

## COMMITTEE REPORT

**Date:** 6 July 2023

**Ward:** Guildhall

**Team:** East Area

**Parish:** Guildhall Planning Panel

**Reference:** 23/00059/FUL

**Application at:** T.K.maxx 48 Coney Street York YO1 9ND

**For:** Conversion of existing retail unit (Use Class E) to restaurant and shop (Use Class E) at ground and basement level, and change of use of upper floors from retail (Use Class E) to a 64 key aparthotel (Use Class C1) including provision of additional storey on roof and associated external alterations (amended plans received)

**By:** Harrowells (No. 221) Ltd

**Application Type:** Full Application

**Target Date:** 10 July 2023

**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 48 Coney Street is a retail unit located in the city centre and is Grade II Listed. It was designed by the Boots company architect MV Treleaven in 1907 and built in two stages as the premises expanded to incorporate the adjoining plot. Attached to the north east elevation is 8-10 Market Street, which forms part of the listing however is noted as a detractor in the Conservation Area Appraisal. Both have active frontages along Coney Street and Market Street and form part of the Primary Shopping Frontage (PSF). The application site spans these two buildings and both lie within the Central Historic Core Conservation Area (Character Area 11 Central Shopping Area). The site is within the Primary Shopping Area (PAS) in the Draft Local Plan (2018). The area is of Archaeological Importance.

1.2 Planning permission is sought for the conversion of an existing retail unit (previously occupied by T.K.Maxx – use class E) to a restaurant and shop (use class E) at ground floor level and basement level. It is proposed to change the use of the upper floors from retail (use class E) to a 64 key aparthotel (use class C1). The proposal involves the erection of an additional storey on the roof and external alterations to facades. The planning application

is accompanied by a listed building application, reference 23/00060/LBC. Pre-application advice was sought on the proposal.

1.3 During consideration of the application, amended plans were received and as such have been used as the basis for determination. The revisions were to overcome the concerns raised by the Conservation Officer and Environmental Health Officer. The application is presented to Planning Committee A as the proposal is non-residential development, including extensions and changes of use, of over 3000m<sup>2</sup> gross floorspace.

1.4 The following planning history is of note:

10/01808/FUL - Replacement roof level ventilation and air conditioning plant. Application permitted: 09.11.2010.

10/01313/LBC - Internal and external alterations including refurbishment of Coney Street shop front, new Market Street shopfront. Application permitted: 04.08.2010.

08/02626/FUL – New shopfront. Application permitted: 03.02.2009.

08/01929/FUL - Part change of use from retail to restaurant (use class A3) at Ground floor and basement level (market street frontage). Application permitted: 23.12.2008.

08/02051/LBC - Internal and external alterations including new facade replacing the existing Market Street elevation, including a raised articulated roof; and alterations to the elevation on Coney Street including the shop front (resubmission). Application permitted: 19.11.2008.

08/02049/FUL - New facade replacing the existing three storey Market Street elevation, including a raised articulated roof (resubmission). Application permitted: 30.10.2008.

08/01551/FUL - New facade replacing the existing three storey Market Street elevation, including a raised articulated roof; and alterations to the three storey elevation on Coney Street. Application withdrawn: 06.08.2008.

08/01728/LBC - Internal and external alterations including new facade replacing the existing Market Street elevation, including a raised articulated roof; and alterations to the elevation on Coney Street including windows and shop front. Application withdrawn: 06.08.2008.

## 2.0 POLICY CONTEXT

### NATIONAL PLANNING POLICY FRAMEWORK

2.1 Key chapters and sections of the NPPF are as following:

- Achieving sustainable development (chapter 2)
- Decision-making (chapter 4)
- Building a strong, competitive economy (chapter 6)
- Ensuring the vitality of town centres (chapter 7)
- Promoting healthy and safe communities (chapter 8)
- Promoting sustainable transport (chapter 9)
- Making effective use of land (chapter 11)
- Achieving well designed places (chapter 12)
- Conserving and enhancing the natural environment (chapter 15)
- Conserving and enhancing the historic environment (chapter 16)

### PUBLICATION DRAFT LOCAL PLAN (2018)

2.2 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in late 2023. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. The following policies are relevant to this application;

- DP2 – Sustainable Development
- DP4 – Approach to Development Management
- SS3 – York City Centre
- EC4 – Tourism
- R1 – Retail Hierarchy and Sequential Approach
- R3 – York City Centre Retail
- D1 – Placemaking
- D4 – Conservation Areas
- D5 – Listed Buildings
- D6 – Archaeology
- D9 – City of York Historic Environment Record
- D11 – Extensions and Alterations to Existing Buildings
- D12 – Shopfronts
- D13 – Advertisements

GI2 – Biodiversity and Access to Nature  
CC2 – Sustainable Design and Construction of New Development  
ENV2 – Managing Environmental Quality  
ENV3 – Land Contamination  
ENV4 – Flood Risk  
ENV5 – Sustainable Design  
WM1 – Sustainable Waste Management  
T1 – Sustainable Access  
T8 – Demand Management  
DM1 – Infrastructure and Developer Contributions

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

#### CYC ARCHAEOLOGY

3.11 9<sup>th</sup> February 2023 – Requested further details regarding ground disturbing work in the basement.

3.12 24<sup>th</sup> February 2023 – The Archaeologist recommends preliminary investigation due to additional risk and uncertainties to the development in terms of cost, timescale and design. The Archaeologist requested small archaeological evaluation in the basement in the area of the proposed lift shafts. This information would then inform the design of the lifts to keep them as shallow as possible. Additional foundations must also keep disturbance to a minimum.

3.13 2<sup>nd</sup> March 2023 – Without an evaluation, the Archaeologist has to assume that there has been no disturbance beneath the basement slab in these areas and based on location and existing information, that the archaeological resource that will require excavating is of the highest importance and likely of national significance.

3.14 If there is no pre-determination evaluation and or early GI monitoring the Archaeologist recommends the following conditions; watching brief, evaluation in lift shaft area, excavation of platform lift pits and other basement level intrusions and a condition relating to foundation and lift design requesting that no more than 95% of the most important archaeological deposits within the red line boundary are removed through development.

3.15 15<sup>th</sup> March 2023 – Recommends conditions (full wording of conditions provided).

### CYC URBAN DESIGN AND CONSERVATION

3.16 20<sup>th</sup> March 2023 – Recommends amendments to the roofscape material, market street façade, 48 Coney Street frontage and interior fabric details.

3.17 28<sup>th</sup> April 2023 – No objections to the amended proposals.

### CYC ECOLOGY

3.18 15<sup>th</sup> February 2023 – No objections but recommends conditions.

3.19 17<sup>th</sup> May 2023 – No further recommendations to add to the initial response.

### CYC HIGHWAYS

3.20 23<sup>rd</sup> March 2023- expect secure and covered cycle facilities on site for staff.

3.21 Aparthotel requires: 16 car parking spaces and 7 cycle parking spaces.  
Café/Restaurant requires: 20 car parking spaces and 30 cycle parking spaces.  
Retail requires: 2 car parking spaces and 2 cycle parking spaces.

3.22 No car parking provided but within the footstreets. 39 cycle parking spaces are required in total, therefore there is an under provision of 27 spaces. Under provision could be sought via commuted sums payment.

3.23 Cycle store is too small to store 12 cycles. Recommend details further details for on-site cycle storage.

3.24 Recommend the following conditions; cycle parking details, cycle parking laid out, no gate to open onto the highway, method of works statement and a travel plan.

### CYC PUBLIC PROTECTION

3.25 15<sup>th</sup> February 2023 – The site lies within the Cumulative Impact Area. A red zone has been identified due to the high concentration of licensed premises. The Environmental Health Officer requests further information regarding music, partition

walls, open facades and openable windows. The Environmental Health Officer recommends the removal of bi-folding doors and screening between balconies due to concerns arising from noise generated. Sound proofing will be required.

3.26 14<sup>th</sup> March 2023 – Concerns regarding the balcony due to noise break out and break in and the proposed stage for buskers. Concerns regarding noise levels and recommends non-openable windows. Recommends conditions in the event the application is approved.

### CYC WASTE

3.27 3<sup>rd</sup> February 2023 - CYC domestic waste collections do not have a remit to collect from commercial sites. Waste must be stored within the boundaries of the site at all times, including collection days. Vehicles undertaking collections should be able to stop for loading in a safe and legal position where they will not obstruct other traffic, pedestrians or access.

3.28 23<sup>rd</sup> May 2023 – The changes do not affect the comments made in the earlier response.

### CYC CARBON REDUCTION TEAM

3.29 1<sup>ST</sup> February 2023 - In the 'Energy and Sustainability Statement' prepared by eb7 Ltd. It is clear that a thorough assessment has been conducted to ensure carbon emissions are reduced by more than 54% of the baseline model, a commitment to purchasing 100% renewable energy has been made to account for the remaining energy required in operation and a BREEAM "Excellent" standard is expected to be achieved.

### CYC FLOOD RISK MANAGEMENT TEAM

3.30 18<sup>th</sup> April 2023 – Acknowledge the developer is likely able to demonstrate a 30% reduction in surface water run-off would not be practical, therefore the Flood Risk Management Team have no objections.

### EXTERNAL CONSULTATION

### GUILDHALL PLANNING PANEL

3.31 14th February 2023 – Object - The frontage on both Coney and Market Street is not in keeping with the current Historic Core. The ground floor treatment (and bi-fold doors) on Coney Street are out of balance with the current design above. The perforated panel and large glass upper windows are out of proportion and are no improvement to the existing Market Street frontage. The additional storey with a zinc covered shed like roof will detract from the skyline and is an unnecessary addition and an overdevelopment. The number of room proposed, their small size, and the lack of windows and light is a matter of concern. The number of rooms will put additional load on the sewer system of central York. Object to the use of the pavement on this busy pedestrian and vehicle route.

3.32 30<sup>th</sup> May 2023 – Object - Although the facades on both Market Street and Coney Street have been improved the Panel still feel that their main objections have not been addressed.

- The additional storey remains out of keeping and an overdevelopment.
- the number of rooms is excessive and some of the rooms are windowless.
- the lack of provision of a staffed reception area by the hotel entrance is a security risk.

### YORK CONSERVATION AREA ADVISORY PANEL

3.33 17<sup>th</sup> April 2023 – Support - The Panel supports this application in principle, but there are some aspects of the new design for the Market Street elevation of the proposals, the additional floor and the Coney Street shopfront which, in the opinion of the Panel, could be improved. The following comments are noted:

- Previous comments appear to have been incorporated including recessing the additional storey to Market Street and the visual strengthening of the top façade.
- Roofscape is unlikely to be seen from the adjacent buildings the Panel considered it appeared 'lightweight', it was conceded this might be the result of having to add the further floor onto the existing structure.
- There should be a greater contrast to the elevation of the Aparthotel entrance. Concerns still remain for the Panel regarding the Aparthotel entrance, and perhaps this element could be in a contrasting-coloured brick for the full bay-height, reflecting the narrow bays on the adjacent building, 12-18 Market Street.
- Concerns also remain regarding the appearance of the new additional floor, which appears insubstantial. Perhaps, as has been suggested elsewhere, a slate roof to match surrounding buildings might relieve the monotony of these

volumes clad entirely in zinc sheet and give a greater appearance of permanence and visual compatibility with the surrounding roofscapes.

- Concerns regarding the design and detailing of the sliding shop front to the Coney Street entrance. On the one hand, it seems a good opportunity to open-up the shop front and extend live music performances into the street to add a new and dynamic level of public engagement, beyond just a shop window. But on the other hand, there is the issue of the design and detail of the new shopfront in relation to the rest of the Listed part of the building.

## NORTH YORKSHIRE POLICE

3.34 15<sup>th</sup> February 2023 – Recommendations including CCTV, substation gates, secure doors and windows, controlled lifts, restricted stairwell access and PIN controlled keys/safes.

3.35 22<sup>nd</sup> May 2023 – Comments made on the 15<sup>th</sup> February 2023 are still pertinent.

## **4.0 REPRESENTATIONS**

4.1 The application was advertised via neighbour notification and site notices twice (due to receipt of amended plans). The deadline for comments for the first round of public consultation was 1<sup>st</sup> March 2023. No third-party public representations have been received.

4.2 The deadline for comments for the second round of public consultation was 21<sup>st</sup> June 2023. At the time of writing this report, no third-party public representations have been received.

## **5.0 APPRAISAL**

### **5.1 PRINCIPLE OF PROPOSED USE – BASEMENT AND GROUND FLOOR**

#### Policy

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



should support the role that town centres play, by taking a positive approach to their growth, management and adaptation (paragraph 86 of the NPPF).

5.12 Policy SS3 of the Draft Local Plan (2018) relates to York City Centre. The City Centre is identified as a priority area for a range of employment uses and is fundamental to delivering the plans economic vision. During the plan period it will be the principal location in the City of York area for the delivery of economic growth in the tourism, leisure and cultural sectors. Policy SS3 states that within the City Centre, it is noted that retail use (class E) and food and drink units (class E) is acceptable in principle within the designated primary shopping area.

5.13 Since 1<sup>st</sup> September 2020, retail units (previously A1) and restaurants and cafes (previously A3) are now within the same use class (E). A change within the same use class does not require planning permission, unless a previous extant planning condition or legal agreement restricts the use.

5.14 The vitality and viability of the City Centre will be maintained and enhanced in line with policy R1 of the Draft Local Plan (2018). Retail provision within York City Centre is protected under policy R3 of the Draft Local Plan (2018). Policy R3 of the Draft Local Plan (2018) states proposals for other main town centre uses (including food, drink and entertainment uses as part of a vibrant evening economy) will be supported where they:

- Are complementary to the PSA's retail function and contribute to the viability of the city centre
- Have active frontages to reflect the character of the PSA and
- Would not have a detrimental impact on the overall character and amenity of the PSA.

5.15 The site lies within the (PSF) and as such consideration must be given to the impact the development would have on this designation. Policy R3 of the Draft Local Plan (2018) states proposals that would involve the loss, by change of use or redevelopment of class E ground floor space (shops) will generally be resisted. However, proposals for other uses may be permitted if it can be demonstrated that:

i. the proposal has an active frontage and contributes to the vitality and viability of the primary shopping frontage; the proposed uses will provide a service direct to members of the public and can demonstrate a comparable footfall generation to retail use;

- ii. the proposal will have an attractive shop front which contributes positively to the appearance of the street;
- iii. the proposal would not result in non-retail uses being grouped together in such a way that would undermine the retail role of the street;
- iv. a minimum of 70% E uses will be required unless it can be demonstrated that it would be beneficial to the vitality and viability of the primary shopping frontage;
- v. the proposal does not prevent upper floors from being effectively used, including the possibility of independent use; and
- vi. there are not a large proportion of vacant ground floor premises in the immediate street.

### Assessment

5.16 At present the building is in Class E use, with retail space covering the majority of all floors with ancillary offices to support this use. It is proposed to create a restaurant and shop (class E) at ground floor and basement level. The main shop entrance will be on Coney Street, whilst the restaurant entrance will be off Market Street. The use class will therefore be the same as existing. The retail presence will be maintained on Coney Street, whilst the access from Market Street will form the entrance to the Restaurant.

5.17 The proposed shop and restaurant will add to the city centre's retail offer and create a strong daytime and evening economy within the area by diversifying the current use. The works involve creating new frontages to both Coney Street and Market Street which will add to the vibrancy and attractiveness of the City Centre, in particular the Market Street elevation which is listed as a detractor in the Conservation Area Appraisal. Whilst new uses are proposed other than retail, it is considered the mix will still provide a direct service to members of the public and would generate footfall within the City Centre which is comparable to retail. It would also aid in reducing the number of vacant units within the City Centre and would reveal the basement by bringing it into active use.

5.18 The proposal would not result in non-retail uses being grouped together in such a way that would undermine the retail role of the street. Coney Street and Market

Street host a high percentage of retail units therefore still dominating the retail presence along the PSF. Policy R3 requires a minimum 70% of E use along the PSF. This requirement is met as restaurants are now classed as E use. The layout and design of the frontages allows dual access to ensure the hotel can operate independently of the shop and restaurant.

5.19 Economically, the proposal will create over 100 jobs providing prime employment opportunities within the City Centre. Environmentally the re-use of an existing City Centre building is strongly supported and will add life back to a vacant retail unit in an important position within the City Centre. Overall, the use can be supported and is in line with the principles set out within paragraph 81 of the NPPF, and policies R1, R3 and SS3 of the Draft Local Plan (2018).

## 5.2 PRINCIPLE OF PROPOSED USE – FIRST FLOOR, SECOND FLOOR AND THIRD FLOOR

### Policy

5.21 Policy SS3 states that within the City Centre, hotels (C1) are acceptable in principle. Tourism in York will contribute to a diverse economy. Policy EC4 of the Draft Local Plan (2018) states this will be achieved by supporting proposals that relate to the following:

- maintaining and improving the choice and quality of visitor accommodation to encourage overnight stays, particularly by higher spending visitors;
- the provision of quality visitor attractions including temporary structures throughout the year especially ones with a national/international profile, in locations which are easily accessible by a variety of transport modes and complement York's existing cultural heritage;
- the retention and growth of existing visitor attractions;
- the enhancement of the built environment and public realm, particularly around access to the river and showcasing York's built heritage; and
- the establishment of a more diverse evening economy

### Assessment

5.22 An apartment hotel is proposed at first floor, second floor and within the new third floor. The proposal would improve the choice and quality of visitor accommodation by providing a wide range of studio types within the city centre which would encourage overnight stays. The hotel is easily accessible by public

transport and is well located for those wishing to stay within the main City Centre. Visitors would help establish a more diverse evening economy with increased tourist numbers within this area, bringing economic and social benefits to the area. The scheme will provide employment opportunities by way of servicing and maintenance of the hotel.

5.23 Whilst it is acknowledged the proposal involves the loss of retail space, this is above ground floor level (apart from the access) and as such it is not considered that the PSF will be adversely impacted. The scheme would be able to operate independently of the ground floor unit and would make effective use of a currently vacant space. Overall it is considered the scheme complies with policy EC4 and SS3 of the Draft Local Plan (2018).

5.24 To conclude the general principle of the new uses can be supported and will support and enhance an important section of the PSA in York City Centre. A mixed use will deliver and enhance the daytime and night-time economy whilst providing tourist accommodation in highly accessible location. The principle of development therefore accords with paragraphs 81 and 86 of the NPPF, and policies SS3 and EC4 of the Draft Local Plan (2018).

### 5.3 IMPACT ON THE HERITAGE ASSETS (LISTED BUILDINGS AND CENTRAL HISTORIC CORE CONSERVATION AREA)

#### Policy

5.31 Section 16 of the NPPF, conserving and enhancing the historic environment, advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

5.32 Proposals affecting a Listed Building or its setting will be supported where they preserve, enhance or better reveal those elements which contribute to the significance of the building. Development should help secure a sustainable future for a building at risk. This is set out within Policy D5 of the Draft Local Plan (2018).

5.33 Harm to an element which contributes to the significance of a Listed Building or its setting will be permitted only where this is outweighed by the public benefits of the proposal. Substantial harm or total loss of a Listed Building will be permitted only

where it can be demonstrated that the proposal would bring substantial public benefits (paragraphs 201 and 202 of the NPPF).

5.34 Section 72 of the Planning (Conservation Areas & Listed Buildings) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. This is supported by Policy D4 of the Draft Local Plan which seeks to protect Conservation Areas and its setting. Policy D1 of the Draft Local Plan supports development where they improve poor existing urban environments. Design considerations include the urban structure, grain, density, massing, spacing, scale and appearance.

5.35 Policy D11 of the Draft Local Plan supports the extension and alteration to existing buildings subject to ensuring the design responds positively to its immediate architectural context and sustains the significance of the heritage asset and its setting. Alterations to existing shopfronts must meet Policy D12 of the Draft Local Plan (2018) which seeks to ensure development conserves and enhances the special qualities and significance of the building and ensures it relates well to its context in terms of design, scale and material.

5.36 Policy D13 of the Draft Local Plan relates to advertisements. Permission will be granted for the display of advertisements where they:

- i. are of a scale, design, material, finish, position and number that will not cause harm to visual or residential amenity, or to the character of the host building, and will respect the character and appearance of a building or the street scene; and
- ii. positively reflect the interests of amenity and public safety.

5.37 Within conservation areas and on buildings identified as heritage assets, illumination will only be supported where the fittings, wiring and level of illumination is designed to preserve or enhance the historic character and appearance of the building, area and the premises trade as part of the evening economy.

5.38 Policy SS3 of the Draft Local Plan seeks to ensure development conserves and enhances the existing historic character of York City Centre whilst encouraging contemporary high-quality developments that add to the sense of place and create a prestigious and desirable location for thriving businesses.

## Assessment

5.39 The principal changes are the erection of an attic storey on top of the existing flat roof, the construction of a new façade to Market Street, the replacement of the shop front to Coney Street and subdivision of the upper floors to provide hotel rooms. The attic storey and Market Street façade design have been the subject of pre-application advice during which the scheme was significantly revised.

5.391 The Conservation Officer confirms the principal heritage significances lie in the Coney Street façade and gabled roof; and the sensitive historic context which includes listed buildings at 46-52 Coney Street, 4-6 Market Street and 19-23 Feasegate and handsome unlisted buildings at nos.12-18.

#### Erection of extension on the roof

5.392 The proposed, modelled pitched roof form of the attic storey has the potential to enhance the existing flat roofscape, its height would be consistent with the higher roofs in the immediate context and the design is considered acceptable. With regards to the roof materials of the extension, the prevailing traditional material of the surrounding roofscape is slate, the metal roof behind 44 Coney Street to the north of the site is a detracting feature by dint of its scale and material. The use of zinc to walls and roof of the attic storey dilutes the intended effect. In response, the Agent amended the roof material to slate and the zinc on the third floor extension has been changed to brick with a textured brickwork along the Market Street façade to add depth and differentiate the upper floor. Further details are provided to show the façade showing the junction between the materials in more detail. The design, form and scale of the extension can be supported.

#### Market Street façade

5.393 The existing façade to Market Street is identified in the Central Historic Core Conservation Area Appraisal as a detractor. The proposed design has been conceived to reflect the character of the historic streetscape, articulating the two distinct uses and with a pattern and proportion of openings that complements prevailing architectural character. Although the façade pulls forward of the existing line, it is not considered that this will detrimentally impact the Conservation Area and its setting as it is only a small increase and will improve the functionality of the frontage at ground floor level. The Market Street façade will enhance the Conservation Area and will improve the primary shopping frontage in the City Centre. It will preserve and respect the Listed Building and its setting.

## Coney Street shop front

5.394 48 Coney Street retains a 1907 shop front with a Mock-Tudor design. The front elevation is therefore of high architectural and historic interest. Whilst the existing ground floor modern shopfront is of no significance, it is important to ensure any replace shopfront respects and preserves the special interest of the Coney Street façade.

5.395 It is proposed to amend the frontage of 48 Coney Street to bring the shop window forward to the building plane and provide a surround in flat GRC. Whilst the dark colour of the GRC would have a complementary relationship with the black timber framing above, the spare effect would be rather blunt in comparison with the elaboration and the texture of the historic timber and plaster façade. The Conservation Officer notes that the historic window was framed with a moulded timber cornice (possibly hidden by lead flashing), pilasters and carved 'crouching man' brackets. It was recommended to reinstate these features, recessing a GRC fascia and framed shop window slightly within the recreated surround, to reintegrate the ground floor with the upper façade. In response, the Agent still proposes GRC however with more detailing to reference the original shopfront design. This is an improvement on the original plans. The decorative capitals are indicated however design will be developed and finalised at the next stage. These details can be covered by condition.

## Subdivision of rooms and renovation of basement

5.396 Internally, there is a significant amount of renovation and subdivision required, including bringing the basement into use. This is required to form the hotel rooms above the shop and creating a new restaurant area within the basement, however it is noted that this will have a negligible impact on the significance of the Listed Building.

5.397 Taking into account the amendments made, the proposal would aid in creating a viable use for the heritage asset whilst sustaining and enhancing the significance of the Listed Building and would preserve the character and appearance of the Central Historic Core Conservation Area, in compliance with paragraph 197 and 202 of the NPPF and policies D1, D4 and D5 of the Draft Local Plan (2018).

## Advertisements

5.398 With regards to the proposed advertisements these are considered acceptable and raise no amenity or safety issues. They are well proportioned and sited within the elevations. The concerns raised by the Highways Officer (with regards to overhang) have been withdrawn.

## 5.4 AMENITY AND FUTURE USERS OF THE BUILDING

### Policy

5.41 Policy ENV2 and Policy D11 seek to ensure amenity is protected both to neighbouring dwellings and future users of the building. Policy ENV3 relates to land contamination.

### Assessment

5.42 The site lies within the red area of the Cumulative Impact Area which is an area designated by City of York Council in its statement of licensing policy where evidence shows that the cumulative impact of the number and concentration of licensed premises continue to adversely affect residents, visitors and other businesses. With this in mind, the Environmental Health Officer raised concerns regarding noise from the proposed development in particular the openable windows, balcony and outside use of the premises for live music acts. These elements of the proposal have since been withdrawn from the application.

5.43 A scoping noise report has been carried out by Dragonfly Acoustics. This report considered the ambient and background noise levels at the facades of the nearest noise sensitive receptors around the site. The assessment was carried out over a suitable time period and the report proposes a BS4142 assessment to set noise limits on service equipment and also a BS8233 assessment for the noise impact from external sources upon the hotel rooms. These two assessments are welcomed and can be made a requirement with conditions.

5.44 The noise report, however, did not assess noise breakout from the premises and further noise reports will be required. The proposal includes the provision of a live music space in the basement. The Council requires a noise report to demonstrate that noise from this part of the building will not result in noise break out from the premises and also that there will be no vibration or noise from the



basement and the ground floor restaurant that will adversely affect the proposed hotel rooms.

5.45 The application is also for background music on the ground floor restaurant area. If the background music is very low key this should not pose any problems. However, if the music is louder than usual background music then this area of the premises will have to have a separating wall and doors so that the music is not audible beyond the site boundary. The partitions might not be sufficient.

5.46 Any noise assessment would have to include an assessment of music being played internally when any bi-folding doors or windows are both closed and open and it is likely that acoustic lobbies will be required. This could be incorporated into the noise report about noise break out and control from the premises. Noise from the proposed use can therefore be adequately controlled by conditions.

5.47 As the proposal involves restaurant use, the development will need to have an adequate control of odours and as the building has ample space, ventilation details can be controlled by condition. Opening hours and delivery hours are also to be conditioned in the interests of amenity.

5.48 The rooms are adequately sized for short-term stays. The majority of the hotel rooms have windows, however 10 rooms (out of the 64 rooms) are windowless. Whilst this is unfortunate, the intention is that these rooms would be for short-term stays and visitors should be made aware of this at their time of booking. This would be the hotel operator's responsibility. The lack of windows should not be a refusal reason on its own and a condition is recommended to ensure the hotel rooms are not used for permanent residential occupation.

5.49 The proposal is a change of use of the building including the erection of an extension on the roof. The roof extension given its siting and scale is not considered to cause any amenity issues with regards to overlooking, being overbearing or causing overshadowing, given the existing tight urban grain within this location.

5.491 An unexpected land contamination condition would be sufficient in this case to cover any potential contaminated land. Developers are responsible for investigating land contamination, cleaning up contamination and ensuring land is safe and suitable for its proposed future use.

## 5.5 HIGHWAYS, ACCESS AND PARKING

## Policy

5.51 Policy T1 of the Draft Local Plan seeks to ensure development proposals demonstrate safe and appropriate access. Development must provide sufficient convenient, secure and covered cycle storage. The policy recognises that some areas are restricted (such as foot streets) so criteria can be relaxed subject to sufficient justification. Policy T8 relates to demand management and improving the overall flow of traffic in and around the City Centre.

5.52 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 (paragraph 111 of the NPPF).

## Assessment

5.53 In terms of vehicular parking, none is proposed and given the city centre location within the footstreets it would not be expected. The site is in a highly sustainable location close to public transport links including buses and trains.

5.54 12 cycle parking spaces are proposed, the majority of which are likely to be used by staff. The cycle storage room is located close to the access and in a suitable position. A condition is recommended to secure further details of the cycle storage with regards to size, spacing etc. The Highways Officer calculated 39 cycle parking spaces would be required, alongside a commuted sums payment for under provision.

5.55 The background text to policy T1 advises “In applying this policy it is recognised that in some circumstances developments will not be able to achieve these criteria (for example, in heart of foot streets area), so they can, subject to sufficient justification of effective accessibility (including taxis) being submitted by a developer, be relaxed. Also some developments may be of a sufficient size to warrant a higher degree of accessibility than would otherwise be required for its location”.

5.56 The application site is in the heart of the city centre and is for the conversion of an existing building, with zero cycle parking spaces for the current use. The Local Planning Authority therefore consider that 12 cycle spaces are sufficient, taking into

account that the majority of the proposal is a change of use and a large proportion of the new use is hotel accommodation (for which cycle storage is unlikely to be high as tourists are unlikely to travel by bike). As such and in accordance with policy DM1 of the Draft Local Plan, in this case it would be unreasonable to ask for further infrastructure or costs in relation to parking when assessing the development as a whole and taking into account the existing building, its use and location.

5.57 Servicing of the building will continue via the existing entrance off Market Street, as is the case with the current retail use. It is expected the Apartment Hotel would communicate arrival arrangements to guests before arrival.

5.58 The Highways officer recommends conditions in relation to cycle parking details, gate opening and a method of works statement. These have been added and meet the tests within the NPPF. A travel plan condition is recommended by the Highways Officer however this has not been added because the proposal is a change of use, car parking is not proposed and the application site is located close to a range of sustainable transport methods which would be available for both staff and visitors/tourists.

## 5.6 ARCHAEOLOGY

### Policy

5.61 Draft Local Plan Policy D6 relates to archaeology. Development proposals that affect archaeological features and deposits will be supported where they are accompanied by an evidence-based heritage statement that includes a desk based assessment and, where necessary, reports on intrusive and non-intrusive surveys of the application site and its setting; including characterisation of waterlogged organic deposits, if present.

5.62 Development must not result in harm to the significances of the site or its setting. It should be designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk.

5.63 Where harm to archaeological deposits is unavoidable, detailed mitigation measures must be agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

5.64 City of York Council will develop, maintain and make available a comprehensive digital Historic Environment Record (HER) for the City of York for use by those preparing development proposals, community groups, academic researchers and students, and the general public in line with policy D9 of the Draft Local Plan (2018). Copies of all statements and reports on archaeological interventions and/or of historic buildings, whether pre- or post-determination, must be deposited with the City of York HER.

### Assessment

5.65 The application site lies within the Central Area of Archaeological Importance (AAI) and Central Conservation Area. Specifically, the plot under consideration was situated immediately outside of the Roman Legionary Fortress Eboracum in an area of extra-mural settlement.

5.66 Investigation in this area over the past 60 years has demonstrated the presence of nationally significant, well-preserved, stratified archaeological deposits dating from the Roman period onwards. A desk-based assessment has been produced and submitted with the application, however no intrusive investigation has taken place.

5.67 The site has high archaeological potential and is likely to contain archaeological deposits (potentially including organic preservation) and features of high importance from all periods. The extant building contains a basement which may have removed any medieval archaeology from the plot but it is possible that 11th-12th century organic deposits may survive beneath the building slab as seen at the former BHS site in 2019. Beneath this, Roman archaeological features and deposits are expected to survive.

5.68 The below-ground impact of the scheme includes the creation of three lift pits to basement level, the need for possible additional/strengthening of existing foundations and installation of services.

5.69 Provisional depths for the lift pits within the basement have been given as 1.3m. The two main lift pits are located side by side giving a proposed excavation area of 5.6m x 4.8m. A third platform lift in the basement will require a 1.6m x 1.7m pit to a depth of 0.75m. These lift shafts will require a substantial amount of archaeological excavation.

5.691 The floor of the basement has been recorded in the desk-based assessment as 10.11m and 10.76m AOD at the Coney St frontage. It is unclear what level the basement floor is at Market St.

5.692 The applicant has been given a strong warning about the lack of evaluation on this site. An evaluation of the resource beneath the basement slab is required. Given that the main impact on the archaeological resource will be the necessary installation of the lifts the focus will be on minimising the impact through changes to design rather than removal from the scheme.

5.693 The lifts need to be designed to ensure they are as shallow as possible. As the design of the scheme progresses in terms of the lifts and additional supporting foundations preservation in-situ of most archaeological deposits will be expected to be pursued.

5.694 A watching brief with excavation where necessary will need to take place on any ground disturbing works in areas outside of the basement footprint and on any GI works. The Archaeologist maintains the advice to the applicant to carry out a level of archaeological evaluation and any GI works as early as possible. Without any evaluation information, costs and timescales for any necessary archaeological excavation and post-excavation work cannot be provided and final designs for the scheme cannot be made. This brings an element of risk to the applicant.

5.695 City of York Council policy requires that at least 95% of the most sensitive archaeological deposits remain in-situ within a development boundary. The applicant will need to demonstrate how they intend to meet this threshold as removal of material below basement level (based on assumptions made regarding the archaeological resource) will count towards this total.

5.696 As the applicant has requested to carry out archaeological work under condition the information from the evaluation to inform the level at which significant archaeological features and deposits survive cannot yet be set. Therefore, currently, the 95% preservation in-situ policy will apply to all interventions below the current basement floor to the full lift shaft and pile cap depth. The applicant will need to ensure that they are able to meet these requirements before committing to implement the scheme. This may be revised once an evaluation has taken place.

5.697 With regards to additional foundations required, the Archaeologist urges the applicant to carry out archaeologically monitored GI works to inform their foundation requirements as soon as possible. Wherever possible, any additional stories should be constructed using existing foundations and basement slab.

5.698 To summarise archaeological matters, archaeological monitoring is required on any GI works. Archaeological evaluation is required ahead of finalising lift and foundation design. Both pieces of work should be carried out as soon as possible. One Written Scheme of Investigation (WSI) can cover all of the works. The Applicant is required to preserve at least 95% of the most significant archaeological resource in-situ. The Applicant should expect substantial archaeological costs associated with lift shaft excavation (and any other works) as post-excavation analysis of this material and publication will be required. These matters are covered by condition (the majority of which are pre-commencement).

## 5.7 ECOLOGY

### Policy

5.71 Policy GI2 of the Draft Local Plan (2018) relates to biodiversity and access to nature. Paragraph 174 (d) of the NPPF (2021) seeks to ensure development contributes and enhances 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.

### Assessment

5.72 The planning application is accompanied by a Preliminary Bat Roost Assessment provided by Wold Ecology LTD. The Ecologist has reviewed the submission and recommends biodiversity enhancement. The increased structural integrity of modern developments reduces the potential for birds and bats to use modern buildings for nesting and roosting therefore any new developments should integrate a variety of bird and bat boxes. A condition is recommended to secure biodiversity enhancement in this respect.

## 5.8 WASTE

### Policy

5.81 Policy WM1 of the Draft Local Plan (2018) requires the integration of facilities for waste prevention, re-use and recycling in association with the planning of new development. The policy promotes opportunities for on-site management and recycling of waste where it arises at retail locations particularly in the main urban area.

### Assessment

5.82 Waste will need to be arranged via a commercial waste collection for all uses. A refuse store is provided at basement level. A waste room is provided at mezzanine level at the delivery entrance. A condition is recommended to ensure these are in place prior to first use of the development. An informative is to be attached to remind/inform the applicant of their responsibility to arrange commercial waste collection. It would be the Applicant's responsibility to arrange collections and ensure this is in the correct place on collection days.

## 5.9 DRAINAGE

### Policy

5.91 Draft Local Policy ENV4 relates to flood risk. Policy ENV5 requires sustainable drainage and states that for all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate (i.e. 30% reduction in existing runoff), unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff.

### Assessment

5.92 In this case the development is primarily a change of use. The site lies within flood zone 1. It is acknowledged that the developer is unlikely able to demonstrate a 30% reduction in surface water run-off. The Flood Risk Management Team have no objections to the proposed drainage arrangements. Yorkshire Water have not responded to the consultation request.

## 5.10 SUSTAINABILITY

### Policy

5.101 Policy CC2 of the Draft Local Plan (as modified) seeks to ensure proposals for non-residential conversions or change of use achieve BREEAM Non-Domestic Refurbishment and Fit Out 'Excellent' rating as a minimum.

### Assessment

5.102 The application is accompanied by an Energy and Sustainability Statement prepared by eb7 LTD. It is proposed that carbon emissions are reduced by more than 54% of the baseline model and a commitment to purchasing 100% renewable energy has been made to account for the remaining energy required in operation. BREEAM 'Excellent' standard is expected to be achieved. This can be conditioned.

## 5.11 ACCESSIBILITY

5.111 Paragraph 92 and paragraph 130 (f) of the NPPF seeks to ensure planning decisions achieve healthy and inclusive places which are safe and accessible by all. This is supported by Policy DP3 of the Draft Local Plan (2018) which seeks to ensure new development provides accessible facilities and services in a planned manner which complements and integrates with existing facilities.

5.112 With regards to accessibility Part M compliant lifts are proposed for the hotel, alongside accessible rooms and disabled refuge on all floors. There is level access at the site entrances off Market Street and Coney Street. The hotel lift will cover all levels including the basement. 3 accessible studios are proposed which are over 30m<sup>2</sup> and are wheelchair accessible. This accounts for 5% of the overall mix of studios. A lift will also be provided for the café/restaurant which will cover the ground floor and basement and this will operate independent to the hotel lift. It is considered that the development has adequately considered inclusive design.

## 5.12 SECTION 149 OF THE EQUALITY ACT 2010

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 a relevant protected



characteristic and persons who do not share it.

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 that 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.

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.

Officers have given due regard to the equality implications of the proposals in making its recommendation. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

## **6.0 CONCLUSION**

6.1 To conclude the general principle of the new uses can be supported and will preserve and enhance an important section of the Primary Shopping Area in York City Centre. A mixed use will deliver and enhance the daytime and night-time economy, whilst providing tourist accommodation in a highly accessible location. The principle of development therefore accords with paragraphs 81 and 86 of the NPPF, and policies R1, R2, SS3 and EC4 of the Draft Local Plan (2018).

6.2 Taking into account the amendments made (to the design of the shopfront and roof extension), the proposal would aid in creating a viable use for the heritage asset whilst sustaining and enhancing the significance of the Listed Building and would preserve the character and appearance of the Central Historic Core Conservation Area, in compliance with paragraphs 197 and 202 of the NPPF and policies D1, D4 and D5 of the Draft Local Plan (2018).

6.3 Technical matters such as archaeology, cycle parking, noise, opening hours, ecology, waste and sustainability can be adequately addressed by condition. Overall, in applying the approach to decision-making established in the NPPF approval is recommended subject to conditions.

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

Location Plan; job number 21044, drawing number 0001, revision P0, dated 04.11.2022.

Proposed Site Plan; job number 21044, drawing number 1000, revision P1, dated 20.01.2023.

Proposed Basement Floor Plan; job number 21044, drawing number 1099, revision P1, dated 04.11.2022.

Proposed Ground Floor Plan; job number 21044, drawing number 1100, revision P2, dated 25.04.2023.

Proposed First Floor Plan; job number 21044, drawing number 1101, revision P2, dated 25.04.2023.

Proposed Second Floor Plan; job number 21044, drawing number 1102, revision P2, dated 25.04.2023.

Proposed Third Floor Plan; job number 21044, drawing number 1103, revision P2, dated 25.04.2023.

Proposed Roof Plan; job number 21044, drawing number 1104, revision P3, dated 13.06.2023.

Proposed West and South Elevation; job number 21044, drawing number 1300, revision P1, dated 25.04.2023.

Proposed Detailed South Elevation; job number 21044, drawing number 1303, revision P1, dated 25.04.2023.

Proposed Detailed West Elevation; job number 21044, drawing number 1302, revision P1, dated 25.04.2023.

Proposed East and North Elevations; job number 21044, drawing number 1301, revision P2, dated 13.06.2023.

Proposed Sections; job number 21044, drawing number 1500, revision P3, dated 13.06.2023.

Proposed Market Street Façade Details - Sheet 1; job number 21044, drawing number 1304, revision P0, dated 25.04.2023

Proposed Market Street Façade Details - Sheet 2; job number 21044, drawing number 1305, revision P0, dated 25.04.2023.

Proposals to Interior of Coney Street Façade; job number 21044, drawing number 1110, revision P0, dated 25.04.2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 The development hereby permitted at first floor, second floor and third floor shall only be used for C1 use only and not for any other residential use falling within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Statutory Instrument revoking and re-enacting that Order with or without modification. For the avoidance of doubt 'any other residential use' includes a person's or persons' main residence, or a permanent residential unit of accommodation.

Reason: To enable the Local Planning Authority to regulate and control the development of land, having regard to policy EC4 of the Draft Local Plan (2018). The Local Planning Authority is of the opinion that the proposed use of the building / premises for the purpose(s) specified is appropriate in this location, having due regard to all material planning considerations, but other uses may not be acceptable to the Local Planning Authority in this location and should be the subject of a separate planning application to be considered on its own planning merits.

4 Details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction external works hereby permitted and the works shall be carried out in accordance with the approved details;

- a) Large scale drawings of windows and doors (1:5 or 1:10)
- b) Details of bracket design to Coney Street shop front

Reason: In the interests of good design and ensuring the materials are suitable for the heritage asset, in accordance with chapter 12 and chapter 16 of the NPPF.

5 Prior to the commencement of the external construction of the walls of the development hereby approved a sample panel of the type of brick to be used showing the proposed colour, texture, mortar and bonding shall be erected on the site for the written approval of the Local Planning Authority. Development shall be carried out in strict accordance with the approved details and the sample brickwork panel shall be retained on site during the period of construction of all external walls that are constructed in brick.

Reason: In the interests of good design and ensuring the materials are suitable for the heritage asset, in accordance with chapter 12 and chapter 16 of the NPPF.

6 Before the first use of any materials in the external construction of the roof of the development hereby approved, a slate sample shall have been made available for inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: In the interests of good design and ensuring the materials are suitable for the heritage asset, in accordance with chapter 12 and chapter 16 of the NPPF.

7 Before the first use of GRC hereby approved, a GRC sample shall have been made available for inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: In the interests of good design and ensuring the materials are suitable for the heritage asset, in accordance with chapter 12 and chapter 16 of the NPPF.

8 A programme of post-determination archaeological evaluation and anticipated mitigation excavation/ watching brief as appropriate is required.

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

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

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

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

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

E) No development shall take place until:

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

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

Reason: The site lies within an Area of Archaeological Importance. 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.

9 A foundation design and lift pit design which preserve 95% of the archaeological deposits is required for this site.

A) No development shall commence until a foundation and lift shaft design and statement of working methods which preserve 95% of the archaeological deposits on the site has been approved in writing by the Local Planning Authority. The method statement will include information on dealing with obstructions to piles where appropriate and specification of a level in mAOD (identified following

evaluation) below which no destruction or disturbance shall be made to archaeological deposits except for that caused by the boring/auguring of piles.

Reason: The site lies within an Area of Archaeological Importance which contains significant archaeological deposits. The development must be designed to preserve 95% of the archaeological deposits within the footprint of the building. This condition is imposed in accordance with Section 16 of NPPF and City of York Historic Environment Policy HE10.

10 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief during GI work is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

A) No GI work shall take place until a written scheme of investigation (WSI) for a watching brief has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

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

C) A copy of a report shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 2 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 Importance and the development may affect important archaeological deposits which must be recorded prior to destruction.

11 Prior to the development commencing details of the cycle parking areas (to accommodate 12 cycles), including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent

roads and in the interests of the amenity of neighbours.

12 No gate or door shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

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

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- a dilapidation survey jointly undertaken with the local highway authority;
- the routing for construction traffic that will be promoted;
- a scheme for signing the promoted construction traffic routing;
- where contractors will park; and
- where materials will be stored within 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.

14 Prior to commencement of development, a biodiversity enhancement plan/drawing shall be submitted to and be approved in writing by the Local Planning Authority. The plan should include, but not be limited to the recommendations set out in the Preliminary Bat Roost Assessment provided by Wold Ecology Ltd (September 2021). The approved works shall be carried out in accordance with details shown on the approved enhancement plan/drawing.

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

15 Prior to first use of the premises for the purposes hereby permitted, provision shall be made for the storage of refuse bins within the site in accordance with details shown the approved site plan and floorplans previously submitted to and approved in writing by the Local Planning Authority. Such approved details shall thereafter be retained and maintained in perpetuity.

Reason: In order to provide satisfactory provision of on-site refuse bin storage to ensure that any impact upon visual and residential amenity is kept to a minimum, having regard to Policies WM1 of the Draft Local Plan (2018).

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

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014+A1 2019, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

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

17 No development shall take place until a detailed scheme of noise insulation measures for protecting the approved hotel use from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To protect the amenity of people residing in the hotel accommodation from externally generated noise and in accordance with the National Planning Policy Framework.



18 18. No development shall take place until a detailed scheme of noise insulation measures for protecting the hotel accommodation above this proposed development from noise internally generated by the proposed bar/restaurant use and live music venue use in the basement, has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works the bar/restaurant and live music venue use shall not commence until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To protect the amenity of people above the proposed use from internally generated noise and in accordance with the National Planning Policy Framework.

19 No development shall take place until a detailed scheme of noise insulation for the building envelope of the commercial premises (the bar/restaurant/Live music venue) within the site has been submitted to and approved in writing by the Local Planning Authority. This shall include measures for protecting the residential accommodation in the near vicinity outside of the premises from noise break out internally generated by the proposed bar/restaurant use of the ground floor and the live music venue use of the basement. Upon completion of the insulation scheme works the bar/restaurant/live music uses shall not commence until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents the proposed use from internally generated noise and in accordance with the National Planning Policy Framework.

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

Reason: To safeguard the amenity of neighbouring properties and to secure compliance with Policy ENV2 of the Draft Local Plan (2018).

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

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

22 Upon completion of the development, delivery vehicles and waste removal vehicles to the development shall be confined to the following hours:

Monday to Friday 08:00 to 18:00 hours

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

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

23 The uses hereby permitted shall not be open to customers outside of the following hours;

Restaurant:

Sunday - Thursday 11:00 hours - 22:30 hours

Friday and Saturday 11:00 hours - 23:00 hours

Shop:

Sunday - Thursday 09:00 hours - 23:00 hours

Friday and Saturday 09:00 hours - 00:00 hours

Bar:

Sunday - Thursday 11:00 hours - 23:00 hours

Friday and Saturday 11:00 hours - 01:00 hours

Coffee Shop:

09:00 hours - 17:00 hours each day

Reason: To ensure there is no detrimental effect upon the amenities of the area.

24 The accessible rooms as shown on the approved floors plans shall be provided and shall remain as such at all times.

Reason: To provide a development that is accessible by all in accordance with local plan policy HW7: Healthy Places.

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

A Post Construction Assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate submitted to the Local Planning Authority within 6 months of first occupation (unless otherwise agreed).

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

26 LC4 Land contamination - unexpected contam

## **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:

- Revisions to design to overcome Conservation Officer's and Environmental Health Officer's concerns.
- Shared draft list of recommended conditions.

### **2. NESTING BIRDS - INFORMATIVE**

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

### **3. INFORMATIVE:**

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171 - Vehicle Crossing - Section 184 - (01904) 551550 - streetworks@york.gov.uk

Pavement Cafe Licenc - Section 115 - Annemarie Howarth (01904) 551550 - highway.regulation@york.gov.uk

4. It is recommended that the applicant refers to the updated Guidance produced by EMAQ in September 2018 titled "Control of Odour and Noise from Commercial Kitchen Exhaust Systems (September 2018)" for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with APPENDIX 3 of the EMAQ guidance shall then be undertaken to determine the level 5 of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

5. As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should contact by email at public.protection@york.gov.uk or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc."

#### 6. WASTE - INFORMATIVE

As the proposal involves the running of a business, any waste arising from this business is subject to a duty of care under Section 34 of the Environmental Protection Act 1990, including waste created by guests. As someone who will be producing and disposing of controlled waste, arrangements will be required for the storage of any waste arising from the business. Further information is therefore required on how this waste will be stored pending lawful disposal. Business waste must be disposed of via an authorised waste carrier or taken to a site authorised to accept it. It is unlawful to dispose of commercial waste via the City of York Council's domestic waste collection service. Further information can be found at [www.gov.uk/managing-your-waste-an-overview](http://www.gov.uk/managing-your-waste-an-overview)

#### **Contact details:**

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**Tel No:** 01904 555848