractive access for all transport users to and

within it, maximising the use of more sustainable modes of transport. Sufficient convenient, secure and covered cycle storage should be provided.

### Appraisal

5.41 Various revisions to the site and floorplans have been received seeking to address the advice from officers on car and cycle parking provision. In addition, a minimum of one secure, enclosed and accessible cycle parking space is required per bedroom; in this case four-bedroom houses require four cycle parking spaces per house. Officers also advised that in this sustainable location, the development could be car-free in accordance with the reduced car parking requirements of other residential schemes in the vicinity, and to encourage more sustainable modes of travel.

5.42 The applicant has however continued with providing one vehicle parking space in an integral garage per dwelling. The final site plan and ground floor plans show suitable sized integral garages with separate enclosed lockable cycle stores in the gardens of Houses 1 and 3, with adequate turning space and a larger garage for House 2 capable of accommodating four bicycles. Access to these garages is achievable but tight, as the tracking diagrams confirm. The construction of the garage block for Nos. 126-128 Fulford Road in accordance with the approved plans would provide more manoeuvring space.

5.43 Visitor parking is limited to short stay parking on Fulford Road by St George's Primary School and on Grange Garth by the site entrance. For longer stays, due to the lack of visitor parking within the site, visitors with cars would need to find alternative parking. Highways Network Management have advised that the Resident Parking Zone R20, which includes Grange Garth and surrounding streets is at capacity. The site should be removed from the Resident Parking Zone to be secured by condition in relation to implementing a Traffic Regulation Order, at the developer's expense..

5.44 Concerns have been raised by neighbour about site access, congestion and highways safety as a result of the proposed development. The site was the former car park to the Priory Hotel providing 14 parking spaces. The development of the three dwellings with three parking spaces, together with the access to the four parking spaces of No. 128 Fulford Road accessed through the site and already granted permission, totals seven, ie half the parking capacity of previously. There have been no reported accidents from the site in the last five years. There is space for vehicles to exit in forward gear, but should they reverse onto Grange Garth, as an unclassified road, this is acceptable. The removal of the Leyland Cyprus hedge at the entrance will improve visibility. There are no objections to the proposals on highways safety grounds.

### **Climate change, drainage and flooding**

## Policy

5.45 The NPPF section 14 supports the transition to net zero by 2050 and take account of all climate impacts including overheating, water scarcity, storm and flood risks. Renewable and low carbon energy and infrastructure should be supported. New development should include green infrastructure and sustainable drainage systems where suitable, including control of flood rates and measures to reduced runoff volumes (para.182).

5.46 The Publication Draft Local Plan 2018 (modified 2023) policy DP3 'Sustainable communities' requires development to manage flood risk by ensuring it does not contribute to or is subject to flooding. Policy CC2 'Sustainable design and construction' requires that all new residential development should achieve on-site carbon emission reductions of a minimum of 31% of which at least 19% should come from energy efficiency measures, a water consumption rate of 110 litres per person per day, and an aim to achieve a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013).

5.47 Policy ENV4 'Sustainable drainage' requires development on brownfield sites to restrict surface water flow to 70% of the existing runoff rate unless this is not practical. This may require sufficient attenuation and long-term storage which must accommodate a 1 in 30-year storm and a 1 in 100-year event plus climate change.

## Appraisal

5.48 A condition is advised in relation to securing the requirements of draft policy CC2. The flood risk management team have advised drainage details can be conditioned.

## **Environmental**

### Policy

5.49 The Publication Draft Local Plan 2018 (modified 2023) policy ENV3 'Land contamination' states that a contamination risk assessment and if necessary, remediation will be required to ensure that there are no significant effects on human health, property and surface water where a site may be affected by contamination or the proposed use would be vulnerable (eg residential with gardens).

### Appraisal

5.50 Public Protection have reviewed the submitted Phase 1 and 2 assessments by Arc Environmental and confirmed that remediation works are required due to

elevated levels of lead and PAHs found on site. Conditions to secure this are advised.

## **6.0 CONCLUSION**

6.1 The proposal is for the erection of three two-storey four-bedroom dwellings on the former Priory Hotel car park, at the rear of No.128 Fulford Road in Fishergate. The site is in a very sustainable location, involves the redevelopment of a redundant brownfield site, in an established residential neighbourhood. The final scheme is considered to be of good, appropriate design for its context with no significant harm to neighbour amenity, with suitable access and parking provision for vehicles and bicycles. As such the proposals are found to be in accordance with relevant sections of the NPPF 2024 including 2, 5, 9, 11 and 12 and draft policies DP2, DP3, D1, D2, CC2, ENV3, ENV4 and T1 in the Publication Draft Local Plan 2018 as modified 2023.

## **7.0 RECOMMENDATION:** Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

Location Plan, 2000, revision P2  
Proposed site plan, 2001-01 revision P6  
Proposed ground floor and first floor plan, 2002-01 revision P5  
Proposed second floor and roof plan, 2003-01 revision P3  
Proposed front and rear elevations, 2004-01 revision P5  
Proposed side elevations, 2006 revision P5  
Proposed cycle store, House 1 and 3, 2015 revision P1

Vale Ecology, Biodiversity Net Gain assessment, revision 04, dated 19.12.2024  
Small Sites Metric, prepared by Thomas McQuillan, Vale Ecology, revision 04, dated 19.12.2024  
Arboricultural Impact Assessment, by JCA Limited, reference 21129a/ChC, dated 2024  
ARC Environmental Phase 1 Desk Top Study Report, reference 22-085, dated 28.03.2022  
ARC Environmental Phase 2: Ground Investigation Report, reference 22-604, dated 22.08.2022

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

3 Notwithstanding 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), development of the type described in Classes A, AA, C, D, E, and F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reasons: As the BNG for this development is proposed to be secured through the provision of vegetated rear gardens, means of compliance and monitoring can be secured through the removal of the above permitted development rights so that such works require the submission of a planning application for consideration so that over 50% of each the gardens remain as vegetated, as shown on the approved plans. This is to ensure compliance with Schedule 7A of the Town and Country Planning Act 1990 whereby across the development, a biodiversity net gain of 10% is a statutory requirement which is to be maintained for 30 years.

Further, in the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

4 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 (facing bricks, reconstituted stone, brick lintels, slates) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development above ground level. The development shall be carried out using the approved materials.

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

Reason: So as to achieve a visually cohesive appearance.

5 The windows and doors shall be constructed from timber with a painted finish. They shall be maintained as such for the lifetime of the development.

Reason: For good design with a considered palate of materials, and in the interests of visual amenity and the creation of beautiful buildings and places.

6 A programme of post-determination archaeological evaluation is required on this site. The archaeological scheme comprises 3 to 5 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before the next stage commences

A) No archaeological evaluation or development shall take place 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.

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 in writing by the Local Planning Authority and the approved details have been implemented on site
- provision has been made for analysis, dissemination of results and archive deposition has been secure
- 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.

7 Prior to the commencement of development, a site-specific, comprehensive Arboricultural Method Statement and a scheme of arboricultural supervision in accordance with the recommendations of the Arboricultural Impact Assessment, regarding protection measures for existing trees within and adjacent to the application site shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include:

- a schedule of tree works, details and locations of protective fencing
- phasing of protection measures
- ground protection
- site rules and prohibitions
- site access during demolition/construction
- types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading)
- specialist construction techniques where applicable
- location of site compound, parking arrangements for site vehicles
- locations for stored materials, and means of moving materials around the site, and
- locations and means of installing utilities.

The document shall also include methodology and construction details where a change in surface material and boundary treatments is proposed within the root protection area of existing trees.

The content of the approved document shall be strictly adhered to throughout development operations. A copy of the document will be available for reference and inspection on site at all times.

Reason: To ensure every effort and reasonable duty of care is exercised during the development process in the interests of protecting the existing trees shown to be retained which are considered to make a significant contribution to the amenity of the area and the setting of the development.

8 Within three months of commencement of development, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall be in broad compliance with the scheme shown on the approved drawings which includes vegetation around the perimeter of the gardens. These details shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants, and tree planting details. The proposed tree planting shall be compatible with existing and proposed utilities. The approved scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the date of substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority

agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the suitability of the landscape details across the site, since the landscape scheme is integral to the amenity of the development and the immediate area, and mitigates the proposed tree losses and provides the statutory Biodiversity Net Gain of 10%.

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

Reason: In the interest of satisfactory and sustainable drainage.

10 Prior to development commencing, details of the proposed means of foul and surface water drainage, including details of any balancing works and off-site works, shall be submitted to and approved in writing by the Local Planning Authority. Both foul and surface water drainage must be shown on and off site. Surface water storage and flow control rates must be provided. Development shall be carried out in accordance with the approved details.

As infiltration methods have been discounted and a watercourse is remote from the site then in accordance with City of York Council's Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas during the 1 in 1 year event). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100- year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. Where making use of an existing piped connection an assessment of its existing capacity shall be carried out and the 70% applied to this whichever is the lower rate.

If existing connected impermeable areas not proven, then greenfield sites are to limit the discharge rate to the predeveloped run off rate. The predevelopment run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size) during a 1 in 1 year event.

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

rate with Yorkshire Water Services Ltd at an early stage.

In some instances, design flows from minor developments may be so small that the restriction of flows may be difficult to achieve. However, through careful selection of source control or SuDS techniques it should be possible to manage or restrict flows from the site to a minimum 0.5 l/sec for individual residential properties, please discuss any design issues with the City of York Council Flood Risk Management Team.

Surface water shall not be connected to any foul / combined sewer if a suitable watercourse/surface water sewer is available. Suitability of the watercourse/surface water sewer must be proven.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development shall not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Reason: In the interest of satisfactory and sustainable drainage.

11 As remediation works are shown to be necessary in relation to land contamination, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.

12 Prior to first occupation, remediation works shall be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason: To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

13 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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

14 Unless agreed otherwise with the Local Planning Authority, the integral garages shall be constructed fully in accordance with the details and dimensions shown on the approved plans and shall remain available to be used as a garage /storage space (rather than a habitable space) for the lifetime of the development.

Reason: As the proposal is for family housing and with the increase in electric vehicles, it is reasonable to assume many of the households may have vehicles which can be powered sustainably. There is not capacity within the site or on adjoining streets for further parking of vehicles. Further, House 2's cycle parking provision is within the integral garage and is required in accordance with the Draft Local Plan 2018 policy T1.

15 The development hereby permitted shall not be occupied until the following highway works (which shall include works associated with promoting, revoking, amending and implementing any Traffic Regulation Order(s) required as a result of the development, including signing, road marking and other related works) have been completed in accordance with a scheme which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Measures: To remove the site from eligibility for residents and visitor parking permits within the existing R20 Resident Parking Zone.

Reason: In the interests of the safe and free passage of highway users and to protect the amenity of existing members of the residents parking scheme which is heavily oversubscribed in the vicinity of the site.

Informative: The applicant is advised that the scheme required by this condition involves the implementation by the Highway Authority of a Traffic Regulation Order under the Road Traffic Regulation Act 1984 (TRO). The TRO process is a lengthy legal process involving statutory public consultation and you should allow approximately 6months from instruction to decision. All necessary costs will have to be funded by the applicant and you are advised that the TRO process cannot commence until payment of the TRO fees are received. Contact:

highway.regulation@york.gov.uk

16 Prior to the installation of any new external lighting, a lighting design plan shall be submitted to and approved in writing by the local planning authority. Thereafter any lighting must be installed fully in accordance with these approved details. The plan shall:

a) Provide specified lighting in-line with current guidance - Bat Conservation Trust (2023) Bats and Artificial Lighting at Night:

<https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

b) Demonstrate how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications), clearly demonstrating where light spill will occur, both within and outside the site boundary.

Reason: To maintain the favourable conservation status of bats and ensure the site remains attractive to other light sensitive species.

17 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by the local planning authority prior to first occupation of any dwelling hereby approved. The content of the plan shall include, but not be limited to, the erection/installation of bat and bird boxes on the new buildings on site or adjacent trees. Thereafter the plan/drawing shall be implemented within 6 weeks of first occupation of the development hereby approved.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 192-195 of the NPPF (2024) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

18 The construction of the dwellings shall be completed fully in accordance with the approved plans. No first floor external wall or above, of any dwelling, is to be constructed less than 6.0m from the boundary wall of the garden/yard of any neighbour. Windows shall be positioned exactly as shown on the approved drawings and of the same scale.

Reason: To protect neighbour amenity.

19 The dwellings shall be constructed in complete accordance with the approved floorplans and for the avoidance of doubt, this includes the bathrooms at the rear of the properties in the location shown. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the bathroom and ensuite bathroom windows in the rear

elevation of the dwellings shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

Reason: In the interests of the amenities of occupants of adjacent residential properties through prevention of overlooking from windows nearest to property boundaries.

20 The new build dwellings shall achieve a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations). The fabric energy efficiency shall achieve a 19% or more reduction in carbon emissions (compared to the target emission rate as required under Part L of the Building Regulations 2013).

The Target Emission Rate (TER) for the new-build dwellings shall be calculated using version 10 of the Standard Assessment Procedure (SAP) and submitted to the Local Planning Authority prior to development commencing to demonstrate that an overall reduction in carbon emissions of at least 75% above Part L of the Building Regulations 2013 will be achieved. If a reduction of 75% or more cannot be achieved, a statement shall be submitted to demonstrate that such a reduction would not be feasible or viable, and shall be approved in writing by the Local Planning Authority prior to construction.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Draft Local Plan 2018 (as modified in 2023).

21 Prior to the development coming into first use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway.

22 The building shall not be occupied until the areas shown on the approved plans for parking manoeuvring and turning of vehicles (and cycles) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes for the lifetime of the development.

Reason: In the interests of highway safety and to enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

23 The parking and garaging shown on the approved plans shall be kept free of obstructions at all times so that they can be used for the primary purpose of parking

motorised vehicles and bicycles.

Reason: In order that cars, motor-cycles and bicycles can be parked off the public highway, in the interests of the safe and free flow of traffic.

24 A detailed method of works statement identifying the programming and management of site clearance/ preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The statement shall include the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- a dilapidation survey jointly undertaken with the local highway authority;
- hours of operation (including hours where arrivals/departures to/from the site are excluded), noting that access to the site is off a street having restricted width when vehicles are parked on it sides and the presence of two primary schools near to the site;

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

- An increase in separation distances from no.130 and 132 Fulford Road
- Increased garage spaces to park a standard vehicle
- Sufficient, accessible and enclosed cycle parking at 1 space per bedroom
- Suggested that House 3 was reduced in scale
- Requested swept paths for vehicles parking within the site
- Required updates to the BNG assessment in line with updates to drawings
- Design amendments to the dormers
- Advised of the archaeological conditions and that the evaluation could be undertaken prior to determination

#### **2. INFORMATIVE: BIODIVERSITY NET GAIN (BNG)**

Application Reference Number: 24/01403/FUL

Item No: 5a

The statutory framework for biodiversity net gain set by paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 requires a Biodiversity Gain Plan to be submitted and approved prior to the commencement of development. The development cannot be lawfully commenced until this condition is satisfied.

Development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority; and
- (b) The planning authority has approved the plan

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, which is required in respect of this permission, is the City of York Council.

#### SUBMISSION REQUIREMENTS:

Under paragraph 14(2) of Schedule 7A, a Biodiversity Gain Plan must include the following:

- information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
- the pre- and post-development biodiversity value of the onsite habitat,
- any registered off-site biodiversity gain allocated to the development, and
- any biodiversity credits purchased to off-set the development and whether or not from a registered provider.

In addition, under Articles 37C(2) and 37C(4) of The Town and Country Planning (Development Management Procedure) (England) Order 2015, the following specified matters are required, where development is not to proceed in phases:

- name and address of the person completing the Plan, and (if different) the person submitting the Plan;
- a description of the development and planning permission reference number (to which the plan relates);
- the relevant date, for the purposes of calculating the pre-development biodiversity value of onsite habitats and if proposing an earlier date, the reasons for using this earlier date;
- the completed biodiversity metric calculation tool(s), stating the publication date of the tool(s), and showing the calculation of the pre-development onsite value on the relevant date, and post-development biodiversity value;
- a description of arrangements for maintenance and monitoring of habitat enhancement to which paragraph 9(3) of Schedule 7A to the 1990 Act applies (habitat enhancement which must be maintained for at least 30 years after the development is completed);
- (except for onsite irreplaceable habitats) a description of how the biodiversity gain hierarchy will be followed and where to the extent any actions (in order of

priority) in that hierarchy are not followed and the reason for that;

- pre-development and post-development plans showing the location of onsite habitat (including any irreplaceable habitat) on the relevant date, and drawn to an identified scale and showing the direction of North;
- a description of any irreplaceable habitat on the land to which the plan relates which exist on the relevant date, and any part of the development for which planning permission is granted where the onsite habitat of that part is irreplaceable habitat arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat; and
- if habitat degradation has taken place:
  - a statement to this effect,
  - the date immediately before the degradation activity,
  - the completed biodiversity tool showing the calculation of the biodiversity value of the onsite habitat on that date, and
  - any available supporting evidence for the value.

There is a standard Biodiversity Gain Plan template available to complete which brings together many of these matters into one document.

[https://assets.publishing.service.gov.uk/media/65df0c4ecf7eb16adff57f15/Biodiversity\\_gain\\_plan.pdf](https://assets.publishing.service.gov.uk/media/65df0c4ecf7eb16adff57f15/Biodiversity_gain_plan.pdf)

Failure to submit a Biodiversity Gain Plan prior to the commencement of development will lead to formal enforcement action being considered, which could be in the form of a Temporary Stop Notice (that will require all development on site to stop, for a period of 56 days).

### 3. INFORMATIVE: DEVELOPMENT

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular

Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) 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.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

#### 4. INFORMATIVE: DRAINAGE

Drainage notes for the developer:

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

ii) The applicant should be advised that the Yorkshire Waters prior consent is required (as well as planning permission) to make a connection of foul and surface water to the public sewer network,

iii) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

#### 5. INFORMATIVE: AIR QUALITY - ELECTRIC VEHICLE CHARGING

In line with paragraph 117 of the National Planning Policy Framework, developments should be designed to 'enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations'. In line with Building Regulations, Electric Vehicle (EV) charge point provision ('active provision') is required for all residential developments in York, unless the development has no parking. To prepare for increased demand for charging points in future years, appropriate cable routes ('passive provision') should also be included in

the scheme design and development.

Approved Document S: infrastructure for charging electric vehicles outlines the required standards and provides technical guidance regarding the provision of EV charge points and cable routes. From 15th June 2022, Approved Document S applies to new residential and non-residential buildings, buildings undergoing a material change of use to dwellings, residential and non-residential buildings undergoing major renovation and mixed use buildings that are either new or undergoing major renovation. CYC Building Control should be consulted on all proposals for EV charge point provision (active and passive) to ensure compliance with current Building Regulations.

## 6. INFORMATIVE: CONSENT FOR HIGHWAYS WORKS

You are advised that prior to starting on site, consent will be required from the Highways Authority for the relevant works being proposed under the Highways Act 1980 (or legislation/ regulations listed below). For further information, please contact the section(s) named:

- Agreements as to execution of works (Section 278) - [development.adoption@york.gov.uk](mailto:development.adoption@york.gov.uk)
- Works in the highway (Section 171) - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)
- Vehicle crossing (Section 184) - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)
- Temporary highway closure (Road Traffic Regulation Act 1984, Section 14) [highway.regulation@york.gov.uk](mailto:highway.regulation@york.gov.uk)

## 7. INFORMATIVE: CONTACT UTILITIES

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

## 8. INFORMATIVE: AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGVs). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary.

Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which

are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email [highway.regulation@york.gov.uk](mailto:highway.regulation@york.gov.uk), with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

**Contact details:**

**Case Officer:** Sophie Prendergast

**Tel No:** 01904 555138

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# Land To The Rear Of 128 Fulford Road, York

24/01403/FUL



Scale : 1:1389

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<b>Organisation</b>	City of York Council
<b>Department</b>	Env, Transport & Planning
<b>Comments</b>	Site Location Plan
<b>Date</b>	17 January 2025
<b>SLA Number</b>	Not Set

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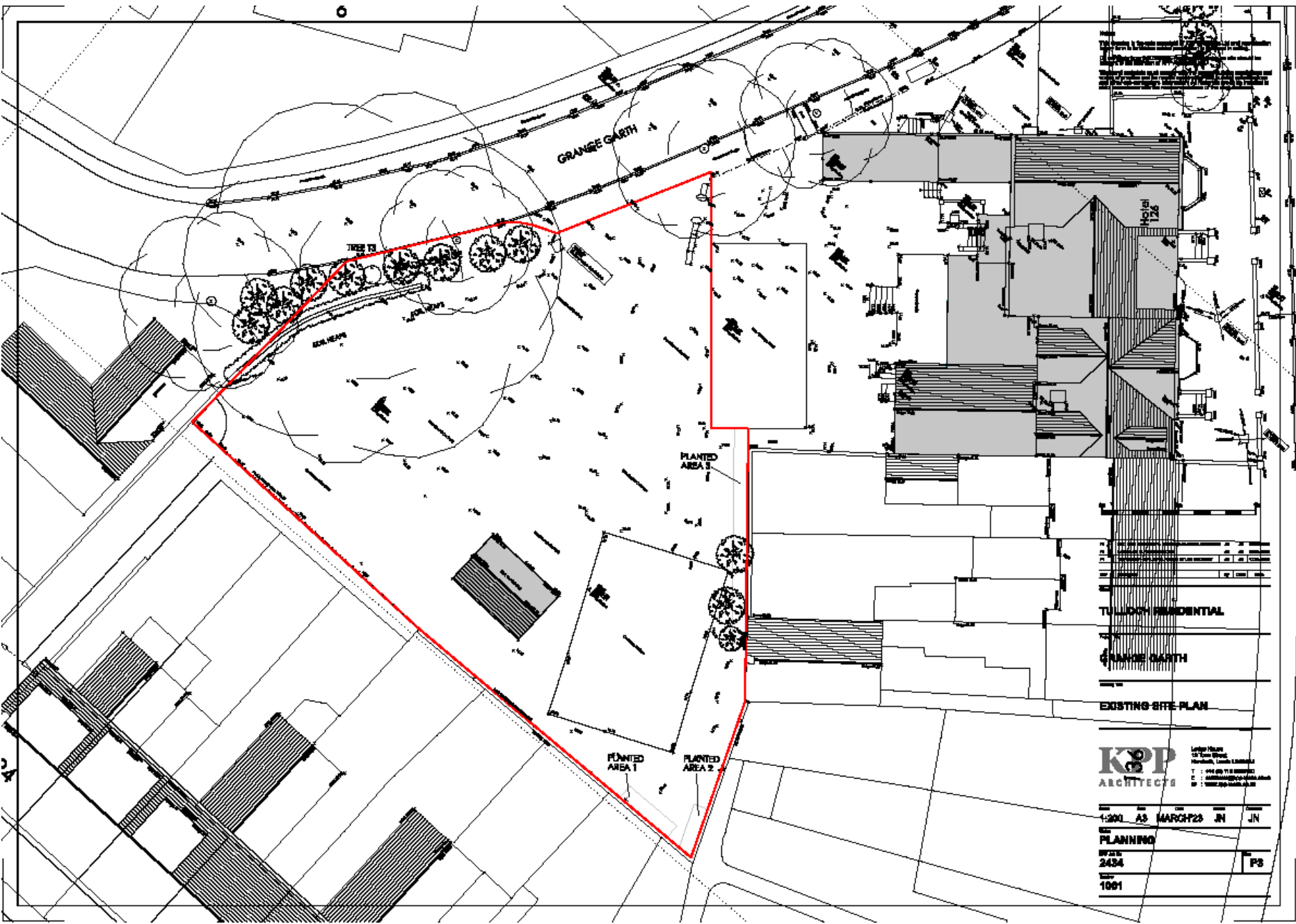


## Planning Committee B

24/01403/FUL

Land To The Rear Of 128 Fulford Road

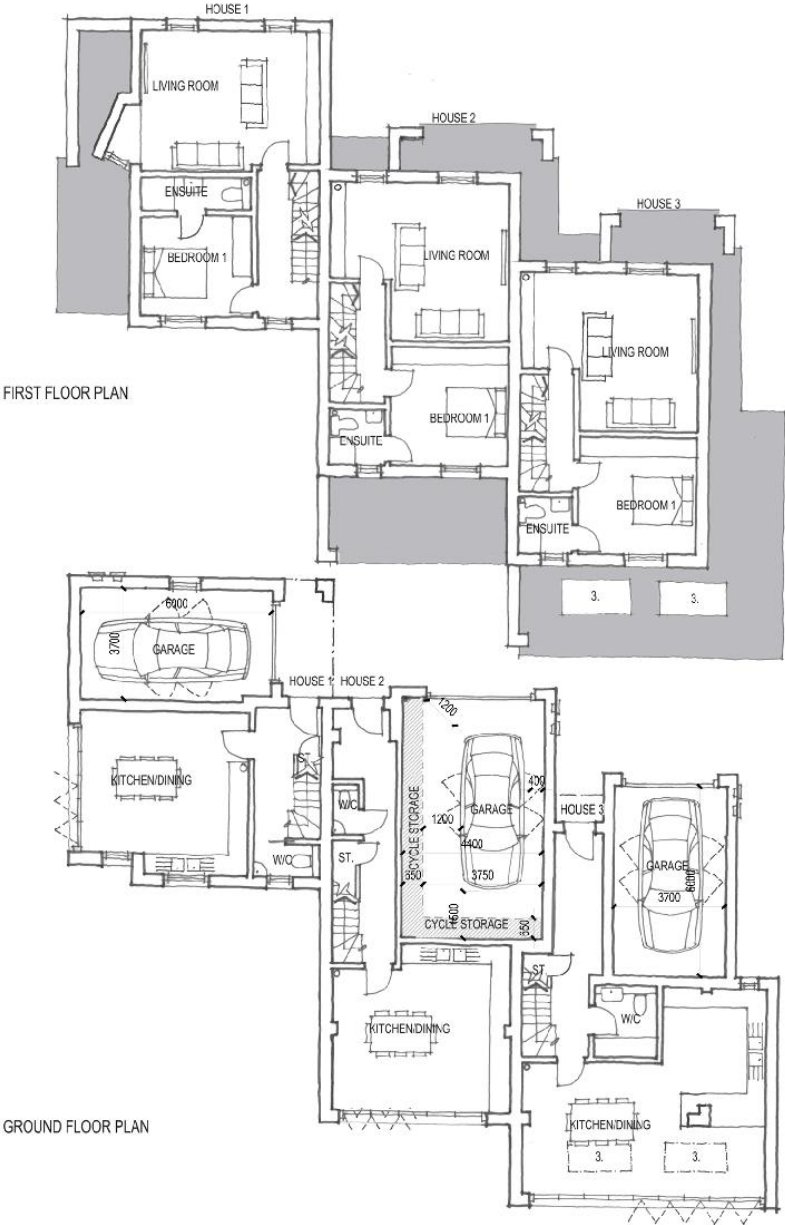
Existing site plan



Proposed site plan



Ground and first floor plans



Notes:  
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Do not scale from this drawing. Any discrepancies on site should be brought to the attention of KPP Architects Ltd.  
Work and materials must comply with the current building regulations and codes of practice and be used in accordance with building specifications and other sub-contractors information. All materials are to be installed in strict accordance with the recommendations of the manufacturers.

LEGEND:

- 1. NATURAL SLATE
- 2. LEAD SHEET
- 3. ROOF LIGHT
- 4. TIMBER FASCIA
- 5. BRICKWORK
- 6. BRICK LINTEL
- 7. STONE LINTEL / SILL
- 8. COLOURED RENDER
- 9. TIMBER JOINERY
- 10. POLYESTER POWDER COATED JOINERY
- 11. PPC METAL RAINWATER GOODS
- 12. EXTERNAL LIGHT
- 13. METER BOXES
- 14. CONCRETE SETTS
- 15. CONCRETE PAVING
- 16. STONE PAVING

0m 1m 2m 3m 4m 5m

PS	WIDTH OF HOUSE 2 INTERNAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE 12/04/24	KW	JN	04/12/24
PH	WIDTH OF HOUSE 2 INTERNAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE 12/04/24	KW	JN	28/11/24
PS	DESIGN MODIFY GARAGE AS REQUESTED BY PLANNING CASE OFFICER	CB	JN	10/11/24
PS	NOTE INCREASED DRIVE/CYCLE STORAGE AS REQUESTED BY PLANNING CASE OFFICER	JN	JN	04/09/24
PS	DESIGN ADVISED FROM 4 TO 3 HOUSE TO BE TRACED	CB	JN	25/07/24

Rev	Description	By	Crtd	Date
001				

**TULLOCH RESIDENTIAL**

Project Title

**GRANGE GARTH, YORK**

Drawing Title

**PROPOSED GROUND FLOOR & FIRST FLOOR PLAN**

**KPP**  
ARCHITECTS

Lodge House  
12 Town Street  
Hamforth, Leeds LS104RL  
T +44 (0) 113 2390400  
E arch@kpp-architects.co.uk  
W www.kpp-architects.co.uk

Scale	Size	Date	Drawn	Checked
1:100	A2	JULY'24	JN	JN

Drawn by	Drawn	Checked
2434		P5
Number	2002-01	

## Second floor and roof plan



2003-01

Front and rear elevations

EXISTING RIDGE HEIGHT OF  
132 FULFORD ROAD – 23.29

..... RIDGE HEIGHT 22.46  
..... ATTIC 19.20  
..... FIRST FLOOR 16.35  
..... GROUND FLOOR 13.5



PROPOSED FRONT ELEVATION

EXISTING RIDGE HEIGHT OF  
NO18 GRANGE ST – 22.46

- LEGEND:
- 1.NATURAL SLATE
  - 2.LEAD SHEET
  - 3.ROOF LIGHT
  - 4.TIMBER FASCIA
  - 5.BRICKWORK
  - 6.BRICK LINTEL
  - 7.STONE LINTEL / SILL
  - 8.COLOURED RENDER
  - 9.TIMBER JOINERY
  - 10.POLYESTER POWDER COATED JOINERY
  - 11.PPC METAL RAINWATER GOODS
  - 12.EXTERNAL LIGHT
  - 13.METER BOXES
  - 14.CONCRETE SETTS
  - 15.CONCRETE PAVING
  - 16.STONE PAVING



EXISTING RIDGE HEIGHT OF  
NO18 GRANGE ST – 22.46

..... RIDGE HEIGHT 22.46  
..... ATTIC 19.20  
..... FIRST FLOOR 16.35  
..... GROUND FLOOR 13.50



PROPOSED REAR ELEVATION

EXISTING RIDGE HEIGHT OF  
132 FULFORD ROAD – 23.29

P5	WIDTH OF HOUSE 2'S INTERNAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE OFFICER	KW	JN	05.12.21
P4	WIDTH OF HOUSE 2'S INTERNAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE OFFICER	KW	JN	29.11.21
P3	EXTENDED ACROSS BASE OF DOWNER WINDING AS REQUESTED BY PLANNING CASE OFFICER	KW	JN	14.11.24
P2	EXTENDED ACROSS BASE OF DOWNER WINDING AS REQUESTED BY PLANNING CASE OFFICER	KW	JN	08.10.24
P1	DESIGN AMENDED FROM 4 TO 3 HOUSE TERRACE	CB	JN	29.07.24

Rev	Description	By	Chkd	Date
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Client

**TULLOCH RESIDENTIAL**

Project Title

**GRANGE GARTH, YORK**

Drawing Title

**PROPOSED FRONT AND REAR ELEVATIONS**

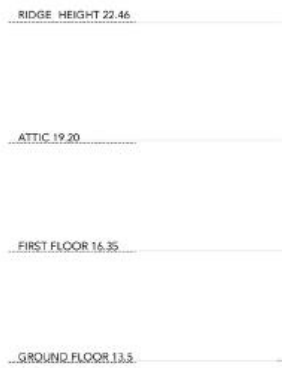
**KPP** ARCHITECTS  
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E : architects@kpp-leeds.co.uk  
W : www.kpp-leeds.co.uk

Scale	Size	Date	Drawn	Checked
1:100	A2	JULY'24	JN	-

Notes

Proposed side elevations

EXISTING RIDGE HEIGHT OF NO18 GRANGE ST = 22.46



PROPOSED SIDE ELEVATION (NORTH EAST)

EXISTING RIDGE HEIGHT OF 132 FULFORD ROAD = 23.29

- LEGEND:
- 1.NATURAL SLATE
  - 2.LEAD SHEET
  - 3.ROOF LIGHT
  - 4.TIMBER FASCIA
  - 5.BRICKWORK
  - 6.BRICK LINTEL
  - 7.STONE LINTEL / SILL
  - 8.COLOURED RENDER
  - 9.TIMBER JOINERY
  - 10.POLYESTER POWDER COATED JOINERY
  - 11.PPC METAL RAINWATER GOODS
  - 12.EXTERNAL LIGHT
  - 13.METER BOXES
  - 14.CONCRETE SETTS
  - 15.CONCRETE PAVING
  - 16.STONE PAVING

Dim	1m	2m	3m	4m	5m
P5	WIDTH OF HOUSE 2'S NATURAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE OFFICER				
P4	WIDTH OF HOUSE 2'S NATURAL GARAGE INCREASED AS REQUESTED BY PLANNING CASE OFFICER				
P3	DESIGN MODIFICATIONS AS REQUESTED BY PLANNING CASE OFFICER				
P2	DATING ACCESS FOR PROPOSED SCHEME & SURROUNDING BUILDINGS				
P1	DESIGN AMENDED FROM 4 TO 3-HOUSE TERRACE				

Rev	Description	By	Date
Client			

TULLOCH RESIDENTIAL

Project Title

GRANGE GARTH, YORK

Drawing Title

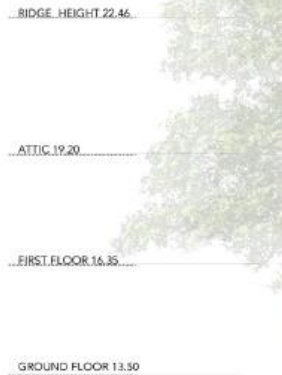
PROPOSED SIDE ELEVATIONS

**KPP**  
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Scale	Size	Date	Drawn	Checked
1:100	A2	JULY'24	JN	.

EXISTING RIDGE HEIGHT OF 132 FULFORD ROAD = 23.29



PROPOSED SIDE ELEVATION (SOUTH WEST)

EXISTING RIDGE HEIGHT OF NO18 GRANGE ST = 22.46

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**COMMITTEE REPORT**

**Date:** 30 January 2025      **Ward:** Holgate  
**Team:** West Area      **Parish:** Holgate Planning Panel  
**Reference:** 23/02148/FUL  
**Application at:** The Jubilee Balfour Street York YO26 4YU  
**For:** Conversion of former public house to form 6no. apartments with associated access, parking and bike stores and external alterations including dormer and the insertion of rooflights following demolition of outbuildings, canopy and external staircase  
**By:** Mr Dominic Woodward  
**Application Type:** Full Application  
**Target Date:** 7 February 2025  
**Recommendation:** Approve

**1.0 PROPOSAL**The Site

1.1 The application site 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 within a relatively prominent position on the corner of Jubilee Terrace and Balfour Street. To the side (east) of the building is a grassed former beer garden. To the rear (north) is a hard-surfaced delivery yard which has a gated access onto Balfour Street.

1.2 Surrounding the site are flats at St Stephenson's Court to the north (rear), a passage along the eastern (side) leading to the rear of properties at 1-8 Jubilee Terrace, with a barber at No. 1 Jubilee Terrace. Balfour Street is positioned on the western (side) elevation with a residential property adjacent (No. 200 Salisbury Terrace). Further along Balfour Street there is a play area.

1.3 The existing internal arrangement features a bar/lounge area on the ground floor with a large function room with bar on the first floor. A managers/landlords flat (two/three bedrooms) is located in part of the first floor and in the roof space.

1.4 Works are being undertaken to implement permission for the conversion of part of the first floor and all of the roofspace to 3no. self contained apartments, which was allowed at appeal (APP/C2741/W/21/328500). The pre-commencement conditions relating to that permission have been discharged.

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## The Proposal

1.5 Planning permission is sought for the conversion of the former public house to form 6no. apartments with associated access, parking and bike stores and external alterations. The external alterations include the installation of three dormers on the southern elevation and the insertion of rooflights, along with changes to windows and openings. The existing outbuildings, canopy and external staircase will be demolished.

1.6 Overall, the accommodation provided within the building would comprise of 4 x 2 bed and 2 x 1 bed flats. The four 2 bedroom flats are designed as duplexes with accommodation arranged over the ground and first floors and the two 1 bedroom flats occupying the second floor/roofspace. The basement/cellar area will be closed off and be inaccessible.

1.7 The proposals have been amended following negotiation and in summary the proposed revised external alterations comprise of:

- Western (Balfour Street) elevation – 3no. rooflights, main door blocked off (with opening retained) and removal of signage.
- Southern (Salisbury Terrace) elevation– 1no. new dormer with balcony. 1no. existing dormer altered to provide balcony arrangement. It is noted that the details of the new dormer window and changes to the existing dormer window have been submitted and discharged under application AOD/22/00379.
- Eastern elevation – 2no. rooflights, removal of fire escape stair and blocking up of door at first floor level.
- Northern elevation – will be retained as existing. A bin store shall be positioned on this elevation partly replacing an outbuilding.
- 12 solar photovoltaic (PV) panels (2 per flat) will be installed on the flat roof part of the roof.

1.8 5no. parking spaces would be provided, with areas reserved for vehicle turning. 6no. bike pods, arranged in two pairs of three are positioned within the forecourt, along with a bin store with access from within the site and also onto Balfour Street. A grassed lawn will be retained, although this is reduced from the current arrangement due to providing vehicle and cycle parking.

1.9 The existing boundary treatment comprising of railings and hedge (at approximately 1m high) will be retained along the Jubilee Terrace Street frontage and the return along the eastern site boundary adjacent to the passage serving properties 1-8 Jubilee Terrace.

1.10 The building has been successfully nominated as an Asset of Community Value, originally listed in July 2016 and renewed 14 June 2021.

#### Planning Committee Call-in

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

#### Planning History

1.12 The relevant planning history relating to this site includes:

16/00862/FUL Conversion of first and second floor of public house building to 4no. self-contained apartments and retention of reduced size public house on part of the ground floor; Application Refused 29.05.2018 citing “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.”

Appeal dismissed (Ref: APP/C2741/W/18/3213654) dated 30.10.2019

17/02670/CPU Certificate of lawfulness for proposed use of first and second floors as ancillary guest accommodation; Certificate Granted 20.12.2017

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); Application refused 19.04.2021

Appeal Allowed APP/C2741/W/21/3285000 dated 22.02.2022

AOD/22/00379 Discharge of conditions 3 (flood risk measures), 4 (noise insulation measures), 5 (photographic record), 6 (reduction in carbon emissions for residential sections), 7 (provision of electric vehicle recharging point), 10 (elevations of new structures in parking and servicing areas), 13 (external surfacing including details of drainage) & 16 (details of works/alterations including dormer windows, roof lights, external doors, boundary treatment and gates, windows) of 20/01498/FUL; Details approved 09.05.2023

## **2.0 POLICY & LEGISLATIVE CONTEXT**

### **Planning and Compulsory Purchase Act 2004**

2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that an application is made in accordance with the development plan unless material

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considerations indicated otherwise. The Council does not have a formally adopted local plan. There is no made Neighbourhood Plan relevant to this application site.

### National Planning Policy Framework 2024 (NPPF)

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

2.3 The sections of the NPPF that are considered to be of relevance to this planning application include: 5) Delivering a sufficient supply of homes, 8) Promoting healthy and safe communities, 11) Making effective use of land, 12) Achieving well-designed places, 14) Meeting the challenge of climate change, flooding and coastal change, 15) Conserving and enhancing the natural environment and 16) Conserving and enhancing the historic environment.

### Draft Local Plan 2018 (DLP)

2.4 The DLP was submitted for examination on 25 May 2018. The plan has been subject to examination. The DLP policies can be afforded weight in accordance with paragraph 48 of the NPPF. Draft policies relevant to the determination of this application are:

H3	Balancing the Housing Market
HW1	Protecting Existing Facilities
D7	Non-designated heritage assets
D11	Extensions and Alterations to Existing Buildings
CC2	Sustainable Design and Construction of New Development
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV4	Flood Risk
ENV5	Sustainable Drainage
T1	Sustainable Access

### Other Guidance

- Department for Transport – Local Transport Note (LTN1/20) Cycle Infrastructure Design (July 2020)

- Communities and Local Government – Assets of Community Value – Policy Statement (September 2011)

### 3.0 CONSULTATIONS

#### INTERNAL

##### Strategic Planning Policy

3.1 DLP Policy HW1 aims to protect existing community facilities (including facilities last used for community purposes, as is the case here, as it is vacant since 2016) by allowing development for alternative uses in exceptional circumstances.

Explanatory text to the policy confirms that public houses are considered a community facility in this context.

3.2 In the Appeal decision (relating to 20/01498/FUL), the Inspector concluded that there was no compelling evidence to prove that a smaller pub could not operate viably.

3.3 The Applicant's make a case that following that grant of planning permission, they have marketed the pub for over 17 months (at the time of the consultation response), including marketing by a national estate agent with extensive experience in marketing public houses, in line with criterion iv of Policy HW1. On the basis of the information submitted and having considered the planning history of the site, it would appear that there is evidence that demonstrates part iv of policy HW1 is satisfied.

3.4 Only limited weight should be applied to DLP policy HW1 on the basis of unresolved objections to the policy and modifications. However, the policy is consistent with para. 97(a) of the NPPF and its general promotion of positive planning for facilities such as public houses.

##### Design and Conservation

3.5 The current proposals for the conversion of the entire building to residential use would have a more significant impact on the heritage significance of the non-designated heritage asset than the previous scheme, as a result of the proposed loss of the original use of the building as a public house; the intensive subdivision of its interior, particularly of its purpose-designed function room to the first floor; the removal of public access to the building and further alterations to the fabric and design of the building than those previously approved.

3.6 Amendments are recommended to reduce the extent of alteration and impact on the architectural significance of the building. Should the application be recommended for approval it is essential that the architectural quality of the building is protected, and matters can be dealt with via conditions.

### Lead Local Flood Authority (LLFA)

3.7 In line with the NPPF, the vulnerability of the proposed development for residential uses are considered to be “more vulnerable”. This is the same for the existing public house use. As this will not change, we do not raise any objection. The site and surrounding residential area benefits from improved flood defences up to the 1 in 200-year (0.5% AEP) event.

3.8 Further there will be no bedrooms/sleeping on the ground floor. An Emergency Flood Evacuation Plan providing flood warning and safe evacuation of people (where the emphasis should be to evacuate the building on receipt of a ‘severe flood warning’ and not take refuge in the upper floors) can be agreed via condition.

3.9 A suitable foul and surface water drainage strategy which includes sustainable drainage can be sought via condition.

### Highway Network Management

3.10 No objections in principle but would like to see some amendments to ameliorate concerns regarding the external areas.

- turning should be proved by vehicular swept path
- car parking spaces should be marked as 4no. spaces plus visitor space and should be increased in size
- doors to cycle storage and bin store have doors opening out into the access way for vehicles
- cycle parking – 2 bed should have storage for 2 bikes (minimum of 2m x 1.1m wide) /1 bed storage for 1bike

3.11 It is likely that the local area will be subject to a residents parking scheme in the near future and this site may be excluded from any future residents parking area (subject to confirmation) and this may preclude the ability to park on-street.

### Public Protection Unit (PPU)

3.12 Noise - the submitted noise assessment demonstrates that the building can be acoustically treated to ensure that noise from external sources will not impact prospective residents.

3.13 Land Contamination – Our historic maps show that previous land uses of the areas close to the site have the potential to cause contamination. An unexpected contamination condition in case contamination is detected during the development works is recommended.

3.14 Construction management – due to the close proximity of residential properties, we recommend informative to ensure that noise and dust is controlled during construction.

3.15 Air Quality – Recommend compliance with current Building Regulations for electric vehicle (EV) charge point provision (active and passive).

### Emergency Planning

3.16 Any response will be reported at the meeting.

### EXTERNAL

### Holgate Planning Panel

3.17 Objection: rather than accept the compromise of previous planning application, the applicant appears to have allowed the building to fall further derelict and seems to have made no apparent attempt to implement the permission granted. The state of the property makes it an unappealing proposition.

3.18 This application appears to circumvent the Asset of Community Value status. A six-apartment development has been the Applicant's original and only intention for the property from the start.

3.19 We feel that the Jubilee is not it itself fundamentally incapable being a viable public house, but the Applicant appears to be reluctant to support this.

### Environment Agency

3.20 Objection: the submitted Flood Risk Assessment (FRA) does not comply with the requirements for a site-specific flood risk assessment and does not adequately assess the flood risks posed by the development. In particular the FRA fails to consider how people will be kept safe from the identified flood hazards.

### York Campaign for Real Ale (CAMRA)

3.21 Objection: far from wanting to work within the local community to provide what is best for local residents (NPPF para. 41), the Applicants have sought to impose a housing scheme that best provides them with financial return on investment and have thus constantly adapted their plans. Only the total conversion of the building to residential accommodation is their acceptable outcome and they have done everything possible to ensure this eventuality.

3.22 In the Appeal decision (relating to 20/01498/FUL, para. 23), the Inspector considers that there is a very clear understanding that the building has been left in a

‘relatively poor state’ and so there is the clear instruction that the Appellant would carry out repairs to the ground floor to make it into something that would be marketable to potential pub operators on the ground floor of the building. No such work has been undertaken and the ground floor has been left to deteriorate. It could be reasonably contended that this has been a deliberate decision to make the ground floor space undesirable as possible to potential investors.

3.23 Offers for the Jubilee - we have been approached by a local potential investor who told us that a viewing was refused because it was a pre-condition that there needed to be proof of funds; this is an unacceptable way of doing business as there is no requirement to provide proof of funds before putting an offer in. This practice is not indicative of a genuine desire to find a suitable pub operator for the ground floor.

3.24 We would also contend that evidence has not been supplied that the Jubilee has been appropriately marketed for a minimum of 2 years from the last appeal decision and has not met the requirements set out in the modified version of DLP policy HW1.

#### Yorkshire Water

3.25 In respect to water, no observation comments are required from Yorkshire Water.

### **4.0 REPRESENTATIONS**

#### Cllr Steels-Walshaw

4.1 Objection and conditional call in should the case officer be minded to approve the application.

4.2 The building is an asset of community value which was approved in June 2021 and lasts 5 years. The residents in the community are clear that they want this building to be an asset and provide much-needed space for people in the area.

4.3 Since it was closed in 2016 it has been allowed to go to ruin and there has been little, if any maintenance and it has been deliberately neglected to try and put off interested parties and increase the burden on the leaseholder. There is significant evidence of the owner not working with other interested parties regarding viewing of the property, with these interested parties also keen on including community projects within the property.

4.4 It was predicated that the planning application would be submitted following little to no effort to try and retain the building that is greatly wanted and needed in the community; the remaining tools we have to change the owner’s behaviour is the

planning system through the appeals process. Or hope the owner acts more reasonably.

Cllr Taylor

4.5 Objection; fully support the points raised by my Ward colleague, Cllr Steels-Walshaw and that of York Campaign for Real Ale (CAMRA).

4.6 Whilst the tactics of the Applicant in this case have been both troubling, transparent and tiring, it should not result in wearing down the LPA in securing the guaranteed loss of an Asset of Community Value, which still, despite the site's history, has the potential, and active commercial interest to be a beneficial community amenity, in an area that suffers without it currently. As York central builds out, will have an even stronger case for having it.

4.7 The only thing preventing this building's potential to serve the community once more from being realised is the approach from the applicant themselves.

Cllr Kent

4.8 Objection; fully support the points raised by my Ward colleagues, Cllr Steels-Walshaw and Cllr Taylor and that of York CAMRA.

4.9 The Jubilee, placed on the list of York Heritage sites at risk register by York Civic Trust, has been left to deteriorate, with no genuine attempt to fulfil the community planning conditions. It is hard not to conclude that the applicant is doing this deliberately in order to get the community condition discharged and simply build residential. Leeman Road community needs this site to be restored and the community use provided, as a matter of urgency.

Neighbour Notification and Publicity

4.10 One letter from a local resident has been received citing the following concerns:

- construction traffic and its management; construction parking on the pavement near the junction of Balfour Street and Salisbury Terrace reduces the visibility of the junction. Residents of Balfour Street with larger vehicles have been unable to access their properties.

4.11 One letter of comment has been received who seeks to open up a discussion for a better use of the building that supports the community citing the change of use of The Jubilee from a pub to a retail unit for the following reasons:

- there are other existing local pub nearby that serves the community needs at the moment
- access for residents at more reasonable prices; reducing the need to travel; minimising car journeys and carbon emissions
- proximity to the school enabling parents to combine shopping and daily routines
- employment opportunities
- could serve as a community hub
- reduced noise and disturbance from that associated with a pub and more conducive to the surrounding residential area

## **5.0 APPRAISAL**

### **5.1 Key Issues:**

- Loss of community facilities
- Proposed Residential Use
- Heritage Impacts
- Highways and Parking
- Flood Risk and Drainage
- Residential Amenity
- Climate Change
- Ecology
- Public Sector Equalities Duty

## **ASSESSMENT**

### **Loss of community facilities**

5.2 Paragraph 96 of the NPPF sets out that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction. Continuing, para. 98 sets out, amongst other considerations, that planning 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.

5.3 DLP Policy HW1 requires proposals which involve the loss of community facilities or facilities last used for community purposes to meet certain criteria. These include whether there are (i.) alternatives available elsewhere on site or (ii.) provided elsewhere, (iii.) that the facility no longer serves a community function or are surplus to requirements and (iv.) in the case of commercial facilities, evidence is provided that demonstrates they are no longer financially viable with no market interest. Draft policy HW1 is subject to modification and is subject to unresolved objections and therefore can only be given limited weight.

5.4 The explanatory text to Policy HW1 confirms that public houses are considered a community facility and a commercial facility in respect to sub section iv. of Policy HW1. Furthermore, the explanatory text clarifies that evidence that the facilities have been appropriately marketed for a minimum of two years without success will be required to demonstrate they are unviable. This should consist of (as a minimum) a marketing report explaining the marketing process, and its outcomes, including the terms offered, any interest received and why it was not successful. In addition, an open book-based viability appraisal must be submitted to demonstrate that the facility is not viable and could not reasonably be made viable.

5.5 The loss of a community facility can have a significant effect on a community, as a meeting/socialising place, often forming a social hub for a community. The loss of local facilities that residents depend upon has the potential to erode community cohesion and exacerbate social isolation. Public houses fall into this category, particularly in close-knit residential areas, like the Leeman Road area of the city.

5.6 The Leeman Road area of the city is a well-defined area, being bounded to the north, east and west by the River Ouse and Water End (A1176), and a railway line to the south. The previous appeal inspector (appeal dated 25 February 2022 Ref: APP/C2741/W/21/3285000) noted that the local area has limited community spaces and the spaces provided by the Jubilee would represent an important social, recreational and community facility for the existing local community and for future residents of new developments in the area. Officers note however that the function room and beer garden secured under the previous consent (to which the above planning appeal relates) have been reduced in size.

5.7 Officers have reviewed the other community facilities in the area, that have been highlighted by previous Planning Inspectors, and there appears to be no change in the community facilities provided in the local area since the latest planning appeal in February 2022. In reasonable walking distance of the site is the Leeman Rose Public House, which has a very small outdoor area and no specific function room, but it does serve food. St Barnabus Church hosts a number of local groups as well as a community café. The Barnabus Centre also hosts some community events. The venues would provide services for some of the local community. It was also noted by the Planning Inspector for that appeal, that York centre is within a reasonable walking distance and has a much greater range of services and facilities.

5.8 The Jubilee was re-designated an Asset of Community Value (ACV) in June 2021 (originally listed in July 2016). This enables a right for local communities to bid for land and facilities deemed to be of local value. Along with the Ward Member objections to the application, this nomination indicates that the use of the building as a pub was valued by the local community. The ACV policy statement set out that it is open to the Local Planning Authority to decide if the listing as an asset of community value is a material consideration, considering all the circumstances of the case.

5.9 The pub has been closed since 2016. The Applicant states that following the granting of the scheme at appeal in February 2022 (Ref: 20/01498/FUL Appeal Ref: APP/C2741/W/21/3285000) they have undertaken extensive marketing to identify an occupier for the retained pub and function room at ground and first floor level. Marketing has been undertaken by Christie & Co, acting as Agent on behalf of the owner, who are an international business sale agency and specialises in the hospitality business sales. The property has been listed on Christie & Co's website, as well as Rightmove, which are the two most appropriate means for marketing and advertising an opportunity such as this.

5.10 The Agent listed the property for letting in April 2022 meaning that up until the date of submission of this planning application (November 2023), there has been 19 months of marketing. Whilst this is a shortfall of 5 months for a full 24 month period, the property has continued to be marketed whilst the assessment of the planning application has been on-going, resulting in over 2.5 years of marketing, well over and above the requirements of DCLP 2018 policy HW1. The asking rent was £18,000 per annum and offered on a ten-year lease on an internal repairing and insuring basis (meaning the lease will only need to pay for the maintenance and repair costs of the internal parts of the properties, while the landlord will look after the exterior parts of the building).

5.11 The application is supported by a marketing report from Christie & Co, which state that they have had several direct enquiries, from eight individuals and not conducted any viewings on the property. Of these interested parties, six were interested in acquiring the property to develop it for residential use. Of the other two, one would not provide them with any proof that they had sufficient capital and finance in place to undertake a scheme of conversion and refurbishment with the other party not appearing to have responded to the Christie & Co request for proof of funds. The marketing report indicates disappointment with the quality of applications, despite extensive marketing and that it isn't viable in the current market. Substantial investment is highly unlikely to be worthwhile and would not make commercial sense to invest the sort of money required on non-proven operators.

5.12 A further update dated 9 May 2024 has been provided from Christie & Co to the Applicant giving an update; there had been two viewings of the property, both of whom had provided proof of funds sufficient to enable a refurbishment to be carried out. One was a long- and well-established licensed premises owner, although following the viewing they declined to proceed. The Agent's conclusion is that the use of the property as a Public House is not a commercially viable business proposition.

5.13 The LPA commissioned an independent assessment by Barry Crux & Co, to review the viability of the proposal within the approved planning application and to provide analysis as to the marketing exercise which has been undertaken.

5.14 In terms of the facilities provided by the appeal scheme, the proposal effectively replicates the facilities which the Jubilee PH previously had, but with the exception of the third trading room area (games/pool room/lounge) and the catering kitchen facility removed. The justification is that the business had hitherto operated mostly as a wet led business; the removal of the catering facility and the third trading room area are assessed to be reasonable and would not be detrimental to the proposed licensed premises.

5.15 In respect of the first floor function room, the report outlines that the space is good and adaptable, being easily put to a wide range of uses. However typical uses would include music events, 'dances', and functions such as wedding receptions, christenings and private parties, although these types of uses have highest demand on Friday evening, Saturday daytime and evening, and Sunday daytime and they tend to be very spasmodically during the week. That is not to say that some use could be made of it, but that would very much be dependant upon demand from within the community for other uses. Barry Crux's report also outlines that social habits has changed dramatically over the course of the last fifteen years or so, citing that today, a function room 'over a pub' is not a particularly attractive proposition, with a trend for purpose developed function places or large restaurants, particularly where there is plenty of car parking available on site.

5.16 The report highlights the past performance of the pub, citing that despite the fact that The Jubilee is situated in a heavily populated area, and the relative lack of much competition, it has not performed well for many years.

5.17 Barry Crux's reports concludes that:

"It is clear that marketing has been carried out in a proper and effective manner by the agents. Unfortunately, this has not resulted in any meaningful interest in a party taking the premises for use as licensed premises. This in itself is not really surprising, given the past history of the Jubilee. However, more importantly, the capital cost of creating such a licensed premises in this building is likely to be prohibitively high, in relation to the likelihood of a business proposition being viable and successful. In other words the risks involved in carrying out the refurbishment which is necessary to create licensed premises, outweighs the prospects of success of a trading opportunity.

We should also comment in respect of the marketing of the premises in terms of the asking rent. We do consider that the Agents quoted rent of £18,000 is too high, given the circumstances which we have embraced and noted above.

In our view it would be more realistic to have made it very clear that any asking rent is a “headline rent” and indicating that there would be substantial rental concessions shown to any incoming tenant if the latter was to take the premises as a “shell”. Even with a switch of emphasis in this context however we are not confident that there would be any success in attracting an appropriate tenant.

Thereby, in conclusion, we consider that the proposed creation of licensed premises comprising a two roomed operation, with a function room at first floor level is not a realistic and viable proposition.”

5.18 The matter of the Agent requesting funds prior to viewing has been raised by a number of objectors. As part of the marketing exercise, Christie & Co have been asking interested parties to provide them with evidence proving that they had sufficient financial ability and capital resource to be in a position to undertake the opening and operating of such Licensed Premises, citing that this is standard practice. Barry Crux’s report outlines that this is clearly because a significant amount of capital expenditure is required in order to bring the standard of the building up to a high specification for use as licensed premises.

5.19 It has already been outlined above that of the direct enquiries, six were interested in acquiring the property to develop it for residential use. There has been no interest from any pub operator, multiple or independent or community pubs, nor any other community use. One commentor on the application has sought that a retail use should be considered, citing that this would provide community and employment benefits. A retail use would be subject to a different planning assessment and there is no guarantee that a community use would be retained, and that the first-floor function room or garden would continue to be available. Either way, it does not form part of the proposals by the applicant and is therefore not under consideration.

5.20 As noted by objectors, and Barry Crux’s report, internally the building is in a poor state of repair having been severely vandalised and damaged over a number of years. Permission was granted subject to conditions 8 and 9 which required all repair, adaptation and improvement works to be identified and documented along with a verification report demonstrating that those works have been completed, prior to the occupation of the building for residential. In coming to a recommendation, in line with paragraph 209 of the NPPF, the deteriorated state of the heritage asset has not been given any weight in the planning balance.

### **Proposed Residential Use**

5.21 Section 11 of the Framework focuses on promoting an effective use of land in meeting the need for homes and other uses. Paragraph 125 (c) of the NPPF sets out that substantial weight should be given to the value of using suitable brownfield

land within settlements for homes as well as (d) which promotes and supports the development of under-utilised land and buildings which would help to meet identified need for housing where supply is constrained, and available sites could be used more effectively. This is in addition to section 5 of the NPPF that supports the Government's objection of significantly boosting the supply of homes. Paragraph 73 of the Framework highlights the important contribution that small and medium sized sites can make to meeting housing requirements of an area and are often built out very quickly.

5.22 The proposed development seeks 6no. self-contained flats overall, with an uplift of 3 flats from the approved consent (2 x 1 bed and 1 x 2 bed). The uplift in accommodation will provide an additional 3 x 2 bed flats.

5.23 The provision of housing on previously developed land has substantial weight in the planning balance.

## **Design**

5.24 Paragraph 131 of the NPPF sets out that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Para. 135 (sub section a) and b)) of the NPPF sets out a number of factors planning decisions should ensure that developments achieve, including that they function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. DLP policy D11 will support proposals where the design responds positively to its immediate architectural context and local character, in terms of the use of materials and detailing, scale and proportion.

5.25 The external alterations as outlined in para. 1.7 are generally in line with those permitted previously (under the approved application 20/01498/FUL); this includes an additional dormer on the southern (Jubilee Terrace elevation) alongside 2no. existing dormers. Additionally, the new dormer and the existing end dormer will be altered to provide a balcony set within the roof. Large scale drawings of the new dormer window and changes to the existing dormer window were secured by planning condition (No. 16), and these details have been subsequently discharged (AOD/22/00379). The Applicant has indicated that the details of this alteration would be as per the details previously submitted.

5.26 Of particular note, due to the building being proposed solely in one use (residential) works previously permitted to provide separate entrances, for examples are now not required. This has allowed the retention of the ground floor windows on the Jubilee Terrace elevation. A window in the eastern elevation will also be retained, rather than enlarged to create a doorway to provide access to the beer garden.

5.27 Given the internal arrangement for duplex's (accommodation arranged over ground and first floors) to address issues of flood risk by avoiding sleeping accommodation on the ground floor, access will be taken from the existing rear entrance, from within the courtyard. The existing entrance from Balfour Street will be redundant. The Conservation Officer has sought to retain the front door, citing that an entrance lobby could be provided to serve Units 1 and 3. Whilst this alteration has been suggested, it has not been incorporated into the proposals. Officers consider that it is unfortunate not to utilise the existing main entrance, particularly given that this provides access directly to the street and sustainable transport infrastructure (pedestrian and cycle networks and local bus stops). Alternative provision however is provided to access these facilities (details provided below in the report), and this would serve only 2 of the 6 proposed flats, access to the surrounding area would still need to be provided for the remaining flats, and given that the creation of an alternative access (via Jubilee Terrace) would require further alterations, on balance the arrangement proposed is satisfactory and would cause least harm to its exterior and retain a number of the architectural features .

5.28 The Conservation Officer has also suggested the retention of the original outbuilding range to preserve the original building. It is unclear whether these are original to the building, noting that the Officer's Report (for 20/01498/FUL) stated that the demolition of the outbuildings and off-shoot in the yard is not considered to have a significant impact on its architectural interest. Officers are content that the loss of the outbuildings and ranges would not have a significant impact on the architectural interest of the building and assists in opening up the rear yard to enable the provision of ancillary requirements to benefit the intended residents.

5.29 The addition of photovoltaic solar panels to the flat area of the roof, are considered to be appropriate. The plans submitted indicate that they would have limited visibility from street level. They would minimise energy consumption supporting the Applicant's intention to improve resilience, supporting the Government's transition to renewable and low carbon energy.

5.30 The hedge and railings that form the boundary to the communal garden along the street frontage to Jubilee Terrace and adjacent to the passage between the site and No. 1 Jubilee Terrace will be retained. Whilst at a minimal height of approximately 1m or so, the boundary treatment would offer a degree of privacy and makes a positive contribution to the character of the street. A pedestrian gate will be provided to provide pedestrian and cycle access to Jubilee Terrace.

5.31 On the Balfour Street elevation, there is currently an existing 2.4m high brick wall and gates (a mix of metal and wooden) to the rear yard/courtyard. An existing outbuilding is attached to the main building. The development seeks a reduction in the length of the brick wall along with a 1.8m high metal sliding gate with a bin store to replace the outbuilding. It is acknowledged that there has always been some

form of enclosure along the Balfour Street elevation, between the building and the utility-type building of St Stephenson's Court. The proposed arrangement is to provide appropriate security and privacy for the prospective occupants and would be appropriate in its visual appearance in this location.

## **Heritage Impacts**

### **Significance and designation as a non-designated heritage asset**

5.32 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. The previous planning application relating to this building identified the building as a non-designated heritage asset (NDHA).

5.33 The Planning Practice Guidance (PPG) describes non-designated heritage assets as buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions which do not meet criteria for designated heritage assets.

5.34 Paragraph 216 of the NPPF states that the effect of the proposals on the significance of the NDHA should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

5.35 Policy D7 of the DLP 2018 sets out that the Council have worked with a local community group, York Open Planning Forum to establish local criteria to appraise and help establish a Local Heritage List for York, which forms the basis for the policy criteria. York Open Planning Forum has created a register of buildings and structures that are of importance and interest to local communities because of their historic or architectural interest. The Jubilee is on this list.

5.36 Draft policy D7 continues to state that 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.

5.37 The building was opened in 1897 to the designs of nationally renowned York based architect, Walter Brierley for the Tadcaster Tower Brewery. It was purpose built to serve travelling railway operatives and the local Leeman Road community of mostly railway workers. The building offers a designated and attractive 'function room' on the first floor.

5.38 The significance of the building therefore derives from its architectural, communal and historical values associated with its connection with the railway, and merits identification as a non-designated heritage asset, in line with the criteria provided in Policy D7 of the DLP 2018.

#### Impact of the proposed works

5.39 The proposed development involves the conversion of the entire building to residential use and would result in the loss of the original use of the building as a public house and subsequent public access to the building.

5.40 There would be some subdivision, particularly of its purpose-designed function room, however the building is not statutorily listed, and internal works could be undertaken without the need for listed building consent. Any conditions would also reflect this.

5.41 The Applicant has however considered some of the internal impacts raised by the Council's Conservation Officer and has off-set the partition wall at the top of the staircases (Flats 1 and 3) so as to retain the first-floor window above the Jubilee entrance.

5.42 The interior of the building has previously been altered with many original features lost and the impact of the interior changes on its historic significance is limited.

5.43 The main intact element of architectural significance is its exterior. Subject to appropriate conditions on the quality of external alterations and additions to the building the changes would have a low impact on the attractiveness of its exterior appearance. It will remain a well-proportioned, well detailed and substantial building.

5.44 This building plays an important part in telling the story of York's railway heritage particularly in the Leeman Road area. Whilst there are communal and historical values attributed to the building's connection to the railway, a pub operation has been assessed to be unviable and that a community use can no longer be sustained from the building. Other alternative uses could be considered for the building, however there is no guarantee that a community use would be retained, and that the first-floor function room would continue to be available. Therefore, the scale and harm upon the special architectural and historic interest of the building is considered to be moderate.

5.45 A number of consultation response have raised concerns that the applicant has left the building, or part of the building (namely the ground floor) to deteriorate. The NPPF sets out in para. 209 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.

5.46 DLP 2018 policy D7 states that prior to the demolition, alteration, extension or restoration of heritage assets appropriate building recording relevant to the asset's significance and the scope of works will be undertaken. Previously, the appeal scheme was subject to a condition requiring a building recording, and a similarly worded condition shall be applied, to ensure that internal and external areas which may not have been impacted by the appeal scheme. It is noted however that works to implement the appeal scheme have started to be implemented.

### **Highways and Parking**

5.47 Section 9 of the NPPF focuses on promoting sustainable transport and outlined in para. 117 specifically consider that applications for development should:

a) give priority first to pedestrian and cycle movement, both within the site and within neighbouring areas, and secondly, as far as possible, to facilitate access to high quality public transport; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport and c) create places that are safe secure and attractive, d) allow for the efficient delivery of goods, and access by service and emergency vehicles and e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.48 There will be a single entrance point positioned in the rear elevation, from the rear yard for all prospective residents. The rear yard will provide cycle and car parking. A pedestrian footpath will lead residents around the building to Jubilee Terrace, allowing access to pedestrian and cycle route networks and local bus stops. Whilst a direct access could be achieved through the building onto Jubilee Terrace, the works would involve further unnecessary alterations to the fabric and design of the building, particularly where the building will be wholly in one use (these alterations were previously accepted due to the requirement for separate accesses, one for the public house use and one for the residential use).

5.49 The bike pods are designed to be a minimum of 2m x 1.1m wide and therefore will provide storage for 2no. bikes, which will meet with the LTN1/20 Cycle Infrastructure Design requirements of 1 cycle space per bedroom.

5.50 The site is served by a number of bus routes providing access to the city centre. Salisbury Terrace/Jubilee Terrace also provides an on-road cycle route.

5.51 Vehicle access will be retained off Balfour Street with 5no. parking spaces provided within the site, which is considered acceptable in this location.

5.52 There is a separate bin store, which has two accesses, one directly onto Balfour Street, and one from within the site. The Council's Waste Services require bin storage to accommodate 1,080 litres for refuse and 990 litres of recycling materials, which can be adequately accommodated within the refuse store.

## **Flood Risk and Drainage**

5.53 The NPPF sets out (para. 170) that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Continuing, para. 173 sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding, by following the steps set out in the NPPF.

5.54 The site is located within Flood Zone 3(a), which is the highest risk of flooding. The extant use as a public house and buildings used for residential accommodation are within the same 'more vulnerable' flood risk classification (Annex 3: Flood Risk Vulnerability Classification). As the proposal is for a change of use and does not propose caravans, camping etc, in line with footnote 62 and paragraph 176 of the NPPF, the development is not required to be subject to the sequential or exception tests but should meet the requirements for site-specific flood risk assessment.

5.55 An updated flood risk assessment (FRA) has been submitted and accompanies the application. The Environment Agency has objected to the proposed development citing that the FRA does not adequately assess the flood risk posed by the development, namely it fails to consider how people will be kept safe from the identified flood hazards. They further state that for a room to have a habitable use there must be no more than 300mm internal flooding or it is not deemed to have safe internal access/egress. They continue to state that if the developer cannot demonstrate that internal spaces are dry (or at a very minimum safe by keeping internal flood depths low), then they should be looking at excluding more vulnerable uses (habitable uses) from the ground floor.

5.56 In contrast however, the Lead Local Flood Authority (LLFA) do not object to the application, citing that there will be no change to the vulnerability classification, with the proposed use within the same 'more vulnerable' classification and that the property and surrounding residential area benefits from improved flood defences at Water End which provided flood defences up to the 1 in 200-year (0.5% AEP) event. Additionally, given the internal arrangement, four flats comprise of duplex apartments with living accommodation split over ground and first floors, meaning there are no bedrooms/sleeping on the ground floor. Further, safe access and escape routes can be included as part of an agreed emergency plan, where the emphasis should be to evacuate the building on receipt of a 'severe flood warning' and not to take refuge in the upper floors. These can be sought via conditions along with a suitable foul and surface water drainage strategy. Details of the additional external hard surfacing can be conditioned to avoid increasing surface water run-off from the site.

5.57 On balance, and with the specific conditions as outlined above, the application satisfies the requirements of the NPPF in regard to flood risk and drainage. It is noted that whilst the EA have objected to the application, there is no requirement to refer the application to the Secretary of State prior to issuing the decision notice.

### **Residential Amenity**

5.58 Both local (policy ENV2 of the DLP 2018) and national (set out in para. 135 and 198 of the NPPF) planning policies seek to create places with a high standard of amenity for existing and future users and protecting them from significant environmental impacts, such as noise, light or glare and air quality (from odour, fumes, smoke, dust and other sources).

5.59 The proposed flats are of an adequate size to meet the occupants needs. There will be a shared external garden allowing for communal use. The flats would have adequate outlook and daylight within them, particularly the duplex's arranged over the ground and first floors.

5.60 The 2no. 1 bed flats contained within the second floor/roofspace will have outlook via dormer windows and rooflights for additional daylight. The bedroom of flat no. 5 within the second floor will only be served by rooflights (the bedroom to flat No. 6 is served by an existing dormer). This arrangement at second floor level is the same arrangement as per the approved appeal scheme.

5.61 In terms of the building's relationship with surrounding properties, there is already a close relationship between the residential block to the north (1-14 Stephenson's Court), residential property at No. 200 Salisbury Terrace to the west and the ground floor commercial with flats above at No. 1 Jubilee Terrace to the east, which is typical of urban environments. The external alterations involving additional openings and windows are limited as set out in Section 1, para 1.7 of this report. Additional rooflights are proposed, which by virtue of their nature does not give rise to additional overlooking. The additional dormer positioned in the Jubilee Terrace (southern) elevation would have an outlook over the amenity area/junction of Jubilee Terrace and Kingsland Terrace and would not give rise to any harmful overlooking to the detriment of neighbouring occupiers. Whilst there may be an increased level of overlooking to adjacent properties, this would on balance, not be significantly harmful to the amenities of neighbouring occupiers, and substantial weight is given in the assessment of the application to the re-use of the building for housing.

### **Sustainability**

5.62 Paragraph 161 of the NPPF states that the planning system should support the transition to net zero by 2050. It should help to encourage the reuse of existing resources, including the conversion of existing buildings, and support renewable and

low carbon energy and associated infrastructure. NPPF para. 167 outlines that local authorities should give significant weight to the need to support energy efficiency and local carbon heating improvements to existing buildings, both domestic and non-domestic.

5.63 It is outlined in an Energy Statement and Water Consumption Assessment, to accompany the application, that the proposed development will achieve a reduction in carbon emissions using renewables through the re-use of the existing building, incorporate photovoltaic panels onto the building's roof along with an air-source heat pump to support renewable and low carbon energy.

5.64 Part C of policy CC2 requires the conversion to residential use to achieve BREEAM domestic refurbishment 'very good' as a minimum. The Applicant has outlined that following an initial BREEAM assessment, the development will pass the 'very good' requirement. It is noted that policy CC2 is subject to substantial modification and therefore can only be given limited weight.

5.65 The requirements for electric vehicle (EV) charging is now dealt through Part S of the Building Regulations, which requires all new dwellings with a parking space to have an electric charger.

## **Ecology**

5.66 The application was submitted prior to 2 April 2024 and therefore compliance with the statutory framework for Biodiversity Net Gain (BNG) is not required.

## **Biodiversity enhancement**

5.67 Section 15 of the NPPF seeks to conserve and enhance the natural environment. It is outlined in paragraph 187 d) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The site has been assessed via the Wildlife Assessment Check which outlines that the site does not lie within or close to any international/European or nationally designated sites. There are a number of local Nature Reserves within 5km, with Hob Moor being the closest although it is 1.6km away. The results of the Wildlife Assessment Check indicate the suitability of the site for birds (protected and priority species) only.

5.68 The application seeks to provide biodiversity enhancements through retention of the native hedge which borders the site along the southern and eastern site boundary, which will offer sites for potential nesting birds. Precautionary measures are required to ensure that active nests are not destroyed during the works; this shall be the subject of an informative. Part of the amenity lawn will be maintained but reduced to facilitate vehicle and cycle parking. The remainder of the site comprises of hardstanding, which will have little ecological/biodiversity value. Given

that the site comprises of brownfield land which currently offers existing low-level biodiversity/ecological habitats, the proposals are acceptable.

### **Public Sector Equalities Duty**

5.69 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.70 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic.
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.71 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.72 Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

## **6.0 CONCLUSION**

6.1 The application site is a well-proportioned, well detailed and substantial public house, although it has been vacant since 2016. Substantial weight is given to the value of using brownfield land and the re-use of an existing building, for 6no. apartments, an uplift of 3 apartments from the permitted scheme. Significant weight is also given to the measures, including photovoltaic panels onto the building's roof along with an air-source heat pump to support energy efficiency and local carbon

heating improvements, along with an expectation of achieving BREEAM domestic refurbishment 'very good' as a minimum.

6.2 The site provides car parking and cycle parking which is in line with LTN1/20 guidance, as well as being in a sustainable location where there is direct access to pedestrian and cycle routes and bus stops and routes. The site is close to local services and facilities, with York city centre within a reasonable walking distance and has a much greater range of services and facilities. The apartments would offer good outlook and a high standard of amenity including a useable communal area.

6.3 The application site is located within Flood Zone 3, though the property and surrounding residential area benefits from improved flood defences. There would be no change to the vulnerability classification, with the proposed residential use within the same 'more vulnerable' classification. The internal arrangement with four flats comprising of duplex apartments with living accommodation split over ground and first floors will mean there will be no bedrooms/sleeping on the ground floor. Conditions requiring an emergency evacuation plan on receipt of a 'severe flood warning' can be sought along with a suitable foul and surface water drainage strategy and details of the additional external hard surfacing to avoid increasing surface water run-off from the site.

6.4 The building is a non-designated heritage asset. The interior of the building has been altered and many original features have been lost; the impact of the interior changes on its historic significance is limited. The main intact element of architectural significance is its exterior, and the alterations are considered satisfactory causing least harm to its exterior; offering an improvement against the approved scheme which sought additional openings to provide 2 separate entrances, one for the retained pub and one for the residential use. The building however plays an important part in telling the story of York's railway heritage, particularly in the Leeman Road area and therefore has communal and historical values, which contribute moderate significance.

6.5 An independent review of the viability of the approved scheme relating to the retained pub and first floor function room at ground floor level with 3 no. residential apartments in the remainder of the building, along with analysis of the marketing exercise has been undertaken. The report concludes that the marketing has been carried out in a proper and effective manner by the marketing agents, though this has not resulted in any meaningful interest in a party taking the premises for use as licensed premises.

6.6 Officers therefore consider that there is adequate justification to conclude that a pub operation from the building would be unviable and that a community use can no longer be sustained from the building.

6.7 Taking a balanced judgement, having regard to the heritage significance of the building, and the substantial weight of using suitable brownfield land within settlements and the development of under-utilised land and buildings for homes, in a sustainable location, providing 6no. new apartments (4 x 2 bedroom and 2 x 1 bedroom) with an uplift of 3 apartments from the approved scheme, the proposals are found to be in accordance with the NPPF, particularly Section 5 (particularly paras. 61 and 72), Section 8 (particularly para. 98 c), Section 11 (particularly para 125 c) and d)), Section 12 (particularly para. 135), Section 14 and 15 and Section 16 (particularly para. 216) and the draft local plan 2018, including policies HW1, D7, D11, ENV 4 and 5 and CC2.

**7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

- 2470-1F Proposed Plans, elevations
- 2470-C Proposed site plan

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 demolition of outbuildings and internal alterations to the public house, a photographic record and description of the element 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.

Reason: In order to record and advance understanding of the significance of the non-designated heritage asset in accordance with para. 211 of the NPPF and policy D7 of the DLP 2018.

4 A detailed flood warning and evacuation/emergency plan shall be approved in writing by the Local Planning Authority prior to occupation of any part of the building for residential use and shall be adhered to as so approved at all times. This plan shall include details regarding the evacuation of the building on receipt of a severe flood warning rather than occupants taking refuge in the upper floors of the building.

Reason: The site lies within Flood Zone 3 and development is supported where an agreed emergency plan is in operation, in accordance with para. 173 e) of the NPPF.

5 Notwithstanding the plans hereby approved, and prior to them being installed,

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details of the following shall be submitted to and approved in writing by the Local Planning Authority.

- i. new dormer window and changes to existing dormer windows
- ii. new roof lights that shall be a top hung 'conservation design' including vertical glazing bar
- iii. Alterations to/and or replacement of existing windows that shall where practical retain the existing sash openings with the provision of secondary glazing.

Development shall be carried out in accordance with the details as so approved.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

6 Notwithstanding what is shown on the approved plans, and prior to them being installed, details of any external fixtures to be installed on the building, including but not limited to signage, lighting, utilities metering, internet and any terrestrial or satellite receiver equipment and boiler and mechanical extraction vents, shall be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the details as so approved.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

7 Prior to the repair or replacement of any external joinery fixtures consisting of windows, doors and bracketed eaves cornice a schedule of repairs or large scale drawings including sections for any proposed replacement fixtures shall be submitted to and approved in writing by the Local Planning Authority.  
Development shall be carried out in accordance with the approved details.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

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

Reason: To ensure that the finished appearance is acceptable and protects the non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

9 Details of new and replacement external surfacing, including details of foul and

surface water 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 and retained thereafter.

Reason: To avoid any increase in surface water flood risk, ensuring that the site has adequate foul and surface water drainage and that the materials are an appropriate quality in accordance with para. 173 c) of the NPPF and policies ENV4 and ENV5 of the DLP 2018.

10 A detailed landscaping scheme, including boundary treatment and retention of the native hedge which borders the site along the southern and eastern site boundary, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the flats within the building. The landscaping scheme shall be provided in accordance with the approved details and retained thereafter,

Any trees or plants which within the lifetime 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 visual amenity and the setting of heritage assets.

11 Notwithstanding what is shown on the approved plans, prior to the residential occupation of the building hereby permitted, details including scaled elevations and materials and finished appearance of the cycle stores shall be submitted to and approved in writing by the Local Planning Authority. The cycle stores shall be installed as shown on the approved scheme and maintained in the approved form for the lifetime of the development and shall be solely used for this and no other purpose.

Reason: To ensure that there are adequate facilities onsite for cycle parking and the visual appearance of those facilities is acceptable and to comply with para. 114 of the NPPF and Policies D11, D7 and T1 of the DLP 2018.

12 There shall be no sleeping accommodation / bedrooms permitted on the ground floor of Units 1, 2, 3 and 4 at any time the building is in residential use.

Reason: To protect prospective residents from flood risk in accordance with para. 173 c) of the NPPF and policies ENV4 of the DLP 2018.

13 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such

areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

14 The 6no. apartments created through the conversion of the non-designated heritage building hereby permitted shall achieve a BREEAM Domestic refurbishment fit out and rating of 'very good' or higher. A Post Construction Assessment and certificate by a licensed BREEAM assessor, demonstrating 'very good' or higher, shall be carried out and a copy of the report submitted to the Local Planning Authority for its written approval within 12 months of first occupation (unless otherwise first agreed by the Local Planning Authority).

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Policy CC2 of the Draft Local Plan.

15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, 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.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 39) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- instruction of an independent viability report, negotiation on design and heritage, flood risk, sustainability and car and cycle parking.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as

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

### 3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) 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.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

### Contact details:

**Case Officer:** Lindsay Jenkins

**Tel No:** 01904 554575

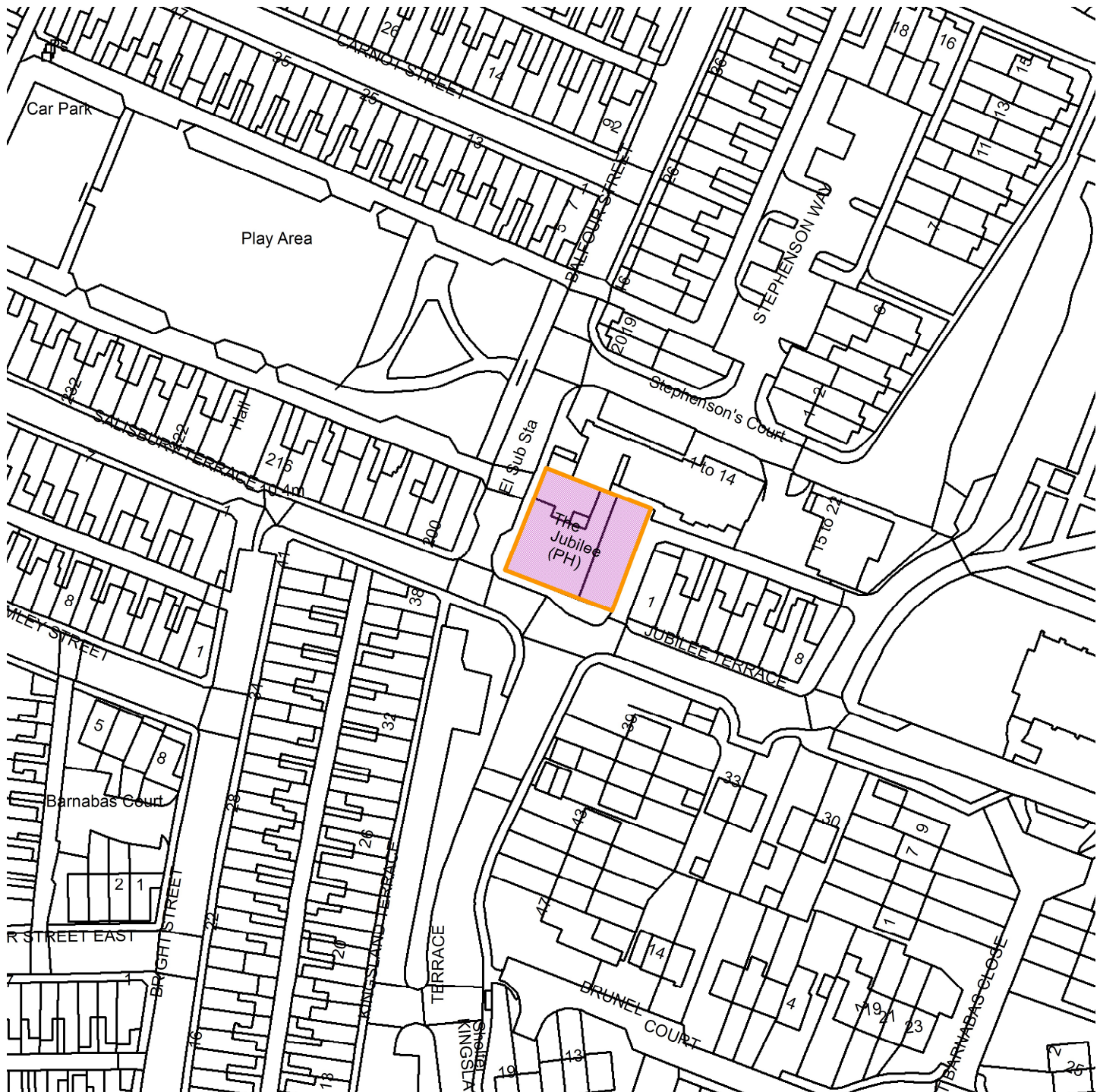
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## The Jubilee, Balfour Street, York YO26 4YU

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Scale : 1:1111

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<b>Organisation</b>	City of York Council
<b>Department</b>	Env, Transport & Planning
<b>Comments</b>	Site Location Plan
<b>Date</b>	17 January 2025
<b>SLA Number</b>	Not Set

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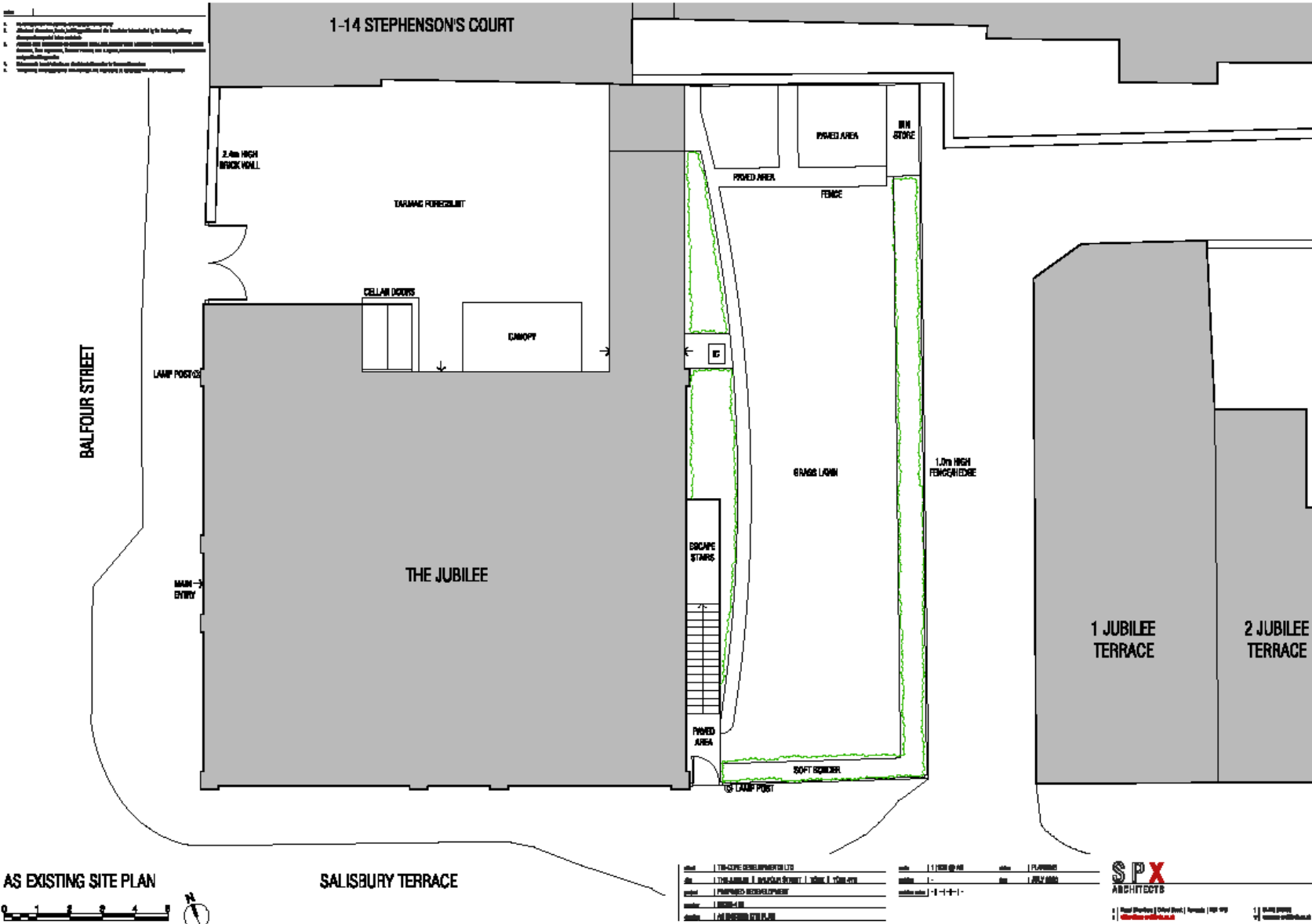


## Planning Committee B

23/02148/FUL

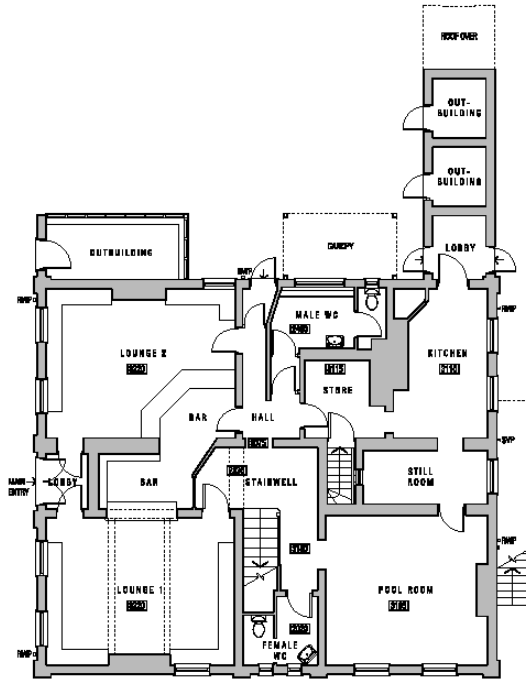
The Jubilee Balfour Street

As existing site plan

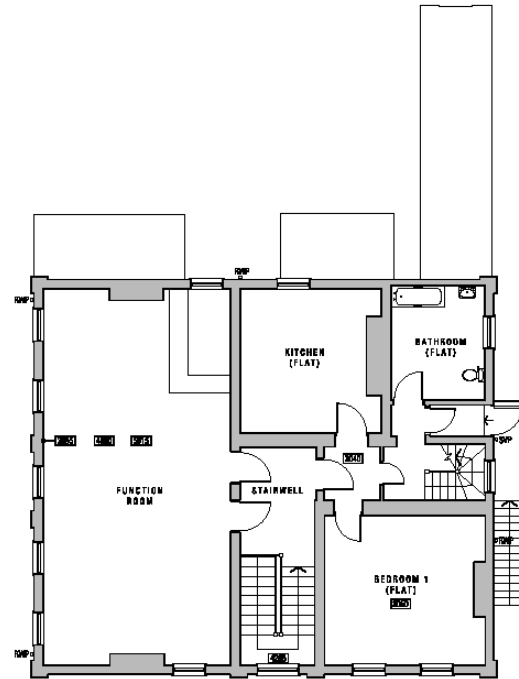


# As existing floor plans

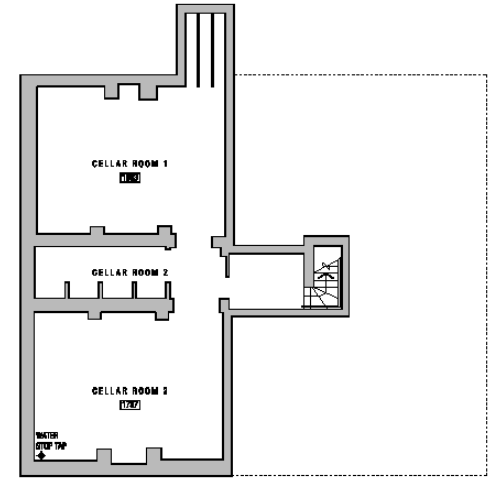
1. Architectural drawings are not to be used for construction purposes without the approval of the architect.
2. All dimensions are in millimetres unless otherwise stated.
3. All dimensions are to the centre of the line unless otherwise stated.
4. All dimensions are to the face of the line unless otherwise stated.
5. All dimensions are to the centre of the line unless otherwise stated.



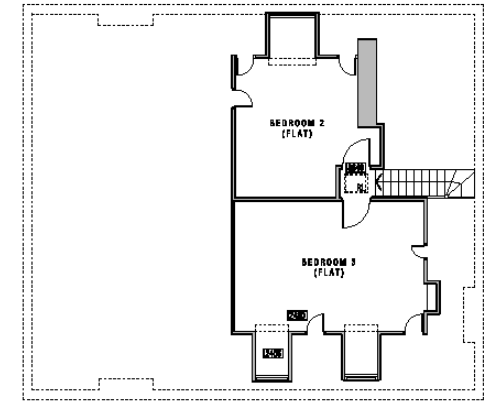
AS EXISTING GROUND FLOOR PLAN



AS EXISTING FIRST FLOOR PLAN



AS EXISTING BASEMENT PLAN



AS EXISTING SECOND FLOOR PLAN

As existing elevations

1. Architectural drawings shall be prepared in accordance with the following standards:  
2. British Standards Institution (BSI) standards shall be followed.  
3. All drawings shall be prepared in accordance with the following standards:  
4. All drawings shall be prepared in accordance with the following standards:  
5. All drawings shall be prepared in accordance with the following standards:  
6. All drawings shall be prepared in accordance with the following standards:



AS EXISTING WEST ELEVATION



AS EXISTING SOUTH ELEVATION



AS EXISTING EAST ELEVATION



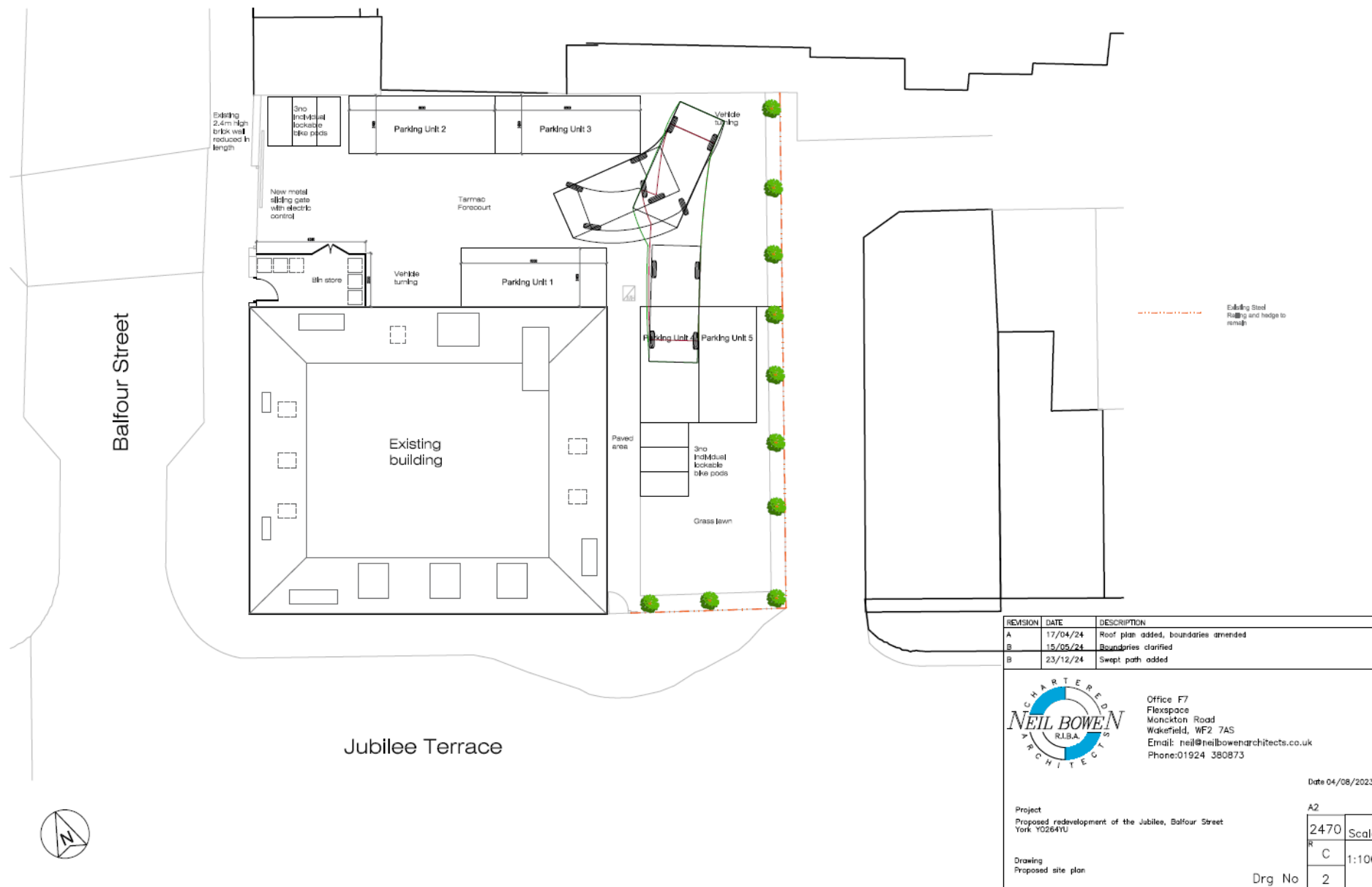
AS EXISTING NORTH ELEVATION

0 1 2 3 4 5

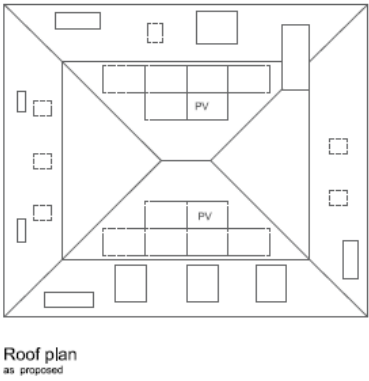
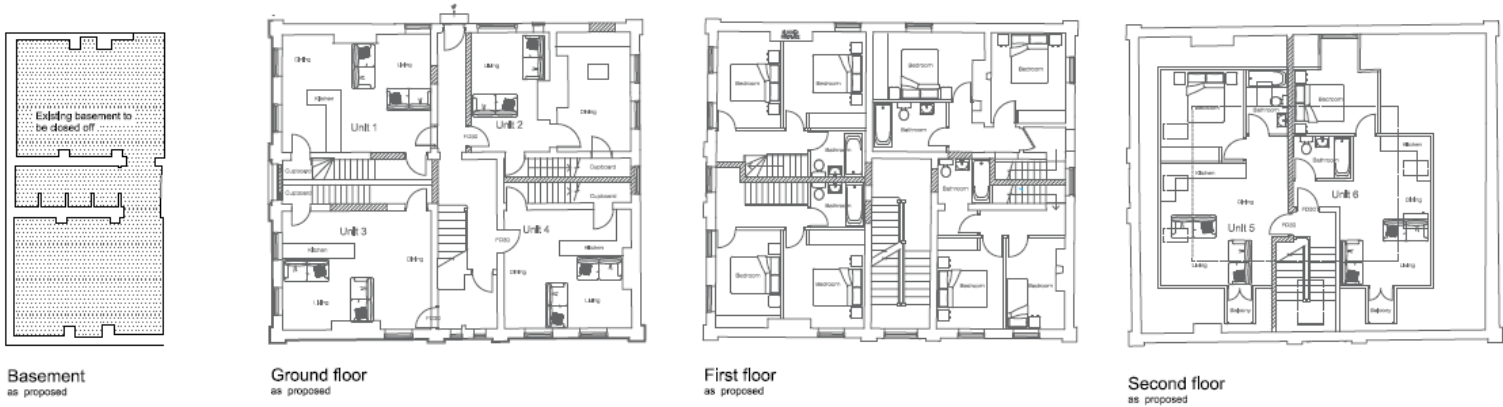
MATERIALS KEY	
• SLATE ROOF	• RED BRICK STONE COURSE
• LIME PLASTER	• STONE VENTILATOR & ROOF SURROUNDINGS
• LIME CLAD ROOFING	• TIMBER WINDOWS
• BLACK UPVC INSULATED & PAUL WATER GOODS	• TIMBER DOORS
• RED BRICK WALLS	

client: THE SOUTH DORSET DISTRICT COUNCIL	date: 11.11.2024	drawn: J. PUGH	SPX ARCHITECTS
site: 1 THE JUBILEE, 101 THE JUBILEE, 101 THE JUBILEE	scale: 1:100	date: 11.11.2024	
notes: 1. ALL DRAWINGS TO BE PREPARED IN ACCORDANCE WITH THE BUILDING REGULATION 2010			
drawing: 1. AS EXISTING NORTH ELEVATION			


## Proposed site plan



# Proposed floor plans and elevations



REVISION	DATE	DESCRIPTION
A	26/11/23	Basement floor plan added
B	17/04/24	Brk store removed dormer to match existing
C	26/07/24	Internal alterations
D	31/10/24	Corrections to plans & elevations
E	04/11/24	Roof plan added
F	23/12/24	Boundaries and notes added



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Phone: 01924 380873

Project:  
Proposed redevelopment of the Jubilee, Belfour Street,  
York YO26 9FD

Date: 04/08/2023

A1	Scale
2470	
F	1:100

Drawing:  
Proposed Plans, Elevations

Drg No: 1

**COMMITTEE REPORT**

**Date:** 30 January 2025      **Ward:** Fulford And Heslington  
**Team:** East Area      **Parish:** Fulford Parish Council

**Reference:** 23/02384/FUL  
**Application at:** Fulford School Fulfordgate York YO10 4FY  
**For:** Construction of a 3G Artificial Grass Pitch with perimeter fencing, acoustic fencing, hardstanding areas, storage container, floodlights, an access footpath, and modular changing room building  
**By:** Mr Gary Hennigan  
**Application Type:** Full Application  
**Target Date:** 22 November 2024  
**Recommendation:** Approve

**1.0 PROPOSAL****The Site**

1.1 The application site is Fulford Secondary School, located outside of the Fulford/Heslington Lane Conservation Area. The rear of the school has a large sports field and tennis courts which are laid out to the south and east and border on to residential areas. The school has car parking and pedestrian entry from Fulfordgate and a second access on Porter Avenue for pedestrians and vehicle access restricted to school coaches to leave the school grounds following pupil drop off and collection times.

1.2 The school site is located within Flood Zone 1 (low risk).

**The Proposal**

1.3 This application seeks planning permission for the construction of a 3G multi-use artificial grass sports pitch (AGP) to the south- western corner of the school field. This is an all-weather surface sports pitch with porous layers to allow rainwater to drain. The AGP pitch will include 13no. slimline flood light columns arranged around the pitch, a perimeter fencing, acoustic fence, (ball stop) barrier fence, maintenance equipment store and new porous macadam foot paths and a topsoil bund embankment. In addition, the proposal seeks permission of a single storey modular changing room building for use in association with sports activities and located adjacent to the pitch and at the rear of existing school buildings.

## **1.4 Recent Site History**

- 20/00733/FUL - Erection of temporary 2no. storey mobile unit classroom block -Approved
- 14/02167/GRG3 - Erection of two storey classroom block and single storey sports block including sports hall and changing rooms – Approved
- 14/00641/GRG3 - Erection of detached building to house electrical substation -Approved
- 21/00737/FULM - Erection of two storey teaching block following partial demolition of Hawking Building and removal of temporary buildings, erection of temporary buildings, installation of external lift to Bronte Building and the creation of a vehicle access to the southern boundary of the site -Approved

## **2.0 POLICY CONTEXT**

### **Legislation 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.

### **National Planning Policy Framework (December 2024)**

2.2 The revised National Planning Policy Framework (NPPF) and its planning policies are material to the determination of planning applications. Paragraph 8 of the NPPF promotes sustainable development.

2.3 Policies associated to sport, community welfare and education are contained in Paragraph 96 (Promoting healthy and safe communities) which states that planning policies and decisions should aim to achieve healthy, inclusive and safe places to enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

2.4 Paragraph 103 (Sports and Open Space) states access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport, and

recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

2.5 Paragraph 104 includes policy that existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

2.6 Policies associated to design, appearance and amenity are contained in paragraph 135 of Section 12 (Achieving well-designed places) of the NPPF, including that planning decisions should ensure that development...creates 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...

2.7 Paragraph 116 states that 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, taking into account all reasonable future scenarios.

### **The Draft Local Plan 2018**

2.8 The Draft Local Plan 2018 was submitted for examination on 25 May 2018. The plan has been subject to examination. The Draft Plan policies can be afforded weight in accordance with paragraph 49 of the NPPF. The relevant policies are listed below.

2.9 Policy ED1 (primary and secondary education facilities) states that planning applications for extended primary education facilities will be granted permission if it would meet a recognised need, and the proposed development is of a scale and design appropriate to the character and appearance of the locality.

2.10 Policy D1 Placemaking states that development proposals that, fail to take account of York's special qualities, fail to make a positive design contribution to the city and/or cause damage to the character and quality and protect the amenity of neighbouring residents of an area will be refused.

2.10 Policy T1 states that development will be permitted where it minimises the need to travel and provides safe access for all transport users such that it maximises the use of more sustainable modes of transport.

## **3.0 CONSULTATIONS**

### **Internal**

### **Public Protection Unit**

3.1 The Public Protection unit have considered the proposal in terms of environmental matters of dust, contamination, noise, and air quality. Conditions are recommended to protect neighbours from lighting and noise disturbance and in respect of potential contaminated land.

### **Highway Development Control**

3.2 Highway Officers are satisfied with the Transport Assessment and car parking provisions. There are concerns with how Fulfordgate will operate with the additional traffic once the pitches are available to the community and implications during construction. Highway Officers consider that Traffic Regulation Orders will be required have requested that a developer contribution for £15,000 to be repaid back within 5 years to implement parking management measures on Fulfordgate in the event of any potential parking and access issues occur once the pitches are in place.

### **Flood Risk and Drainage Engineer**

3.3 The Flood Risk Engineer has considered the proposal in conjunction with the Internal Drainage Board. A condition is recommended. In terms of the proposed changing room modular building, a condition is required for further details of suitable foul water disposal to be approved prior to the commencement of the development.

### **Ecology**

3.4 The City Ecologist has reviewed the Preliminary Ecological Appraisal and has no objections subject to biodiversity enhancement conditions.

### **Archaeology**

3.5 The City Archaeologist has established Fulford School lies within an area of archaeological interest and the development may affect important archaeological deposits which must be recorded prior to destruction. The City Archaeologist has requested a condition for a programme of post-determination archaeological mitigation, specifically strip, map and record, is required on this site. The archaeological scheme comprises 2 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

3.6 Also, Officers would like to encourage an element of engagement with the school community such as a talk by the archaeologists to pupils about the landscape the school sits within. This option can be added as an informative to the school in the event of planning permission being granted.

## **External**

### **Fulford Parish Council**

3.7 No comments have been received.

### **Ouse and Derwent Internal Drainage Board**

3.8 The Internal Drainage Board has no objections in principle subject to compliance with the submitted Drainage Report and conditions for details of foul water disposal from the changing room building.

### **Yorkshire Water**

3.9 Development of the site should take place with separate systems for foul and surface water drainage. The separate systems should extend to the points of discharge to be agreed by Internal Drainage Board.

## **4.0 REPRESENTATIONS**

### **Councillor Ravilious Fulford and Heslington Ward**

4.1 Cllr Ravilious has raised concerns the proposal is likely to generate a significant increase in vehicle traffic on Fulfordgate on weekday evenings at changeover times between sessions when 130 children will be leaving, and a fresh 130 children might be arriving. Fulfordgate has street parking for residents which would have implications for the comings and goings of vehicle traffic. Cllr Ravilious considers it valuable to witness and gather some data on the traffic associated with the Fulford School opening evenings, to understand vehicle traffic implications outside school hours.

### **Neighbour notification and Publicity**

4.2 There have been three responses received on the following matters listed below.

#### **Parking and Access**

- The proposal would generate more traffic on Fulfordgate and Eastward Avenue which would impact on residents and cause local friction.
- The current dropping off and collecting of pupils from school causes problems to highway and public safety and blocks driveways of the residential houses.
- The school should provide more sufficient car parking to house the numbers of people involved in the activity to address highway safety problems.
- The car parking should be restricted within the school grounds.

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Item No: 5c

- Large numbers of vehicles entering and exiting the school will cause congestion on Heslington Lane.
- Congestion on Heslington Lane should be monitored and a management plan for additional traffic generated by the pitch to ensure residents can access Fulfordgate and Eastward Avenue daily between 5pm and 6pm.
- Recommendations for a one-way traffic system around the school for vehicles to enter via Fulfordgate and exit via Porter Avenue at Germany Beck.

#### The use (AGP) pitch and health matters

- The hardstanding for the pitches is a poor surface because it is too hard and causes knee damage and friction burns.
- The material used in the pitches could jeopardise the future health of young people and Adults and it is a material that will be banned by 2030.
- There is no information on other provisions for PE to be included in the pitches.
- The proposal does not improve the quality or range of physical activities available to the school.

## **5.0 APPRAISAL**

### 5.1 Key issue(s):

- The Principle of the Proposed Development
- Visual Amenity
- Residential Amenity
- Archaeology
- Access and Parking
- Flood Risk and Drainage
- Ecology and Biodiversity Enhancement

#### The Principle of The Proposed Development

5.2 The proposed AGP pitch would be constructed at the southwestern corner of the existing sports field, inclusive of flood lights. It would measure approximately 97 metres by 61 metres including a 3-metre run off area resulting in a total footprint of 6,100 square metres. The pitch will be separated from the remaining sports field by a 4.5 metres high perimeter fence with 4-metre-high acoustic fencing on the southern side of the pitch adjacent to the nearest residential areas, and ball stop net of a colour to be a RAL 6005 moss green. The pitch will include engineering works for a new hard landscaping treatment around the facility to be a porous asphalt surfacing for the purpose of pedestrian access, spectator viewing area, goal storage areas and a storage and maintenance container. Further to the hardstanding a

topsoil bund embankment will be created on the northern side of the pitch. The outside soft ground areas affected by the works are to be reinstated (soft landscaping) in accordance with BS 4428 Code of Practice for General Landscape Operation.

5.3 The application includes the construction of a detached modular changing room building to be located near the pitch accessed by a pathway and sited at the rear of the existing school buildings at the northern side of the school field. The building will be approximately 3.419 metres in height with a floor area of 115 square metres. The external materials used in the construction will be Euralite timber effect of aluminium cladding of a colour palette of anthracite grey (RAL 7016) with matching doors and windows. The internal configuration will include 8no. shower blocks, WC, communal changing areas, plant room and referee's room.

5.4 The proposal would result in the loss of the natural turf pitch. The current pitch becomes unusable in wet weather climates with pitch water logging. This causes several problems due to the limited usage of the pitch. The facility would benefit the school by offering a variety of football pitches and training areas within the same enclosed playing space. There would be no impact on the current Rugby Union pitch on the site and seasonal athletics pitch would not be affected by the development. In addition, AGP pitches are identified in York's Local Football Facility Plan, as a priority project and consider the AGP pitches are technically suitable and will support the development plans into grassroots football.

5.5 The use of the AGP pitch will be for the school and would be made available for wider community use for local football clubs, partner organisations and other sports clubs. The use to the wider community would be organised by arranged appointments and made available to the school and respective organised clubs from Monday to Friday 0900 to 21:00 and Saturday and Sunday 0900 to 21:00.

5.6 Overall, in principle this type of APG sports facility is encouraged by the City of York Council and Sport England to deliver its curriculum as well as wider community sports groups through the significant benefits to both the school and the local clubs as a community use to the development of sport and supported in paragraph 96 of the NPPF.

5.7 To secure future community use, Sport England have advised in the event of planning permission being granted a condition should be included prior to the development being brought into use, for a Community Use Scheme to be submitted to and approved in writing by the Local Planning Authority and consultation with Sport England.

### **Visual Amenity**

5.8 In terms of visual amenity, at present, the area is a flat and open grassed playing field. The AGP pitch would result in a significant change in the appearance of the playing field both during the day and at night. The area would be a more enclosed and developed space, with high fencing and 13no. metre high floodlights creating views outside of the playing field perimeters. Additionally, the lighting columns in the evenings (particularly in the winter months), would have floodlights that would illuminate what is otherwise an unlit area, except for streetlights and lighting in the school and surrounding properties. The scheme has, however, been designed to focus lighting on the pitch only. Additionally, this will only be when the pitch is used for winter evening sessions and restored to its unlit appearance of the playing field when not in use. Although the appearance of the playing field would undoubtedly change, the impact on the character of the site, in a suburban location would not be unduly harmful to the appearance of the townscape.

5.9 In terms of the modular changing room building, this structure and use of materials will be assimilated into the school building surrounds. Therefore, would appear neutral to the site and not visually assertive from wider areas beyond open playing fields.

### **Neighbour Amenity**

5.10 The NPPF states in Paragraph 135(f) states that developments should create places with a high standard of amenity for all existing and future users. The policy advises that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life because of new development. This policy aim is reflected in 2018 Draft Local Plan policy D1 (Place making).

5.11 In terms of neighbouring residential outlook, the siting of the AGP is located to the southern end of the playing field which borders on to Risedale Drive within the Germany Beck residential development site. The perimeter of the pitch would be between 8m and 12m from the rear boundary of the Risedale Drive houses, the rear elevation of those houses which are orientated towards the pitch would be between 21m and 25m from the pitch perimeter. The boundary around the playing field is lined with mature trees and fenced areas of which assist to screen the pitch from neighbouring views however particularly in winter months the pitch and associated infrastructure would be in view from the rear of these dwellings. The wider residential areas near the school site on Porter Avenue, Fulfordgate, Heathcroft, and Eastward Avenue are set away from the proposed pitch location. As such other than some oblique views of fencing and lighting columns the facility will not be overly visible from these residential areas.

5.12 Policy ENV2: Managing Environmental Quality of the 2018 Local Plan states development that will not be permitted where future occupiers and existing communities would be subject to significant adverse environmental impacts such as

noise, vibration, odour, fumes/emissions, dust, and light pollution without effective mitigation measures.

5.13 In terms of noise disturbance coming from the pitch during games. The residents living around the site would very likely experience elevated noise because of the increased level of activity associated with the pitch, which would be year-round rather than restricted to the current usage when the weather and light level permits. This extends to usage of the existing school car park as well as the pitch itself. This increase in noise disturbance would be most noticeable in the summer months when residents are more likely to be outside or have windows open. However, use of the all-weather pitch as proposed would cease by 9pm Mondays through to Sundays which is considered to be an acceptable time to mitigate against any significant harmful impacts. The Environmental Protection Unit raises no objection in principle, although has advised safeguarding measures to control any future noise disturbance through relevant planning conditions.

5.14 The lighting columns would be visible during the day but would be most noticeable in the evening when in use. They would be clearly visible from the houses and gardens of Risedale Avenue lighting up what is currently an unlit area. The height of the columns (13m high) allows the lights to be mounted in a close to 'flat glass' orientation (parallel to the ground) to concentrate light on the pitch. The levels of light have been described to measure (1x lux) per square metre towards adjacent to the residents of Risedale Drive. The illuminance levels will be increased 25 lux lumens of light around the pitch and away from residents. A lighting report has been produced by Surfacing Standards Limited, dated 1/11/2023, reference: LANO-CLSO33 which demonstrates that the proposed lighting scheme would meet the design criteria set out in the Institute of Lighting Professionals Guidance notes on the reduction of obtrusive lighting in terms of pollution, spillage, and glare for an environmental zone of E3 would be within acceptable levels as set by the Institute of Lighting Engineers.

5.15 Additionally, it would be reasonable to assume that the lights would not be used in the summer months given the length of daylight and proposed finish times and, therefore, would not erode residents' enjoyment of their houses and gardens in the summer months. At other times of darker and colder evenings, residents are more likely to be inside their houses with curtains drawn and the lights are likely to be switched off before the time that most residents would retire to bed. However, it is accepted that the introduction of floodlights from the pitch would be a significant change from what residents currently experience. The Council's Environmental Protection Unit has requested a condition to any future planning permission to ensure the flood lights comply with Light Professionals Guidance Notes for the Reduction of obtrusive lighting.

### **Demolition and Construction**

5.16 The application is accompanied by a Construction Environmental Management Plan (CEMP) which provides details of the procedure and schedule of works for any future construction. This will be carried out by a site clearance, excavation and ground works, pitch foundations and base, grass surfacing, perimeter fencing, sports equipment and site furniture, flood lighting and hard standing. The existing school car parking will not be affected, and normal pedestrian access will be maintained. The Public Protection Unit has requested a condition for hours of construction in the event of any future planning permission which requires that, except for any emergency's construction should take place between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays and not on Sundays or Bank Holidays to avoid disturbance to neighbour amenity.

### **Archaeology**

5.17 Fulford School is situated in a landscape which has produced extensive late prehistoric- Romano-British use including occupation. Archaeological monitoring and excavation have taken place on the site over the past 25 years. Most of this work has not produced any features or finds of significance, largely due to the disturbed nature of the site. There have been some pieces of work (1999 and 2015) which have produced similar evidence of later prehistoric and Romano-British land use to that noted in large scale excavation at Germany Beck immediately to the south. Both pieces of work were in the sports hall area immediately adjacent to the proposed pitch area. The recorded depth of the natural topography is c. 25cm, and there is no evidence of the field being heightened being the case. As the area of the proposed pitch does not appear to have been developed and the creation of the pitch will require the remove of c.300mm of top and sub soil it is likely that the features noted in 2015 to the west and those at Germany Beck to the south continued into this area and may survive as cut features within the subsoil. Therefore, a condition is required for a programme of post-determination archaeological mitigation, specifically strip, map and record, is required on this site. The archaeological scheme comprises 2 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

### **Sustainable Access/Provisions for Car Parking**

5.18 In Paragraph 115 of the NPPF, states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code and

d) 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.

5.19 Paragraph 116, 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.

5.20 The location of the school within Fulford is accessible by public transport, cycle routes and hosts a large car park with provisions for cycle storage. Main Street has a combination of on and off-road cycle lanes, Heslington Lane is a 20 mph street. Bus services along Heslington Lane run twice an hour in each direction, but with no service later in the evenings, more frequent services along Main Street are provided by the no 7 and no 415 buses from the city centre with stops about 600m from the school entrance. The site is a sustainable location which would meet the requirements of paragraph 115 of the NPPF.

5.21 In terms of access and parking, the car park serving the school is entered from Fulfordgate, a residential street which connects to Eastward Avenue, a residential cul-de-sac to the north of the school. The school has a total of no.155 car park spaces plus no.7 disabled spaces available to the community for evening activities at the school. The school have confirmed on average a total number between 30-35 cars park at the school site for various evening school events.

5.22 The Transport Assessment Statement accompanying the application confirms there would be a requirement of no.53 additional cars based on the APG pitch being configured into 4no. small pitches to be used for five aside football. There would be a transition period between the end of one sport activity to the start of another sport activity where there could be a total of no.106 cars parked in parking bays.

5.23 The estimations provided in the Transport Statement indicates in theory the existing car parking spaces would be able to accommodate both the use of the pitch within its transition period, plus existing evening parking demand with a residual parking capacity of an additional 14 no. remaining spaces.

5.24 The Highway Officer is satisfied with the car parking provisions at the school for evening functions and community use of the pitch. There are concerns regarding the impact on the highway network serving the site once the pitches are available for community use. The increase in traffic movement is likely to require Traffic Regulation Orders (TRO) to restrict on street parking and possibly bollards to prevent footway parking. To address the installation of the TRO, it is recommended

that a contribution is secured through a Section 106 agreement for a sum of £15,000 with any unspent money to be repaid back within 5 years of the start of the occupation if highway measures are not required.

### **Flood Risk and Drainage**

5.25 Policy ENV5 of the 2018 Draft Local Plan sets sustainable drainage requirements. In terms of surface water run-off, it requires the following, unless it is agreed such rates are not reasonably practical –

- Previously developed sites – 70% of existing run-off rates.
- New development on greenfield sites – run off rate shall be no higher than the existing rate prior to development taking place.

5.26 The application is accompanied with a Drainage Strategy and drawing (plan number LANO-CLOSO33-08-REVISION 00) dated 12 December 2023. The Flood Risk and Drainage Manager and The Ouse and Derwent Internal Drainage Board are satisfied with the details for surface run water and disposal of foul water associated with the installation of the pitch. A condition is required for the protection of the local aquatic environment and public sewer network. The modular changing room building will include shower cubicles and washrooms. A drainage strategy is required to be secured by condition for details of foul and surface water disposal.

### **Ecology and Biodiversity**

5.27 Chapter 15 (conserving and enhancing the natural environment), paragraph 187 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species, and habitats.

5.28 The application is accompanied by a Preliminary Ecological Appraisal (PEA). The report covers results of a survey conducted which indicates the proposed development will have minimal impact on any species present on/nearby to site. This is due to the footprint of the development being undertaken atop the regularly maintained amenity grassland. The PEA notes a pond around 20m east of the proposed hard standing structure, within the treeline/hedgerow and safeguarding measures to minimize light pollution toward adjacent hedgerows/tree lines are recommended because these areas offer ideal foraging for bat species and nesting for bird species. The report notes there were no signs of badger usage or other mammals were noted across the site.

5.29 The PEA covers an assessment for bats and roosting birds at the site and buildings (where present) were inspected for potential places that may be of value to bats and to determine evidence of use and establishes lighting proposals have been adjusted to ensure these biodiversity features are not to be exposed to

intensive spillage and a biodiversity enhancement planting has been implemented to proposal plans.

5.30 The Councils' Ecology Officer has no objections to the principles of the PEA and recommends a condition to secure biodiversity enhancements. The application is not subject to statutory BNG requirements having been submitted before the amendment to the Act came into force.

## **6.0 CONCLUSION**

6.1 The application for the construction of a multi-use artificial grass pitch with the introduction of floodlights and fencing on what is currently a grassed playing field associated with Fulford secondary school would result in the loss of an existing grassed playing pitch. However, the scheme offers a significant benefit to the provision of the curriculum at the school as well as providing a sporting facility for the wider community outside of school use. In consideration of neighbour amenity, the nature of the proposal has potential for some noise intensification and light pollution, however the time of operation is acceptable and would be conditioned for the school to ensure neighbours are not subject to unwanted noise after 9pm. Additionally the proposed floodlights are designed to comply with the requirements of the Institute of Lighting Engineers Guidance Notes for the Reduction of Light Pollution.

6.2 Fulford School is area of Archaeological Importance, and a phased condition is required for post-determination of archaeological mitigation. Other technical matters for flood risk, biodiversity and public protection can be secured by conditions.

6.3 The information provided on to the proposal regarding car parking arrangements is satisfactory. A Section 106 agreement to secure a contribution of £15,000 towards Traffic Regulation Orders (TRO) and associated works to restrict on street parking and to prevent footway parking with any unspent money to be repaid back within 5 years of the start of the occupation if highway measures are not required.

6.4 Therefore, approval is recommended subject to a s106 agreement and detailed conditions on the basis the scheme complies with the revised National Planning Policy Framework (2024) and Draft Local Plan 2018, policies ED1, ENV2, T1 and D1.

## **7.0 RECOMMENDATION:**

**That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:**

- The completion of a Section 106 Agreement to secure the following planning obligation:

A contribution of £15,000 towards Traffic Regulation Orders and associated works to restrict on street parking and to prevent footway parking with any unspent money to be repaid back within 5 years of the start of the occupation if highway measures are not required.

- The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.
- The Head of Planning and Development Services be given delegated authority to determine the final detail of the following planning conditions:

1      TIME2      Development start within three years

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

Proposed Topographical Survey (drawing number LAND -CLS033 01) dated 21.10.2023

Proposed Site (drawing number LAND -CLS033 03) dated 01.11.2023

Proposed AGP plan (drawing number LAND -CLS033 04) dated 01.11.2023

Proposed Elevations (drawing number LAND -CLS033 05) dated 01.11.2023

Proposed playing field layout (drawing number LAND -CLS033 10) dated 11.12.2023

Proposed changing room elevations (drawing number WRB-Q 32000268) dated 18.9.2023

Proposed changing room Elevations(drawing number WRB-Q 32000268 ELEVS) dated 08.12.2023

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

3      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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

4 All external flood lighting shall conform to the E4 environmental zone as specified in the Light Professionals Guidance Notes for the Reduction of obtrusive lighting.

Reason: To protect the amenity of the surrounding environment.

5 Details of the proposed acoustic noise barrier to protect the amenity of residential dwellings to the south of the site, shall be submitted to and approved in writing by the local planning authority. These details shall include the construction method, height, thickness, acoustic properties and the exact position of the barrier. The barrier shall be erected before the use hereby permitted first comes into use and thereafter maintained in accordance with the approved details.

Reason: To protect the amenity of the nearby residents from noise

6 Prior to the development coming into first use, a noise management plan shall be submitted to and approved in writing by the local planning authority and once approved implemented and adhered to in accordance with the approved details.

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

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

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

Reason: To protect the amenity of local residents

8 The surface water drainage works for the Artificial Grass Pitch shall be constructed in accordance with the following documents:-

Proposed AGP Drainage Strategy - LANO-CLS033 - 08 - Revision 00

Proposed AGP Drainage Layout - LANO-CLS033 -07 - Revision 00

Proposed AGP Drainage Outfall - LANO-CLS033 - 09 - Revision 00

Any changes to the scheme must be approved in writing by the Local Planning Authority and then implemented before the development is brought into use.

REASON: To ensure the development is provided with satisfactory means of drainage.

9 No development in respect of the Modular Building Changing Rooms shall be commenced until the Local Planning Authority has approved in writing a scheme for the disposal of surface water and foul sewage.

Any such scheme as so approved shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered for the disposal of surface water:

- o For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
- o Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
- o Discharge from "greenfield sites" taken as 1.4 litres per second per hectare.
- o Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

REASON: To ensure the development is provided with satisfactory means of drainage.

10 A programme of post-determination archaeological mitigation, specifically strip, map and record, is required on this site.

The archaeological scheme comprises 2 stages of work. Each stage shall be completed and agreed in writing by the Local Planning Authority before it can be approved.

A) The investigation and post investigation assessment shall be completed in accordance with relevant CiFA and LPA standards by an appropriate contractor agreed in advance in writing with the City Archaeologist. Provision for analysis, engagement, dissemination of results and archive deposition will be secured. This part of the condition will not be discharged until these elements have been fulfilled in accordance with the programme agreed with the LPA.

B) A copy of a report shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 2 months of completion of fieldwork 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 and the development

may affect important archaeological deposits which must be recorded prior to destruction.

11 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of works. The content of the plan shall include, but not be limited to the erection/installation of bat and bird boxes on the new building. The plan shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraphs 185-188 of the NPPF (2023) to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

12 The Construction Management Plan produced by Cleaveland Services Ltd (revised 04.09.2024) shall be adhered to at all times during construction.

Reason: To protect the amenity of the surrounding environment.

13 Prior to the development being brought into use, a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of pricing policy, hours of use, access by non-school users/non-members, management responsibilities and include a mechanism for review. The approved Scheme shall be implemented upon commencement of use of the development and shall be adhered to for the lifetime of the development.

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with Policy 103( Sports and Open Space) of the National Planning Policy Framework (December 2024).

Informative: A model Community Use Scheme is available on the Sport England website [www.sportengland.org](http://www.sportengland.org)

14 The use of the Artificial Grass Pitch hereby approved for the playing of sports or any other function shall be restricted to the following times:

09:00 to 21:00 with floodlights switched off no later than 21:15.

Reason: In the interests of the residential amenity of surrounding occupants.

15 Prior to the commencement of any works on site the measures contained within the Tree Protection Plan AEL-18823-TPP revision A shall be implemented and retained for the duration of the construction works.

Reason: In order to protect trees which are considered to be of value to the setting of the school and its surroundings.

## **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 to address matters involved with intensification of the car parking to avoid cars being parked on nearby streets in order to achieve a positive outcome.

#### **2. INFORMATIVE:**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) 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.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust

emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

3. If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire (under Section 104 of the Water Industry Act 1991), he/she should contact our Developer Services Team (telephone 03451 208 482, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements

**Contact details:**

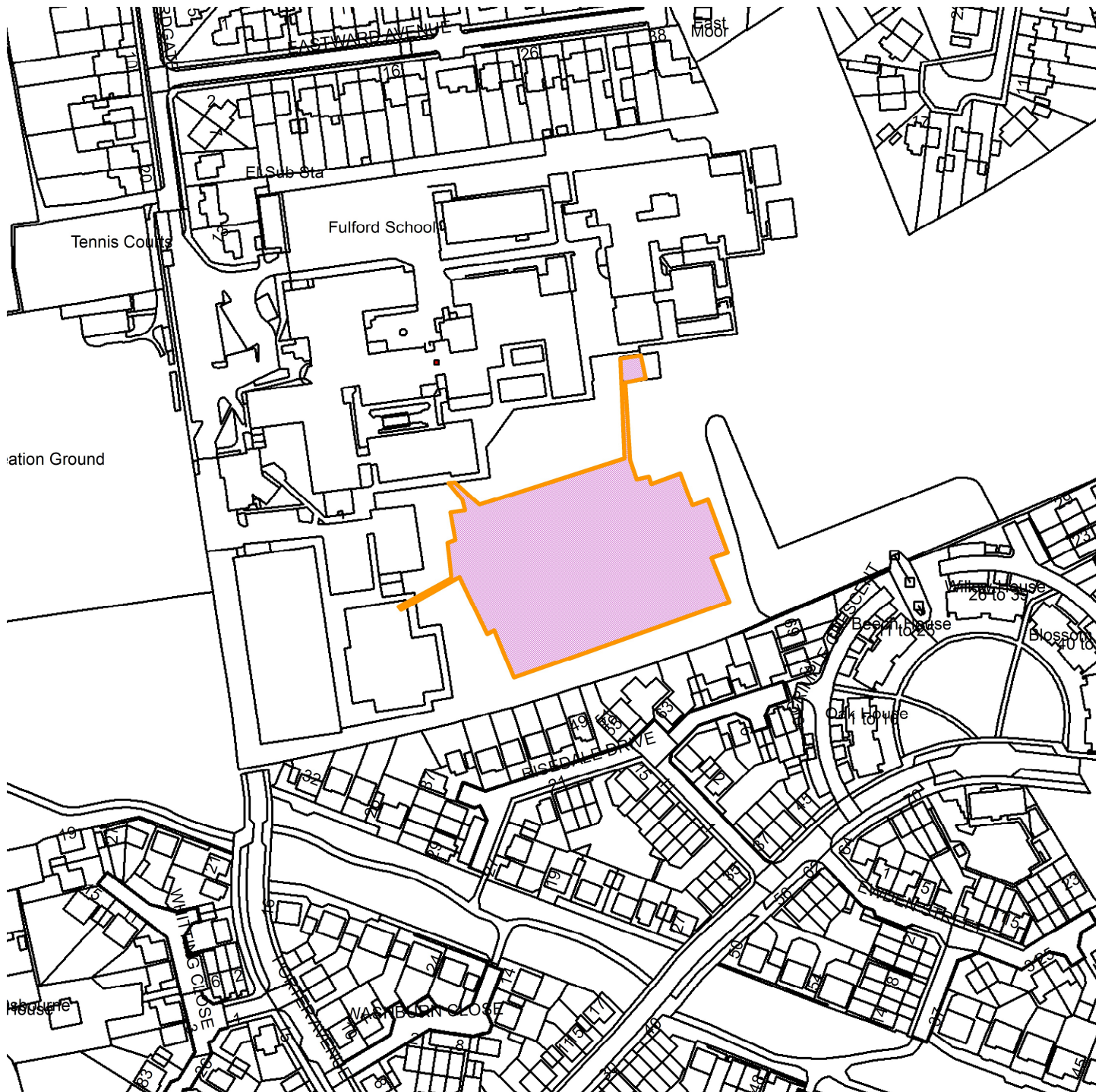
**Case Officer:** Sharon Jackson

**Tel No:** 01904 551359

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## Fulford School, Fulfordgate, York YO10 4FY

23/02384/FUL



Scale : 1:2223

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<b>Organisation</b>	City of York Council
<b>Department</b>	Env, Transport & Planning
<b>Comments</b>	Site Location Plan
<b>Date</b>	17 January 2025
<b>SLA Number</b>	Not Set

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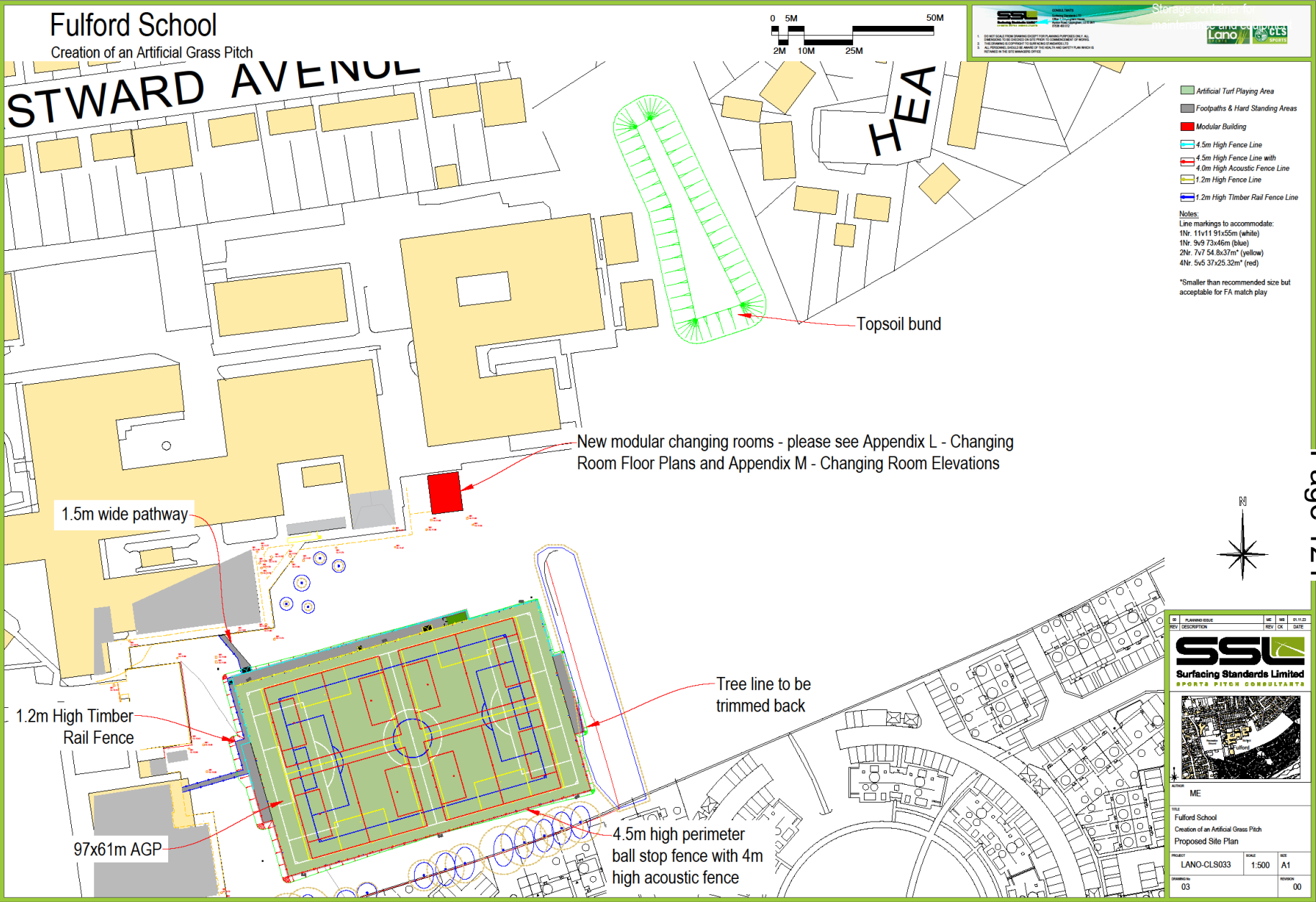
## Planning Committee B

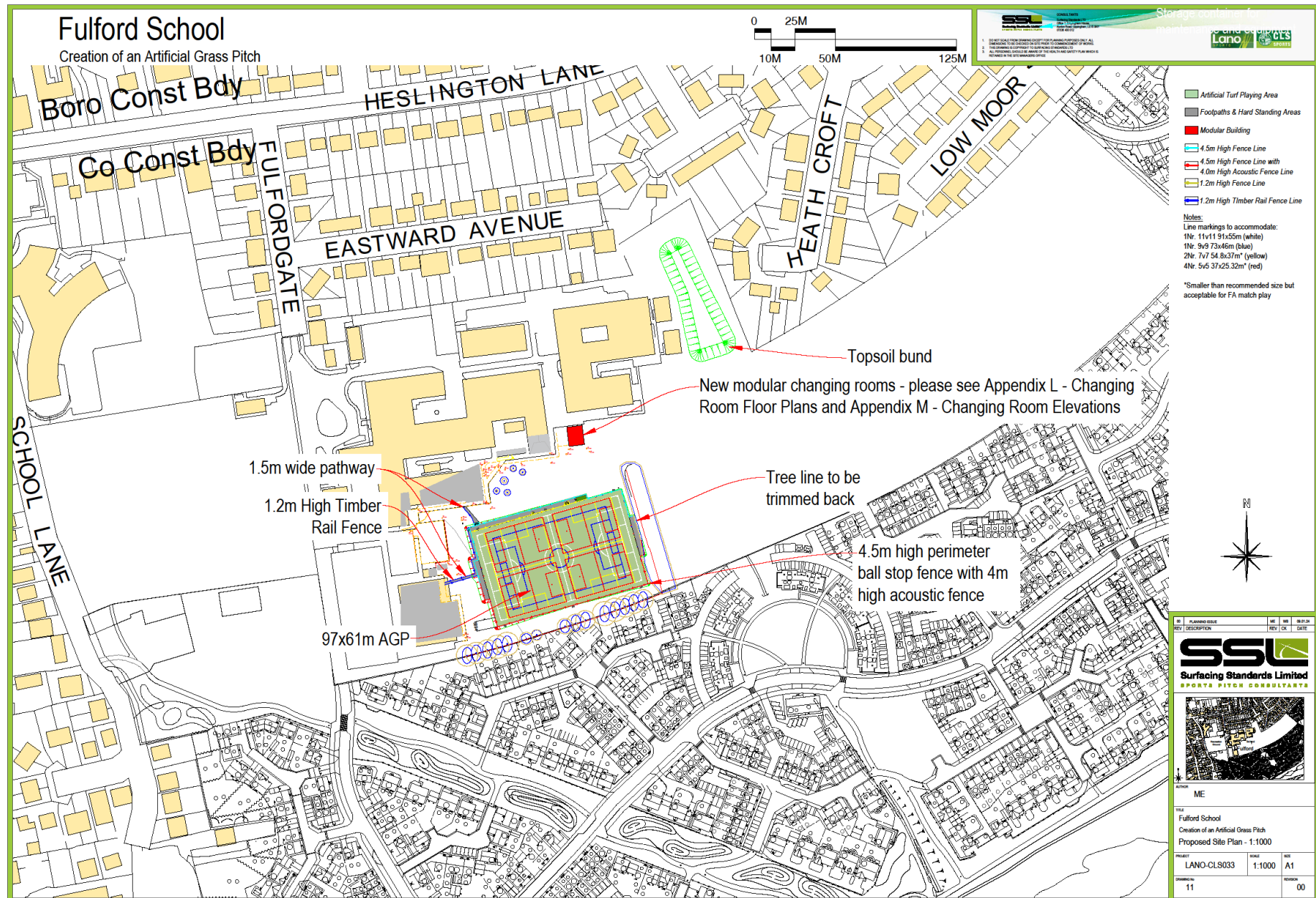
23/02384/FUL

Fulford School Fulfordgate



Proposed site plan



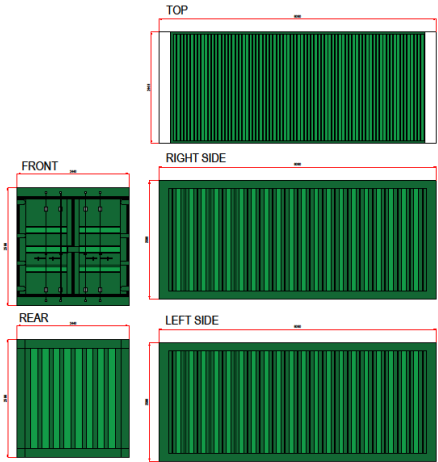
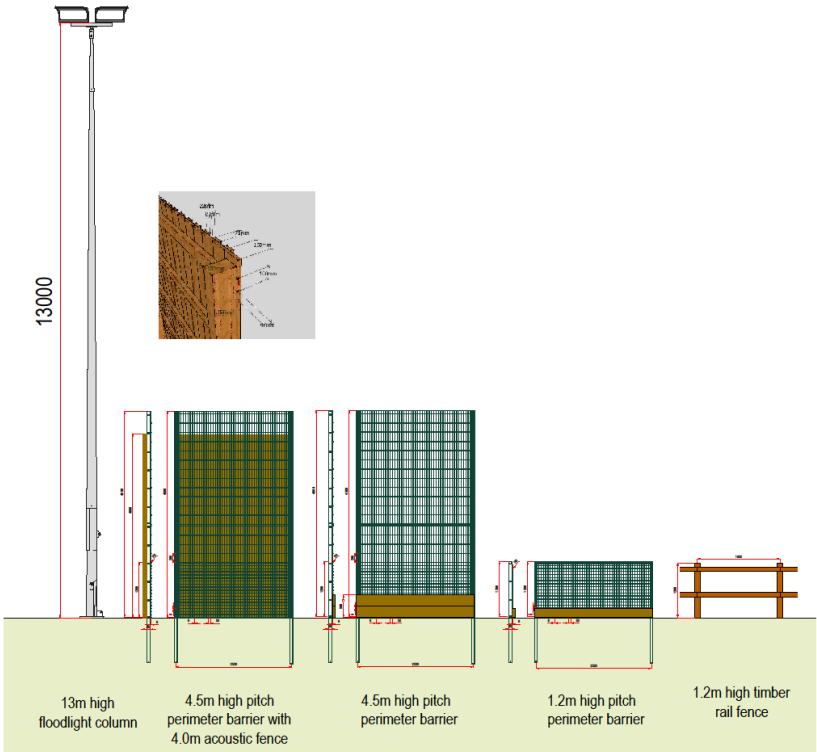


Floodlights and fencing detail

Fulford School  
Creation of an Artificial Grass Pitch



SSL  
Surfacing Standards Limited  
1. EXACT SCALE FOR DIMENSIONS OF PITCH PLANS AND ELEVATIONS ONLY. ALL DIMENSIONS TO BE GIVEN IN METERS TO ONE DECIMAL PLACE.  
2. ALL DIMENSIONS TO BE GIVEN IN METERS TO ONE DECIMAL PLACE.  
3. ALL DIMENSIONS TO BE GIVEN IN METERS TO ONE DECIMAL PLACE.  
4. ALL DIMENSIONS TO BE GIVEN IN METERS TO ONE DECIMAL PLACE.  
5. ALL DIMENSIONS TO BE GIVEN IN METERS TO ONE DECIMAL PLACE.



Maintenance Steel  
Storage Container

PLAN/SECTION/DETAIL		REV	DATE
DESCRIPTION		REV	DATE
<b>SSL</b> Surfacing Standards Limited SPORTS PITCH CONSULTANTS			
AUTHOR ME			
TITLE Fulford School Creation of an Artificial Grass Pitch Proposed Elevation			
PROJECT LANO-CLS033	SCALE 1:50	SIZE A1	
DRAWING NO 05	REVISION 00		

# Changing rooms Elevations and floor plans

