

# COMMITTEE REPORT

**Date:** 24 October 2024      **Ward:** Guildhall  
**Team:** East Area      **Parish:** Guildhall Planning Panel

**Reference:** 22/02525/FULM  
**Application at:** Site Of 19 To 33 Coney Street York  
**For:** Redevelopment of 19 to 33 Coney Street, land to rear of 35 to 37 Coney Street and 39 Coney Street to 2 Spurriergate comprising conversion of retained buildings and new build elements of 3 to 6 storeys to create commercial/business/service floorspace (use class E), purpose-built student accommodation (sui generis) and public realm works including riverside walkway, landscaping and access further to partial demolition of buildings  
**By:** Helmsley Securities Limited  
**Application Type:** Major Full Application  
**Target Date:** 29 September 2023  
**Recommendation:** Approve subject to Secretary of State Decision

## 1.0 PROPOSAL

### The site

1.1 This application relates to a number of existing properties in Coney Street, namely 19-33 Coney Street and 39-43 Coney Street / 2 Spurriergate which also backs on to the river Ouse (referred to as Zone 2, 3 and 4). There is a separate application for Zone 1 pending recommendation.

1.2 Coney Street is a historic location within York as a hub for trade and commerce and it provides primary retail frontages within the city centre (defined as a primary shopping street in the Draft Local plan 2018). Zone 2 contains three retail units and office/ancillary spaces for the retail uses. Zone 3 consists of five small to medium sized retail units fronting onto Coney Street. Each plot has small, private external space backing onto river and basement for storage. The majority of upper floorspace is used as ancillary offices, storage and other ancillary retail functions. Zone 4 comprises two larger retail units, with no external space. Upper floorspace is utilised for retail and ancillary uses.

1.3 The site extends from Coney Street to the river Ouse and is composed of narrow deep shaped plots with mostly retail uses. The site includes historically

Application Reference Number: 22/02525/FULM      Item No: 5a

varied buildings which have been altered and extended piecemeal, with unattractive and inactive frontage onto the riverfront. Many upper floors are vacant or provide ad hoc storage for the retail premises. The river frontage character is irregular and reflects back-of-house service area uses of Coney Street retail.

1.4 Key designations that apply to the application site are set out below:

- Coney Street is identified as a primary retail frontage in the Draft Local Plan 2108.
- The site lies within the City Centre Area of Archaeological Importance (AAI) and
- The site lies within the Central Historic Core Conservation Area (CA) – sub area Main Shopping Area.
- The rear of the site is within flood zone 2 or 3 and the Coney Street frontage is in flood zone 1.

1.5 The three zones within the application site comprises:

Zone 2	19 Coney Street - Building of Merit
Zone 3	21 Coney Street - Building of Merit 23 Coney Street - Grade II Listed 25-27 Coney Street - Grade II Listed 29 -31 Coney Street 33 Coney Street - Grade II Listed
Zone 4	39 - 41 Coney Street - Grade II Listed 43 Coney Street – 2 Spurriergate – identified as a detractor in the Council’s CA appraisal.

1.6 There are properties between zones 3 and 4 outside the applicant’s ownership which are not included in this application.

## The Proposed Development

1.7 The proposal comprises the conversion of retained buildings, partial demolition of buildings, and new build elements of 3 to 5 storeys to create -

- Commercial/business/service floorspace - 3,884 sqm GIA in 12 units.
- Purpose-built student accommodation (PBSA) – 358 bedrooms. The PBSA will also comprise communal amenity space such as common rooms, lounges, a cinema room, gym, yoga studio, quiet study rooms, café space and external amenity space.

- Access to the riverside from Coney Street/Spurriergate
- Public realm including Waterloo Place and a riverside walkway.

Zone 1 (not in this application)

Zone 2 (19 Coney Street)

- Retention and refurbishment of existing retail floorspace (circa 1,228 sqm GIA) at ground floor.
- Rationalisation of the fenestration including improvements to the principal elevation including shopfront alterations and student accommodation entrance door in Coney Street.
- Conversion of the upper floors to create 85 student rooms.
- Creation of a rooftop amenity garden.
- Creation of public realm including a riverside walkway.
- Associated access, plant, bin and cycle stores.

Zone 3 (21-33 Coney Street)

- Demolition of 29-31 Coney Street (unlisted) and 'modern' rear extensions at Nos. 21, 23 (grade II listed), 25 (grade II listed), 33 (grade II listed).
- Retention and refurbishment of existing retail floorspace (circa 784sqm) at ground floor fronting Coney Street and conversion of upper floors for student accommodation (c. 1094sqm GIA) at Nos. 21, 23 (grade II listed), 25 (grade II listed), 33 (grade II listed).
- A courtyard is provided at the rear of the retained buildings and a new block ranging from 3-5 storey is created, fronting the riverside, with leisure uses at ground floor and PBSA on the upper floors.

Zone 4 (39-43 Coney Street)

- Demolition of 43 Coney St (Boots) and rear section of 39-41 (WH Smith).
- Retail units facing Coney Street and Waterloo Place (658 sqm GIA)
- Leisure units on the riverside elevation (811 sqm GIA). Student rooms on the upper floors. New build is 5-6 storey in height.
- Zone 4 also includes new public realm leading down to the river Waterloo Place and a riverside walkway.

1.8 A phasing plan shows zones 2 and 3 delivered first, followed by phase 4.

1.9 Revisions through the process have involved the following:

- Reduction in scale and mass resulting in fewer student bedrooms reduced from 407 to 358.
- In Zone 3 the central riverside block (rear of 25 Coney St) reduces in scale by 2 storeys. Across the entirety of Zone 4, the top storey has been omitted.

## **Whether EIA (Environmental Impact Assessment) development**

1.10 The development is not regarded to be development that requires an EIA.

1.11 A relevant threshold in the regulations is met (over 150 dwellings) and therefore the Council should determine whether the scheme is likely to have significant effects on the environment. The possible significant effects in this case relate to locational factors; the impact on archaeology, listed buildings and the Central Historic Core Conservation Area.

1.12 National planning guidance (NPPG) advises only a very small proportion of Schedule 2 development will require an EIA. To aid local planning authorities to determine whether a project is likely to have significant environmental effects, the NPPG includes a set of indicative thresholds and criteria. The scale of the development is below those in the indicative screening thresholds. In terms of archaeology the applicant has undertaken pre-application advice and site investigation and monitoring to aid in understanding the potential effects. The Council is content mitigation could be dealt with through the planning process and an EIA is not necessary. The scheme is not of a scale and nor does it have significant effects on listed buildings and conservation areas or other criteria to the extent that an EIA is required.

## **Planning History**

1.13 Planning policy guidance encourages developers to engage with the local planning authority and third parties prior to submitting a planning application. As well as discussions with officers, the developer has engaged with key stakeholders including York Civic Trust, Make It York and the York and North Yorkshire LEP.

## **2.0 POLICY CONTEXT**

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). 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. There is no Neighbourhood Plan for the area the application site is within.

2.2 In accordance with Section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in exercising its planning duties. Section 66 of the same Act requires the Local Planning Authority to have special regard to preserving the setting of listed buildings or any features of special architectural or historic interest it possesses. Where there is found to be harm to the character or appearance of the Conservation area (or the setting of a listed building,) the statutory duty means that such harm should be afforded considerable importance and weight when carrying out the balancing exercise.

2.3 The National Planning Policy Framework (NPPF) sets out the government's planning policies for England and how these are expected to be applied. The NPPF is supplemented by national planning practice guidance (NPPG).

2.4 The Publication Draft Local Plan 2018 (DLP 2018) was submitted for examination on 25th May 2018. It has now been subject to examination and is expected to be adopted late 2024/early 2025. The DLP 2018 policies can be afforded weight in accordance with paragraph 48 of the NPPF. Of relevance to this case policy H7: Student Housing has been subject to modifications and is subject to objections.

2.5 Key relevant DLP 2018 policies are:

- DP2 Sustainable development
- DP3 Sustainable communities
- DP4 Approach to development management
- SS1 Delivering sustainable growth for York
- SS3 York city centre
- EC2 Loss of employment land
- HW7 Healthy places
- H2 Density of housing development
- H7 Student housing
- D1 Placemaking
- D2 Landscape and setting
- D4 Conservation areas
- D5 Listed buildings
- D6 Archaeology
- D7 The significance of non-designated heritage assets
- D10 York city walls and St Mary's abbey walls
- GI6 New open space provision
- CC2 Sustainable design and construction of new development

ENV1 Air quality  
ENV2 Managing environmental quality  
ENV3 Land contamination  
ENV4 Flood risk  
ENV5 Sustainable drainage  
T1 Sustainable access  
DM1 Infrastructure and developer contributions

## **3.0 CONSULTATIONS**

### INTERNAL

#### **City Development / Local Plans team**

3.1 Proposed commercial units – no objections as overall the scheme is seen as positive economically. The proposals will reduce the number of retail units in the city centre primary shopping area but will provide new hospitality and leisure units and repurposing of upper floors. There is continuing demand for larger units in the primary shopping area, including live enquiries from current occupiers who would be displaced by the development; we encourage the applicants to consider providing larger units as part of the development to ensure that York’s mix of independents and chains is maintained.

3.2 Regeneration and reconfiguration of the site - The development principles set out in policy SS3 for the city centre are broadly achieved through the site’s redevelopment, including improved permeability between and opening up of the river frontages. There would be a significant benefit of opening up riverside access. The proposals also address some of the challenges inherent in making better use of city centre properties – where access and accessibility to upper floors, which are often under-utilised, has been a significant challenge. The opportunity to diversify the use of property, even along this key city centre retail street, by creating valuable upper floor use is welcome, and fits with ‘Our City Centre’ Vision, recently endorsed by Executive.

3.3 Student Accommodation – Policy H7 requires a need for student accommodation is demonstrated. It is accepted there remains an unmet need for purpose-built student accommodation in York.

#### **Carbon Reduction Team**

3.4 York has set the target of achieving Net zero Carbon by 2030, to do this the development of new residential and non-residential properties will need to make efforts to reduce carbon emissions. Officers therefore request conditions in accordance with DLP 2018 policy CC2 –

- A reduction of carbon emissions compared to building regulations.
- A reduction in dwelling emission rate compared to building regulations (to achieve a more energy efficient building fabric).
- Water consumption rate below building regulation requirements
- BREEAM Excellent

### **Design & Conservation – Archaeology**

3.5 Recommend conditions. Reports on 6 months of monitoring have been issued and on-site investigations to inform the proposed mitigation. High quality Roman archaeology exists beneath basement floors which is classed as a designated heritage asset in NPPF terms. The monitoring shows the condition of the archaeology is in decline.

3.6 Recommended conditions -

- WSI for second phase of archaeological evaluation.
- Mitigation following evaluation (archaeological remains management plan submitted, implemented and final report to be issued).
- Foundation design to preserve at least 95% archaeology in-situ.
- Works to riverside wall – to ensure that the hydrological link between archaeological deposits and the river is maintained to allow preservation of organic archaeological deposits and surviving features.
- Hydrological monitoring – to preserve waterlogged deposits.
- Photographic recording of listed buildings and buildings of merit.

### **Design & Conservation – Conservation**

Impact on listed buildings

3.7 The most recent revisions have further improved the setting and sustainable use of the listed buildings within the application site. The revised drawings show retention of front windows to retained buildings (it was initially proposed to replace some with windows of different dimensions). The fire strategy for 39-41 should be subject to a condition to ensure minimum impact on historic fabric. Officer note – a fire strategy and audit of interior showing retained features would be conditions of the companion Listed Building Consent.

3.8 Less than substantial harm is identified to the setting of Grade II listed 4 Spurriergate. Avoiding demolition of 43 Coney Street (and associated need to open the whole area above the below-ground sewer) in favour of a snickleway connecting to the river would have been preferable as far as the setting of 4 Spurriergate is concerned.

### Conservation Area

3.9 Officers identify low to medium harm to the conservation area due to the proposed demolition and comprehensive development of rear plots. The proposed townscape does not preserve or enhance the character of appearance of the Central Historic Core Conservation Area (CA) (because it does not respect historic plot shapes and the urban grain).

3.10 Urban grain - The proposal merges all plots, in groups of 3-4. Whilst a change, this is not uncharacteristic; (at the site) Nos. 23-24, 25-27 and 35-37 Coney Street (this leaves the unlisted 29-31 & Grade II 33 where leisure unit 3 is proposed), as well as later development along the riverfront, set a precedent for merging deep building plots. That said, historically, merged plots reinforced their boundary lines and retained the relationship between river and street. The proposal emphasises the river front by merging built mass and roofscapes across the historic plotlines but leaving the depth of the plots empty (i.e. introducing courtyards). The resulting urban grain runs perpendicular to the historic one (of deep building plots running down to the river) and it seems alien to the CA.

3.11 Massing – To respect the existing townscape between Coney Street and the river and preserving wider views (due to the current massing of buildings on the riverside, this arrangement affords wider views of the varied roofscape; a strong positive characteristic of the central historic core CA, as identified in the area appraisal) generally 4 storey along Coney Street and a careful mix of 4-5 storey along the riverside (taking into account topography and lower ground levels closer to the river) was recommended. The existing river front building in Zone 4 (Boots) is noted as a detractor in the CA character appraisal. Whilst the reduced roof heights of the proposed Zone 4 still somewhat exceed expectations, the overall design and the setting back of the building from the riverfront is a visual improvement; on balance, agree that the impact on the CA of this element is minor.

### **Design & Conservation – Design**

3.12 The proposal was previously assessed (comments 09/02/2024) as having substantial harm to the conservation area (CA). These harms are reassessed



following submission of the current scheme. The harm to the CA is now regarded as being in the mid-range of less than substantial. Despite the improvements of the current scheme officers are unable to support the proposal on architectural design, master-planning, and CA grounds. This is not considering any public benefits (which should be weighed against harm when assessing the scheme according to the NPPF).

## Urban Grain

3.13 The rear of buildings in zone 3 are late 20<sup>th</sup> century extensions. The plot subdivision loss remains in the scheme, by organising space planning of the riverfront new build at right angles to historic grain crossing all historic plots with single floor slabs on upper floors. The reduction in massing of the current scheme has helped make the external architectural expression of a row of plots look more convincing, because of more dramatic height variation. In Zone 4 current building WH Smiths has combined two former rear plots into one. The current Boots building combined four into one (although it's a bit hard to tell as plot development is complex). The proposal goes further in combining all into one floorplate on upper levels, albeit losing some building footprint in creating new Waterloo Place. The proposal is therefore an erosion of important historic townscape character. The fact that important character is already eroded makes the character more precious to retain and/or repair.

3.14 Proposed new road Waterloo Place is uncharacteristically even wider than Coney St, rather than the more modest back-route scale it should be to reflect historic character/pattern. Its width is generated out of an easement that materialises once the existing Boots building is demolished, awkwardly exposing a long blank side elevation that was never meant to be revealed as it slices down to the river. It coincidentally needs to be this wide to achieve adequate daylight when flanked by proposals of this height. So, if we accept that Boots demolition is an intrinsic economic part of this proposal, we accept the nature of new Waterloo Place as proposed and it can be seen in some ways as a version of Duncombe Place or Parliament Street. For the public there are substantial benefits of making new public spaces and these would be legible wide spaces that should feel genuinely public, subject to confirmation on any private seating spaces etc. Officer note – a legal agreement would be imposed to approve extent of public access.

## Massing

3.15 A middle section of the proposed riverfront building has reduced by two floors in the current scheme. This tips the balance so there are more lower forms than high

forms. This has beneficial impacts. The large parts are still unusually tall when considering the whole of the varied riverfront here, but they have a benefit of softening to a degree the current crude slab like at the edge of the site (rear of Next) by roughly flanking its height with more articulated forms.

3.16 In Zone 4 in the current scheme a floor has been removed from the riverside elevation, the southern block has changed in material and massing is more articulated. These amendments make the development appear less monolithic and it better respects the choppy sea of pitched roofs found in the conservation area.

#### Townscape / Riverside views

3.17 If accepting a development of this size, the architectural proposal has many good qualities and the huge complexity of the ambition is admirable. There are not concerns by the regular rectangular shape of the riverside elevation. How the whole riverside composition appears between the two bridges, and in this an addition of a section of rectangular shape (without parallel pitch roof or gable front) is appropriate.

#### Overall roof treatment

3.18 Whilst pitched roof looking from the outside there are large areas of flat roof. These should probably be brown or pebble finished to colour coordinate with a unifying grey of slate mansard style top floor. Officer note – roof materials would be subject to approval on both conservation and ecology grounds.

### **Design & Conservation - Ecology**

3.19 The development will be beneficial to local ecology, through the provision of green roofs and soft landscaping. It is however recommended that the applicant continues to work with a consultant ecologist to ensure the ecological enhancements recommended within the Ecological Appraisal (refer to section 8.0 Species Appraisal) are included with the final design.

3.20 Due to the proximity of the River Ouse and the complexity of the site's built environment, the provision of a construction management plan (CEMP) is recommended to minimise and mitigate the potential impacts of construction works on ecology.

3.21 Although the proposed work is to take place in phases, a site wide CEMP is required to ensure and on-going ecological constraints and bordering features, such as the River Ouse, are afforded appropriate protection. It is also recommended that

the CEMP is viewed as a working document and is reviewed and updated per phase to ensure its relevancy.

3.22 Lighting - with the aim of maintaining and improving foraging and commuting habitats for bats, limiting light spill onto the River Ouse and protecting new ecological features, a sensitive lighting scheme should be incorporated.

## **Design & Conservation – Landscape**

3.23 All the riverside tree planting would need to be in planters (due to the riverside wall and required flood water storage provided below the river walkway). Officer note - trees can be accommodated without planters along Waterloo Place outside of the sewer easement. Unfortunately, this means that the trees would not attain a substantial mature size. The scale of the trees would therefore be relatively small compared to the existing Hornbeam and other trees on this part of the river that have recently been removed. Officers had recommended that the number of trees could compensate for the loss, specially of the Hornbeam which has a TPO, but since concept stage the number of trees proposed along the riverside has reduced slightly.

3.24 The riverside 'space' is linear, parallel with, and sandwiched in between, the building blocks and the river. It would perform better as garden space relating to historic plots if the spaces were more generous. Deeper gardens moving up the slope would also allow more substantial tree planting.

3.25 In terms of the scheme more details of planting and maintenance would be required.

- Zone 3 is adequate as a riverside walkway with seating.
- Zone 4 riverside space has deteriorated since the last iteration – both aesthetically and functionally; and in its relationship with the scale of the proposed building.
- The level changes along Waterloo Place are simplified to better effect (boulders within the landscaping are not necessary & omission recommended).

## **Lead Local Flood Authority**

3.26 No objection subject to conditions which require; provision of mitigation measures (detailed in the flood risk assessment) to prevent increased flood risk elsewhere; no surface water discharge until the approved surface water drainage scheme is approved and installed; approval of detailed drainage strategy.

## **Highway Network Management**

3.27 Officers raised objections as follows –

- Disabled parking provision is adequate in amount but the space requires multiple changes of gear to access. Officer note – this is an existing space and access between buildings; there is no scope to provide any more manoeuvring space and no other land at the site for car parking as the site is developed and in the footstreets.
- Cycle parking - 60% provision is proposed. This is accepted as initial provision but whilst the plans show room additional spaces (subject to demand) it does not show how many additional spaces could be provided. It is queried if the lift in zone 4 would be functional as doors are on different sides.

## **Housing Strategy**

3.28 In accordance with the proposed Local Plan Policy H7: Off Campus Purpose Built Student Housing, an affordable housing off site contribution would be required for this application. Officers advise on the formula and for 385 student rooms the contribution would be £2,295,370.

## **Public Protection**

3.29 No objection subject to conditions on the following

- Further information and approval of the sound insulation between the ground floor retail/leisure use and first floor residential.
- Further information on noise levels from any external plant/machinery and approval of necessary mitigation measures
- Construction Environmental Management Plan (CEMP),
- External lighting
- Site investigation works and any required remediation of the land contamination
- Submission and approval of details of extraction plant or machinery for treatment of cooking odours from any commercial units.

## **Sport & Leisure / public realm**

3.30 No objection and no contributions sought. Advise the Council have not typically sought open space related contributions when schemes have provided an

element of open space and/or public realm. This scheme provides a sufficient degree of open space, including new public realm.

## EXTERNAL

Consultation was carried out on the revised plans in May 2024

### **Active Travel England**

Recommend approval subject to conditions regarding the cycle parking provision.

3.31 Advise they would be in support of a commuted payment, if sought, to provide on-street cycle parking nearby. Officer note – the scheme already shows 14 cycle spaces provided in Waterloo place. A commuted sum is not sought in this case as such provision is not explicitly required under the DLP 2018 and in any event it would not be possible to accommodate stands outside the site reasonably close to the site in Coney Street due to servicing requirements.

### **Council for British Archaeology (amenity society)**

Object (to superseded scheme).

3.32 The designed use of around 400 student lets is dictating an architectural form that would create an unjustified level of harm which could be reduced by creating a less intensive mix of residential uses on the upper floors of the listed buildings specifically, but also across the site. The viability of this, compared to less impactful strategies of future residential use, should be established to justify the level of harm to the listed buildings on Coney Street and the conservation area.

3.33 The historic grain of the Central Shopping Area character area of YCHCCA is fundamental to its significance within the city in its legibility of the historic use and development of Coney Street and its relationship to the river for trade and commerce. This is identifiable from the long linear plots running between Coney Street and the river and the clear distinction in character between the front and rear of plots. Development that cuts across these lines harms this character and future legibility of the area's historic grain. To limit the effects on the significance of this row of listed buildings and buildings of merit, changes to floor prints should:

- Retain the possibility to read and to experience historic boundary lines.

- Enable long-term, resilient uses. The resulting units should be able to be utilised for other residential purposes without significant alterations and further loss of historic fabric. Conjoining listed buildings should be minimised to conserve their significance as independent plots and future proof versatility into the domestic use of the upper floors.

## **Environment Agency**

No objection subject to a condition

3.34 No objection subject to a condition requiring the development and proposed flood mitigation is carried out as set out in the submitted Flood Risk Assessment. The EA also requires the applicant be made aware of the requirement for environmental permitting.

## **York Conservation Area Advisory Panel**

No objection

3.35 Welcome the major changes to the proposed development including the reduction in scale of some of the buildings, the better mix of pitched and flat roofed buildings and the improved modelling. It was considered that the majority of the comments & recommendations made at its meeting in December 2023 have been accommodated.

## **Guildhall Planning Panel**

Object (comments dated Feb 2023 and prior to submission of latest scheme).

3.36 Zone 4 buildings are 1 or 2 storeys too high). Asked for improved articulation at the corner between Coney Street and newly created Waterloo Place. Officer note – the revised plans do reduce the building heights in zone 4 and reconsider corner articulation between Coney Street and Waterloo Place.

3.37 Accommodation mix – prefer to see some residential units in addition to student accommodation and smaller commercial units for independent traders.

3.38 Queries as follows (followed by officer response) –

- Will courtyards receive sufficient daylight?

The Building Research Establishment guide in respect of sunlight daylight is that properties respect the urban grain. Small scale courtyards and intimate spaces are characteristic in the Central Historic Core Conservation Area.

- Will the riverside access be restricted?

A condition will require a suitable degree of public access. There are intervening properties between zones 3 and 4 in different ownership which mean this scheme does not deliver a continuous walkway.

- Will opening hours of commercial units be controlled in the interests of amenity of occupants of the upper floors?

The applicants have stated commercial premises will close at 23:30. This is a central city centre location with an abundance of existing premises subjected to licencing and not planning restrictions. It is not reasonable or necessary to control opening times through the planning process.

- Cycle stores accessible?

There is either ramped (at an acceptable gradient) or lift access to all stores.

- Alternative accommodation for existing traders?

This is a commercial matter. From a planning perspective the site is in the city centre where there are alternative premises and the scheme provides a variety of commercial spaces.

## Historic England

No objection

3.39 Broadly welcome the proposed development. Support the principle of the mix of uses proposed and making the river frontage publicly accessible. An objection due to the architecture of the new buildings in zone 4 (south extent) has been withdrawn following revised plans.

- Townscape - note the reduction in height and more in-keeping material palette, but nevertheless feel that the design is not as bold or imaginative as the originally submitted scheme; feel that the opportunity for a more creative contemporary building is being missed.
- The new block would cause less than substantial harm to the character and appearance of the conservation area due to its massing, design and flat roof.
- The use of red brick as the predominant material responds more appropriately to the material palette of York. The removal of a storey has reduced the impact of the bulky appearance of the building.
- Stepping down different parts of the Waterloo Place new build elevation serves to create a more visually attractive frontage. Lowering and stepping back the block closest to Zone 3 creates a better transition down to the buildings fronting the river to the rear of the listed buildings.

- Welcome the sympathetic proposals to renovate the shopfronts along Coney Street, based on surviving evidence and historic images. This will serve to strengthen the historic character and appearance of the streetscape.
- No objection to the internal alterations to the Grade II listed buildings and buildings of merit. It is clear that the upper floors of the historic buildings are in need of investment and a new use.
- Waterloo Place - wide open boulevards are not typical of York. The proposed width of the new access route means that it would fail to respond to the historic form of the alleyways and snickelways that link Coney Street and the river. With creativity, a more articulated and mixed route in terms of alignment, stepped floorplates etc, could create an attractive and active route.

3.40 Archaeology - The site is within the Area of Archaeological Importance (AAI), has archaeological potential for complex waterlogged deposits, and should be considered of national importance until demonstrated otherwise.

- Continued ground water monitoring is essential.
- Modifications to the river wall may have considerable effect on surviving waterlogged deposits.
- Further investigation is essential and a mitigation strategy requires delivery. The post evaluation analysis and publication of such is necessary before first occupation of the scheme.

## **NHS**

Financial contribution sought

3.41 Healthcare services closest to the site do not have spare capacity. Due to increased demand that would result as a consequence of the development a financial contribution (£218,439) is requested. The contribution would fund health infrastructure development either at the York central or within the existing York Medical Group Primary Care Network to accommodate the additional population created by the proposed development. Officer note – contributions have not been sought by the Council for PBSA schemes as this is not a permanent residence of occupants and as the universities also provide medical facilities.

## **North Yorkshire Police**

No objection



3.42 Commented in relation to designing out crime. The student entrances are supported, it is considered that this arrangement will be safer than having secluded accesses provided deeper in the scheme. The lighting proposed is acceptable as it will ensure people's faces will be visible thus reduce the fear of crime. Compartmentalisation of the cycle storage is supported as this allows greater guardianship so that unauthorised access is challenged.

### **Twentieth Century Society (amenity society)**

Object.

3.43 Advise that the WHSmith extension building is physically attached to Grade II listed 39 and 41 Coney Street. It should be regarded as a non-designated heritage asset. A more thorough heritage assessment to justify demolition of the 1970's addition is requested. The 1970's building is considered to have architectural qualities and is sympathetic to its setting. Its demolition is objected to.

### **Yorkshire Water**

3.44 No objection and recommend conditions.

## **4.0 REPRESENTATIONS**

4.1 There have been 27 contributors, 12 registered as objections to the scheme.

Summary of representations received:

### **York BID**

Support

4.2 York has missed out on recent Levelling up funding; there will be no immediate large scale regeneration money handed down to Councils. Coney Street Riverside looks to build on the street's long heritage as a thriving hub of commerce, culture and community whilst opening it up through new access routes and reconnecting this vital area of the city with the River Ouse. This mixed use of the buildings is vitally important, as York city centre needs people living and working in the city to support the business community. This will make the city more sustainable in the long run and less reliant on the peaks and troughs of tourism.

## **York Civic Trust**

### Support

4.3 Raised initial concerns/objections to the scheme but support the revised proposals. The accumulation of properties along the street/river by the developer presents a once-in-a-century opportunity for the city to affect positive change here. It can reconnect historic association between Coney Street and the river following a century of disconnection. It can create of a new community in the heart of the city. The principle of the upper floor levels on Coney Street is supportable as 'above shop' reuse, especially of listed buildings, believing this is the best way to maintain historic properties.

4.4 Zone 4's building height has been lowered and is now approximately the same height as the parapet of the building it most resembles architecturally, No.2 Low Ousegate ('Linley & Simpsons'), which the Trust previously recommended as a maximum height. It is also now lower than the parapet of No.19 Coney Street.

## **York Georgian Society**

Object (to superseded scheme).

- Loss of plan form to listed buildings.
- Form and scale of new development in Zone 4 out of character on riverside setting and junction between Coney Street and Waterloo Place uncomfortable in the street scene.

4.5 The objection was received in 2023. Since the comments the scheme has been revised. The amendments sought to address the concerns raised. In the listed buildings the interconnections between buildings has been removed (with individual staircases in each property), Zone 4 has been reduced in scale and the architectural treatment of the corner with Coney Street reconsidered.

## **York & North Yorkshire Chamber of Commerce**

### Support

- On a social level it will breathe new life into one of York's most historic and famed streets, as well as vastly improving accessibility.
- On an economic level, there is a hugely compelling case for its being granted approval. An independent report from respected planning firm and economic development consultants has shown the Coney Street plan would deliver £175m in economic benefits to York over the next 15 years. It demonstrates that for every £1 invested, £3.93 would be generated for York - a superb return.

## **Further Public Comments:**

- Linking of Coney Street to riverside is a positive.
- Riverside frontage no more than a walkway connecting leisure units.
- Support for composition of uses proposed. Objections to the loss of larger commercial uses for high street retailers. These are the types of stores local residential would prefer.
- Value in the rear extension to WH Smith and preference for retention as part of the scheme.
- The introduction of additional noise sensitive residential uses in close vicinity to the existing longstanding, lawful noise generating late-night leisure venues will increase the potential for complaints by the new residents in respect of these established late-night uses.
- Objection from owners of 35-37 Coney Street (which lies between the two development zones). The proposed redevelopment plans rely on incorporating the rear of Nos. 35-37 Coney Street to provide access along the river to the development plots. Oppose this principle; the owners propose future redevelopment at the rear of this site for residential use. This land is not available to the applicant and cannot be relied upon to provide future access between their development sites.
- Proposals change the ambience of the city, will the proposal cause flooding, will tourist be able to enjoy the new buildings.

## **5.0 APPRAISAL**

### **KEY ISSUES**

- Principle of the development:
- Impact on heritage assets (conservation area, listed buildings, archaeology)
- Design
- Amenity
- Affordable housing
- Promotion of sustainable transport
- Flood risk and drainage
- Sustainable design and construction
- Biodiversity
- Open space
- Planning balance
- Equalities assessment

## Principle of the development (proposed uses)

### Commercial uses

5.1 The site is on a primary shopping street. The scheme includes a reduction in retail floorspace (although much of the loss is from upper floors, which are less desirable to operators).

Existing 5,213 sqm of retail floorspace in 10 units.

Proposed 3,884 sqm of retail and leisure floorspace in 12 units.

This includes the loss of larger retail units –

19 Coney Street	Next	1,342 sqm
39-41 Coney Street	WH Smith	1,090 sqm
43 Coney Street	Boots	1,279 sqm

5.2 Of the proposed 12 retail units one large retail unit is proposed – unit 1 with 1,130 sqm. Units 7 and 8 could be combined (subject to demand) and provide 658 sqm.

5.3 As part of the amendments through the process the entrances to the Student accommodation (in each zone) have moved onto Coney Street. The entrances to the student accommodation will be through what had historically been shop-fronts and the design would repair and refurbish these elements.

5.4 NPPF paragraph 85 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).

5.5 DLP 2018 Policy SS3 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 for the delivery of economic growth in the tourism, leisure and cultural sectors. Policy SS3 states that within the City Centre, retail use (class E) and food and drink units (class E) are acceptable in principle within the designated primary shopping area.

5.6 Policy SS3 also encourages enhancements to the setting of the River Ouse and River Foss and their frontages, turning them into attractive, vibrant and bustling environments with improved access to the riverside and linkages to other parts of the city centre. The Central Historic Core Conservation Area Appraisal also identifies as an opportunity more riverside public spaces similar to that by the City Screen cinema.

5.7 Since 1<sup>st</sup> September 2020, retail units (previously use class 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. Retail provision within York City Centre is protected under policy R3 of the DLP (2018). Policy R3 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 Primary Shopping Area's (PSA) 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.

5.8 The site lies within a primary shopping frontage 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% class 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”.

5.9 At present the buildings on-site are in Class E use, with ground floor retail space with ancillary uses to the upper floors. The proposals involve the modification of the existing retail units to revert to the historic footprint, creating smaller shops. In addition to these the proposal also includes creating two larger units within Zone 4 to provide a varied retail offer. The scheme also provides two additional street frontages (Waterloo Place / Riverside walkway) and Waterloo Place which are all beneficial to the retail function of the area. The student entrances are minor in scale, they would still include an active frontage and follow the advice of R3 which seeks to retain or provide upper floor access so they can be effectively used. The entrance are minor and appropriate in scale and given the contribution to vitality and viability the provision of accommodation on the upper floors, would have a positive effect overall.

5.10 The proposals will reduce the number of retail units but will provide new hospitality and leisure units and repurposing of upper floors. New active frontages are proposed along Waterloo Place and the riverside and the existing frontages along Coney Street are not detrimentally affected. Service type uses are all contained at a lower ground floor level so each unit contains an active frontage onto the street. All the criteria in policy R3 (above) are satisfied and the scheme is consistent with local and national policies in respect of the vitality and viability of city centres.

5.11 The amendments through the process now include a variety of retail spaces and other uses that contribute in a positive way to the vitality and viability of the centre. City Development have advised that some demand for larger units in the city centre and a condition is recommended (to continue to provide a choice in retail offer) to prevent subdivision of the largest retail unit proposed in 19 Coney Street. The composition of uses is appropriate when applying criteria in policy R3.

Student accommodation (PBSA)

5.12 Upper floors are to be utilised as student accommodation. The revised scheme includes 358 rooms. DLP 2018 policy H7 establishes the locational criteria for private PBSA off campus and requires sites to be appropriately located to achieve good access to education institutions. The NPPF is broadly more supportive of economic growth to meet identified need; section 11: making effective use of land requires promoting effective use of land to meet need for housing and other uses, making as much use as possible of previously developed land and in decision-making giving substantial weight to such development proposals. Section 6 requires significant weight to be given to economic growth.

5.13 The site is situated in central York. Coney Street is in close proximity to York St John University (approx. 0.75km) and has good access to the University of York (approx. 3km as the crow flies). The site is highly accessible to many bus routes beyond the pedestrianised area and connections via cycle path.

5.14 Policy H7 also requires applications to demonstrate the need for the student accommodation. At paragraph 5.47 of the Explanation to the policy, it states: “Whilst it is recognised that counting students can be difficult and student numbers can vary depending on what source or definition is used, applicants should present a proven need for student housing by providing an assessment of:

- existing and likely future student numbers and numbers requiring accommodation taking into account the proportion of students who study from home
- a review of the current level of provision, including the level of vacancies and the quality of accommodation
- the likely future supply of accommodation based on extant planning permissions and estate strategies of the relevant education provider.”

5.15 Paragraph 5.48 of the explanation to the policy makes it clear that the assessment should relate to full-time students. The assessment submitted with the application includes projects numbers of all students. Notwithstanding the distortion that inclusion of these figures causes, it is accepted that there remains an unmet need for PBSA in York.

5.16 Modifications to policy H7 also require the student bedrooms to be subject to nomination agreements. The modifications to the policy can only be given limited weight because they are subject to objections. No information has been provided to demonstrate compliance with this provision. The agent for the application has however outlined why they think this element of the policy has no weight. Nominations are also reliant on university approval which is not necessarily

controllable by the applicants. In this instance given the outstanding objections to this element of the policy it is not considered necessary in this instance to require nomination information.

5.17 Modification MM5.17 requires new student accommodation to make a financial contribution towards delivering affordable housing in the City, based on a standardised formula, as follows: Average York Property Price – Average York Fixed RP Price x 2.5% = OSFC per student bedroom. It is considered that the principle of requiring a financial contribution to affordable housing meets the statutory tests established by Regulation 122 of the Community Infrastructure Levy Regulations 2010 and is a justified policy requirement. The affordable housing contribution is covered in more detail below in this report, in the section titled affordable housing.

## Conclusions

5.18 Overall, in terms of the principal of development, the development is seen as positive from an economic perspective and supports the York Economic Strategy 2022-32's objective to future-proof city centre space by adapting spaces that are currently under-used such as upper floors.

5.19 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 enhance the daytime and night-time economy. The principle of development therefore accords with the economic and social objectives of the NPPF in respect of the economy and supporting vibrant communities and delivering a range of homes and DLP 2018 policy SS3 which relates to the city centre and its role in achieving the economic and social aspiration of the plan. In applying the NPPF (specifically paragraphs 85 and 124) the decision-maker must give significant weight to the economic benefits of the scheme and substantial weight to the delivery of housing that meets an identified need.

## Impact on Heritage Assets

5.20 The site is within the Central Historic Core Conservation Area, area 11 Central Shopping Area. The following buildings are within the site –

### Zone 2



19 Coney Street (Next etc) – building of merit (as identified in the Central Historic Core Conservation Area) which is to be converted.

### Zone 3

21 Coney Street – building of merit

23 Coney Street – Grade II

25-27 Coney Street – Grade II

29-31 Coney Street - unlisted

33 Coney Street – grade II

Demolition is proposed for a later rear extension and the unlisted building at 29-31 Coney Street.

### Zone 4

39-41 (WH Smith) – Grade II listed.

43 (Boots) – unlisted – the rear / riverside section identified as a detractor in the conservation area appraisal.

Demolition proposed of rear section of 39-41 and entirety of 43.

5.21 The site is in the designated City Centre Area of Archaeological Importance. NPPF Footnote 72 of para.206 states that ‘Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets’. The archaeological deposits are of national significance.

5.22 In terms of building retention (opposed to demolition) the NPPF in section 14 (meeting the challenge of climate change ...) states the planning system should encourage the reuse of existing resources, including the conversion of existing buildings. For the historic environment NPPF paragraph 213 states “not all elements of a Conservation Area ... will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area ... should be treated either as substantial harm under paragraph 207 or less than substantial harm under paragraph 208, as appropriate”.

5.23 In zone 3 the listed buildings are originally houses, which have been merged and extended over time, and evolved into commercial units. The key significance lies in evidence of the original form and use, evidence of historic plot form and

hierarchy of buildings and architectural interest. There is no harm to significance as a consequence of the demolition proposed. The character and appearance of the Conservation Area benefits from the views afforded across the site of historic townscape and roofscape. In zone 4 the buildings to be demolished have a neutral to negative impact on significance.

## Assessment

### Significance

5.24 The management strategy for the Central Historic Core Conservation Area is an important reference in shaping large scale redevelopment schemes such as this. The advice it provides is that the design of new buildings should:

- Respect the characteristics which define York's distinctive urban form, as identified in the Heritage Topic Paper. For example: building lines, historic street patterns, building scale, plot and block dimensions. In this respect the overview for the Central Historic Core Conservation Area states significance includes a tremendous diversity of architectural styles and phases causing constantly changing variety and juxtapositions in the townscape.
- Respect local building heights.
- Place importance on the design of roofs and the roofscape: these are often in effect another public frontage because they are often highly visible from raised viewpoints (walls, Clifford's Tower, the Minster), and new development should contribute positively to the character of York's distinctive skyline in this respect.
- Preserve existing views and look to create interesting new ones.
- Seek to add to the variety and texture of the Conservation Area, which is one of its defining characteristics.

5.25 Historic England advice is that a key aspect of the strong urban form is the rich townscape. The significance of this is the highly attractive environment with a distinctive 'grain' which is characterised by compact planning, intimate streets and spaces, views both grand and incidental. The roofscape and skyline are vital parts of the character of the townscape. This is due to its pre-industrial character - a sea of tiled roofs dominated by the towers and steeples of the Minster and churches - and its prominence in the public experience from the elevated viewpoints of the City Walls and Clifford's Tower.

5.26 The Conservation Area has evolved over time and the current situation is that over the 20<sup>th</sup> century large scale retail/commercial spaces have grown, this has resulted in merged plots and some loss of historic urban grain. The Historic England advice notes the site at present detracts from the historic character of York due to the ad-hoc accumulation of bulky, mainly utilitarian extensions to the 'back of house' shops fronting onto Coney Street. This has created an unattractive edge to the river.

5.27 DLP 2018 Policy SS3 includes an aspiration to enhance the setting of the River Ouse and its frontage creating an attractive, vibrant and bustling environment with improved access to the riverside. The conservation area appraisal identifies an opportunity to provide increased public access to the riverside. The conservation area appraisal states - "Intermittent access to the riverside is part of the historic character of the area. However, there are certain places where intervention could create more riverside public spaces similar to that by the City Screen Cinema. This would require co-operation from a number of private owners but the benefits are potentially great".

5.28 The application site, in public viewpoints from the opposite side of the river, Ouse and Lendal bridges is not attractive. The buildings in zone 4 are not of an architectural style, shape or scale harmonious with the more historic context of Coney Street. The rear of no.43 (Boots) is identified as a detractor in the Conservation Area appraisal. Riverside buildings in zone 3 are lower and more discreet, this allows views of the historic and varied roofscape beyond, but the self-seeded trees and low profile of the buildings do not formally address the river. However (and as considered by Historic England) there are positive characteristics that contribute to the significance of the area; the site still retains a sense of the long, narrow historic plots that ran down to the river and due to the subservient scale of certain buildings in public views the historic townscape and skyline can be appreciated, specifically in zone 3.

Impact on significance

Conservation Area (CA)

5.29 The demolition proposed is not objected to in principle. It removes unlisted buildings and structures that are either late 20<sup>th</sup> century and/or functional extensions of proportions that do not respect the domestic scale of the listed buildings fronting Coney Street. It is acknowledged this presents a regeneration opportunity to deliver

an enhanced riverside setting. The assessment is therefore whether the proposed scheme is overall beneficial or harmful to the Central Historic Core Conservation Area (its historic and architectural significance) and if there is less than substantial harm, whether this outweighed by the public benefits of the scheme (whilst giving great weight to conservation as required by NPPF para.205); this follows the approach contained in NPPF section 16 in respect conserving and enhancing the historic environment. The assessment of whether the benefits outweigh the harm is at the end of section 5 of this report, as part of the overall planning balance.

5.30 The harms which have been identified as a consequence of the scheme –

### Zone 3

- Harm to legibility of historic urban grain because the proposed leisure units fronting the riverside span across multiple historic plots and are taller than existing buildings. Legibility is eroded because new buildings are taller and more dominant thereby reducing views through to the rear elevations of the original/frontage buildings. The appearance of primary forms facing the street with lower rear extensions and gardens leading to the river, giving a clear hierarchy of historic plot width and development is reduced.
- Loss of wider views beyond the riverside buildings due to replacement buildings being of a higher scale.

5.31 The level of harm is regarded as less than substantial and at the lower end of the scale. The existing development (which is modern and to be replaced) cuts across multiple plots. The level of harm to loss of wider views is very low. The height of the new riverside buildings is varied; between 5 and 3.5 storey in height and regarded as appropriate in the historic townscape (taking into account form and articulation and referencing historic plot widths). This variation retains a degree of views beyond these buildings of the townscape beyond. Whilst some loss of views of the frontage buildings on Coney Street would still occur, this is of rear elevations; not typically exposed to public views in the historic core.

### Zone 4

- The buildings do not restore, but further deviate from historic plan form (Design & Conservation Officers are now satisfied with the scale and massing of Zone 4).
- The side elevation of 4 Spurriergate would be exposed due to the creation of Waterloo Place.

5.32 Waterloo Place would be a new street leading down to the river. Its width has been subject to adverse comments because it does not adhere to the narrow width of historic snickleways and side streets in this section of the central historic core and it would expose the side elevation of the neighbouring listed building. The width is determined by the Yorkshire Water sewer beneath and their easement requirements. The constraint allows for a public space, opposed to a narrow side street, which would be a substantial benefit and as revised the proposed building that would front it has been given a human scale through its architectural treatment. The treatment of the corner that would be viewed from Coney Street, which was originally subject to adverse comment, has been re-designed and the Council's design team is satisfied with the current approach. The creation of this new public realm is regarded to be beneficial overall. The public benefits clearly outweigh the harm that would result from exposing the side elevation of Grade II listed 4 Spurriergate.

The proposals for zone 4 are also regarded as causing less than substantial harm, at the lower end of the scale. For both plots when assessing loss, regard must be given to the scheme as a whole.

#### Listed Buildings

5.33 The impact on individual listed buildings on site is not regarded to be harmful. In the revised plans their original plan form is respected and plot widths legible in the listed buildings fronting Coney Street. The scheme has been revised to preserve and enhance architectural interest and importance. Later rear additions (of unsympathetic scale) to buildings are removed and (although later additions) shopfronts are improved. Whilst harm to the CA has been identified there is not harm to the setting of listed buildings identified primarily because the buildings affected have already had their settings affected by large scale rear extensions of commercial design. Works to a degree reverse this harm, provide relief to original facades and external amenity space is provided which is beneficial and therefore overall, there is no harm to individual buildings.

5.34 Less than substantial harm, at the lower end of the scale is identified to the setting of Grade II listed 4 Spurriergate because the side elevation is exposed as a consequence of demolition of 43 Coney Street and creation of Waterloo Place.

#### Archaeology

5.35 In applying the NPPF due to the significance of the archaeology that would be affected it is subject to the policies for designated heritage assets.

5.36 Policy D6 of the DLP 2018 supports development proposals that affect archaeological features and deposits where:

- i. They are accompanied by an evidence-based heritage statement that describes the significance of the archaeological deposits affected and 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:
- ii. They will not result in harm to the significances of the site or its setting;
- iii. They are designed to enhance or better reveal the significance of an archaeological site or will help secure a sustainable future for an archaeological site at risk; and
- iv. Harm to archaeological deposits is unavoidable, detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

5.37 The text associated with the policy notes that within the historic core, substantial harm is defined as greater than 5% disturbance to buried archaeological deposits. This enables development to take place on a site where sensitive deposits were present while limiting destruction to up to 5% of the deposits on the site. The policy has been developed using the evidence base document York Development and Archaeology Study 1991.

#### Assessment on archaeology impacts

5.38 Sufficient investigation has taken place given the stage of the scheme and constraints of the site. This includes desk-based assessments and on-site investigation, including 6 months of hydrological monitoring. The monitoring is ongoing and would be required for a 5-year period if the scheme were to progress.

5.39 In accordance with local policy a foundation design will be required to limit loss of archaeology.

5.40 An archaeological remains management plan has been submitted (April 2024). This will be amended following the 2nd phase of evaluation and competition of 12-month hydrological monitoring. Planning conditions can secure a mitigation strategy that follows local policy. The mitigation measures would be undertaken following the

investigation and conditions require this work is published and added to the historic environment record (HER). The conditions recommended by the Council's archaeologist in section 3 of this report would be included.

## **Design**

5.41 The NPPF in respect of achieving well-designed and beautiful places in paragraph 135 advises decisions should ensure places –

- Function well and add to the overall quality of the area.
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- Are sympathetic to local character and history while not preventing or discouraging appropriate innovation or change (such as increased densities).
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development.
- Create places which are safe inclusive and accessible.

5.42 In respect of innovation and change the management strategy for the Central Historic Core Conservation Area is an important reference in shaping large scale redevelopment schemes such as this. The advice it provides is that the design of new buildings should -

- Respect local building heights.
- Place importance on the design of roofs and the roofscape: these are often in effect another public frontage because they are often highly visible from raised viewpoints (walls, Clifford's Tower, the Minster), and new development should contribute positively to the character of York's distinctive skyline in this respect.
- Preserve existing views and look to create interesting new ones.
- Seek to add to the variety and texture of the Conservation Area, which is one of its defining characteristics.

5.43 The scheme does broadly adhere to the above advice for new development in the Central Historic Core Conservation Area. The amount of PBSA within the scheme does follow the NPPF policies in that they encourage optimising the potential of sites and making effective use of land; specifically in the context of meeting housing need. The scheme would contain a composition of uses which would add to the overall quality of the area. The architectural treatment of buildings seeks to deliver a visually sympathetic scheme whilst providing a mix and amount of uses, necessary to make the scheme viable.

5.44 Given the existing composition of buildings on site there is evidentially an opportunity for new development that regenerates the area; to provide riverside access and continue the formal arrangement of fronting the river, as provided by the Guildhall and the very highly regarded regeneration project between the Guildhall and the application site (Former Yorkshire Herald building / City Screen cinema and other buildings which the CA appraisal advises is one of the best examples of contemporary architecture in the area). The scheme would deliver a riverside walkway and positive formal frontage to the river. Although it does not honestly restore the original urban grain, due to the variation in articulation and massing of the proposed scheme, it would sit comfortably in its context and retain and contribute to the variety and texture of the conservation area. The scheme is of a scale and massing that the conservation areas requests in terms of preserving views of the varied townscape and roofscape and creating new interesting views. In design terms and NPPF paragraph 135 advice the scheme has multiple positive aspects, most importantly in terms of how it affects the riverside elevation and its provision of new public realm.

5.45 As summarised in the impacts on heritage section the scheme has been revised to address key design issues brought up in consultation; the scale and massing of buildings fronting the riverside, detailing of listed buildings, the use of materials characteristic to the conservation area and articulation of the new Waterloo Place elevation.

#### Secure by design

5.46 A condition can be used to cover secure by design measures. The plans and submitted design and access reports illustrate that secure by design has been considered taking into account access controls into buildings, covered and secure cycle parking, lighting design and increased levels of natural surveillance.

#### **Amenity**

5.47 Policy D1 of the 2018 Draft Plan requires that residential amenity is considered so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing. This is in conformity with NPPF para.135 which requires that development have a high standard of amenity for existing and future users.



## Surrounding occupants

5.48 The scheme is regarded not to have an adverse impact on the amenity of neighbouring residents. To its northern extent (zone 3) 19 Coney Street is converted and does not materially change in form or scale. Where student rooms look outward towards no.17 they are towards a generally blank side elevation and rooftop of the neighbouring commercial unit. Beyond the southern side of the site (zone 4) neighbouring buildings have commercial rear outshots with no windows. There are no overlooking issues and the proposed new riverside blocks would not be over-dominant or imposing in any way over existing buildings.

## Future occupants

5.49 NPPF Paragraph 129c refers to making effective use of land and states local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the NPPF policies. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards. The BRE (British Research Establishment) guidance on site layout for daylight and sunlight advocates building at a density that respects its context.

5.50 Amenity of future residents of the building is restricted in places (due to existing site constraints) but is regarded to be acceptable and not out of character in such a central location in the historic core.

5.51 At 19 Coney Street looking northward on the lower floors windows to student rooms are only around 2m from the neighbouring side wall and in the internal courtyard windows are 3.3m to 4.3 apart. Rooms are all single aspect. However, 19 Coney Street is a conversion and subject to existing site constraints. Where new build is proposed in zones 3 and 4 separation distances in the courtyard areas range from 6.7m at a pinch point to a typical separation of between 9m to 12m. This range and variety is typical of the context and therefore acceptable.

5.52 There are a mix of studio apartments and clusters of ensuite rooms with communal living/kitchen areas. The rooms are supplemented by communal amenity space; 836 sqm internal space is provided and 560 sqm external space. There is communal amenity space on each floor.

5.53 A noise assessment has been undertaken; it evidences that with the required mitigation / noise insulation measures internal noise levels will achieve national standards (mitigation will be secured through condition). Public protection mentioned noise transfer between floors and different uses, however this is a matter covered by the building regulations.

5.54 Student room sizes are acceptable and consistent with those in approved schemes in York. The communal amenity space is also comparable in area and spaced across buildings in a similar manner to other approved PBSA schemes. The rooms which have kitchens included are at least 20sqm and there is a variation in room sizes. The design and access statement and planning statement (May addendum) explains how inclusive access is provided both throughout the scheme and the provision of accommodation with different levels of accessibility. 7% of the rooms are ambulant and wheelchair accessible rooms. These are typically provided in close proximity to service cores and lifts (although note there are not specific Building Regulations requirements in respect of the length of “approach routes” to individual dwellings). Rooms are of a size which means they can be adjusted to accommodate users specific needs on a yearly basis.

## **Affordable housing**

5.55 DLP 2018 policy H7 regarding off campus purpose- built student housing, as modified, requires an off-site financial contribution towards delivering affordable housing elsewhere in the city. The requirement is only applicable for developments not to be owned by the York universities. The policy can be given moderate weight at most (taking into account NPPF paragraph 48) because it has unresolved objections.

5.56 A policy compliant off-site contribution would be £2,134,396 (£5,962 per student room). The applicants provided a viability appraisal to demonstrate the scheme could not afford to comply with policy H7. Subsequently the scheme was revised and reduced to 358 student rooms (a reduction of 28 rooms) which had a further detrimental affect on viability. Both the original and most recent schemes have been subject to a viability appraisal, which have been subject to independent review by a valuer and quantity surveyor appointed to act on behalf of the Council.

5.57 National planning guidance explains the role of viability assessments; a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This

includes looking at the key elements of - gross development value, costs, land value, landowner premium, and developer return.

5.58 For land value, the benchmark land value is used, this is based upon the existing use value, allowance for a premium to the landowner (to incentivise the sale and takes into account the implications of abnormal costs; site-specific infrastructure costs; and professional site fees). The guidance states that “where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan”. A standard input is reasonable profit for a developer, of between 15% and 20%.

5.59 The Council’s viability review of the scheme determines that if a profit of 15% is allowed for, the scheme delivers a deficit of £1,319,308; the scheme is unable to make any s106 contributions. In accordance with the national planning guidance it is recommended that a viability re-review mechanism is an obligation of planning permission (included in the s106 agreement). The Council’s independent review (referred to in 5.66) advises –

“Should the scheme be granted planning approval, we strongly advise that the Authority carry out a further review of viability at the delivery stage in order to accurately understand the viability of the scheme which, according to the applicants figures will need to change significantly in order for the development to proceed. It is important that the Authority retain the opportunity to recover any planning gain and S106 contributions that may potentially become available”.

5.60 In accordance with previous viability re-appraisals on such large-scale sites, the Council would require a review to include –

- An updated appraisal of the approved scheme, including quantity surveyor (QS) appraisals from suitably qualified consultants to capture actual costs and a review of revenue, depending on delivery i.e. whether the development is held as an investment or sold on completion (as is envisaged by the current appraisal).
- An independent consultant appointed by the Council to provide a due diligence check of the reasonableness of the appraisal.
- This review would form the baseline for an overage calculation to be undertaken at a suitable point subsequent to start on site but prior to completion.
- A financial contribution (capped at policy compliance) would be required if the scheme were to achieve a profit in excess of 15%. Any surplus in this adjusted appraisal would be paid as a commuted sum in lieu of affordable housing.
- All costs to be covered by the applicant.

## Promotion of sustainable transport

5.61 NPPF Paragraph 109 advises significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. Paragraph 116 applications for development should –

- address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- allow for the efficient delivery of goods, and access by service and emergency vehicles.

5.62 The scheme is in a sustainable location, in the heart of the city and within the footstreets. An essentially car free development is totally appropriate in this location. The scheme is able to provide 2 disabled car parking spaces for the PBSA (in space behind 19 Coney Street). It has been evidenced this is sufficient, based on the amount and type of accommodation proposed and national statistics on requirements for the particular age group.

5.63 At least 5% rooms are fully accessible (rooms can also accommodate ambulant users and can be adapted depending on specific needs). An access statement, strategy and associated package of drawings has been issued which explains how inclusive access would be provided throughout the scheme. This includes level access for all users of the building, including to the cycle storage. Cycle storage has 5% of provision being for over-sized cycles as recommended in LTN 1/20.

5.64 The public realm design has been subject to input from accessibility groups (workshop held in May 2023). The revised plans for the riverside walkway and Waterloo Place were informed by this workshop, including lighting, provision of seating, gradients and widths of walkway areas. Student accommodation entrances were relocated to Coney Street to avoid the need to use the ramps and steps on Waterloo Place.

5.65 Waterloo Place would include 14 cycle spaces for public use. This is highly beneficial as servicing and access requirements prevent any stands being positioned on Coney Street. Cycle storage for the student accommodation is approx. 60%. This is consistent with that approved at other PBSA sites; post occupation monitoring evidences this is more than sufficient to meet demand. There

are covered and secure stores along with shower and changing facilities for the commercial units; this is an enhancement over the existing provision on site for the commercial units. Further space for cycle storage has been identified on the plans for each zone (in the cycle strategy) for expansion in back of house areas for the retail and leisure units. A planning condition would typically be used to require ongoing monitoring of cycle stores and triggers for installation of further spaces if demand requires.

5.66 Areas for waste storage are provided within the building, in the lower section. The waste storage is in a discreet location and will not harm visual amenity. Due to the development type the scheme will be subject to a commercial collection service. The site, as previously, will need to have servicing arrangements that works around the footstreets regulations, as is typical in the city centre.

## **Flood Risk & drainage**

### Flood risk

5.67 Policy ENV4 of the 2018 DLP is in accordance with NPPF para. 173 which states that when determining applications, the LPA should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, it can be demonstrated that:

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

5.68 Where demolition and rebuild is proposed the proposed development is located within the floodplain of the River Ouse (part Flood Risk Zone 2 and part zone 3) and therefore has a high probability of flooding. These elements of the scheme therefore need to pass the sequential test and, due to the provision of the student accommodation, the exception test. The commercial uses are classed (in NPPF flood risk terms) as less vulnerable; the student accommodation more vulnerable.

## Sequential Test

5.69 The LPA needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. The aim of the sequential test is to steer new development to areas at the lowest probability of flooding (Zone 1). The NPPG states that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken: "the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear ... in other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. The York city centre area is a reasonable catchment area in this case given the composition of uses.

5.70 The proposed composition of uses will enhance the vitality and viability of the city centre and provides a riverside walkway and associated uses that are aspired to in the Central Historic Core Conservation Area Appraisal. The accommodation proposed on the upper floors is an essential component of the scheme, to enable other benefits. Due to the evident regeneration benefits that are site-specific the sequential test is passed.

## Exception Test

5.71 For the Exception Test to be passed it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall (para. 170 of the NPPF).

5.72 The exception test is passed. Flood risk itself is addressed by design. The development is at a level that means it is safe from flooding. The proposals raise the internal Finished Flood Level (FFL) to a minimum level of 11.320m AOD (and also the outside space) so that it is above the 1 in 100 year + 50% climate change flood level. Entrances to the PBSA are all from Coney Street, in Flood Zone 1. Flood risk would not be increased elsewhere, because –

- There will be no reduction in Flood Zone 3b 'functional floodplain' areas by the inclusion of a raised external deck that will permit flood waters to pass beneath.
- The proposed surface water discharge rate will reduce the existing discharge rate by 30% in accordance with The City of York Council SuDS (sustainable drainage) Guidance for Developers (Aug 2018).

5.73 The wider sustainability benefits provided by the scheme relate to the economic, social and environmental benefits arising from the mixed-use scheme and enhancements to the riverside setting that will have significant regeneration benefits for the city centre and make a positive contribution towards reducing carbon emissions, because the development is in a sustainable location, essentially car free, and the buildings would be required to achieve BREEAM excellent.

#### Drainage

5.74 In accordance with DLP 2018 policy ENV5 surface water run-off will be reduced compared to the existing rate. The drainage strategy has been agreed in principle and site-specific details would be approved through planning condition, which is standard practice.

#### **Sustainable design & construction**

5.75 DLP 2018 policy CC2 sets out the sustainable design and construction requirements that all new development (by type) must adhere to and demonstrate in a Sustainability Statement. In summary, the policy requirements are:

- New residential development –carbon emissions – a reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19% should come from energy efficiency measures. Pending changes to the Building Regulations the aim is to achieve a reduction of up to 75% and a water consumption rate of 110 litres per person per day (calculated as part G of the Building Regulations).
- Non-residential development over 100sqm internal floor area - meet BREEAM 'excellent' standard (or equivalent).

5.76 The applicant's sustainability statement advises that a pre-assessment was undertaken and the scheme can achieve BREEAM Excellent. It covers the aspect of BREEAM each element of the scheme would be considered under. The carbon reductions specified in CC2 will be required for the new-build PBSA.

#### **Biodiversity**

5.77 NPPF paragraph 180 advises decisions should contribute to and enhance the environment by minimising impacts on and providing net gains for biodiversity. The

application was made in 2022 and in advance of national requirements to achieve at least a 10% biodiversity net gain.

5.78 The applicants have issued a biodiversity calculation using the DEFRA metric. This shows the scheme will significantly exceed a 10% net gain. Ecological reports have been issued that determine protected species would not be harmed and habitat enhancement is proposed. These matters can be secured through planning condition.

## **Open Space**

5.79 The NPPF advises that planning decisions should aim to create healthy and inclusive places. Paragraph 96 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. 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’.

5.80 Policy GI6 (new open space provision) of the DLP 2018 states ‘all residential development proposals should contribute to the provision of open space for recreation and amenity’... ‘The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. Where there are deficiencies in certain types of open space provision in the area surrounding a proposed development, the Council will seek variations in the component elements to be provided by the developer to help to overcome them’. The policy goes on to state that the Council will encourage on-site provision where possible but off-site provision will be considered acceptable in certain circumstances.

5.81 The Open Space and Green Infrastructure Update 2017 (referred to in the DLP 2018) identifies the levels of amenity space required. This is not typically capable of being provided on urban sites as there is not the space. As such an off-site contribution can be requested. This must however meet the CIL Regulations – be necessary to make the development acceptable in planning terms, reasonable in scale and kind and directly related to the development. Typically for student accommodation there has been a requirement for on-site amenity space (or off site



if practical due to site specific constraints). Sport contributions are not requested as these are provided on campus by the universities.

5.82 The scheme provides 560 sqm external space within courtyards which would be for residents use only. In addition Waterloo Place, and also the riverside walkway are spaces which will provide public amenity space. This is a substantial provision of open space for an urban area (which will also have biodiversity value). Officers are satisfied the scheme is broadly compliant with open space policies.

## **Fire risk**

5.83 The NPPG advises that fire statements are required, setting out fire safety considerations specific to the development when (relevant buildings) contain two or more dwellings or educational accommodation and meet the height condition of 18m or more in height (this relates to the height of accommodation rather than the entire building), or 7 or more storeys.

5.84 The 6-storey section of zone 4 is approx. 18m to the ceiling of the top floor a fire strategy has been issued with the application which explains the provisions within the buildings and how Building Regulation compliance would be secured.

## **Overall Planning Balance**

5.85 Less than substantial harm to heritage assets; to the character and appearance of the conservation area, at the lower end of less than substantial has been identified. There is also less than substantial harm to 4 Spurriergate; the side elevation of such would be uncharacteristically (and unexpectedly) exposed by the creation of Waterloo Place.

5.86 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 advises that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses. Section 72 requires the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in exercising its planning duties.

5.87 NPPF para.205 states “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”. Para. 208 goes on to advise that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.

5.88 The National Planning Practice Guidance sets out what is meant by the term public benefits and states that “public benefits ... could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should ... be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public ... for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.

5.89 The scheme is also contrary to DLP 2018 policy because on viability grounds it is unable to provide an off-site contribution to affordable housing. An under-provision of affordable housing as a principle could be given substantial weight in the planning balance; the DLP 2018 explains how the site allocations only meet a proportion of overall affordable housing need and to meet the target within the plan, windfall sites need to contribute. However the lack of contribution has been financially justified in this case and the scheme delivers multiple other benefits that need to go into the planning balance.

5.90 The public benefits include social, economic and environmental considerations and clearly outweigh the less than substantial harm to heritage assets identified.

5.91 DLP 2018 policy SS3 advises development proposals in the city centre will be guided by the principles to –

- Revitalise the streets, places and spaces of the city centre and key commercial developments will be delivered.
- Conserve and enhance the existing historic character whilst encouraging contemporary high-quality developments that add to the sense of place and create a prestigious and desirable location for thriving businesses.

5.92 The background text refers to upper floors in the city centre and their under-use. It states proposals that bring upper floors in York City Centre back into an appropriate use are encouraged to ensure that upper floors do not become a wasted resource, to the detriment of the economy and an imbalance in the life of the city centre. In particular, the reuse of upper floors for residential use is encouraged. This approach is aligned with NPPF policy on making effective use of land which requires planning decisions “give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs” and “promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively”. Further DLP 2018 policy SS3 looks to promote and integrate the universities within the city centre and housing delivery.

5.93 The proposals meet national and local policy requirements to make effective use of land, the use of the upper floors for student accommodation, for which it is accepted there is identified need, are given substantial weight.

5.94 Whilst 19 Coney Street is a building of merit its side elevations leading down to the river are exposed. This is not an intentional arrangement; the scale and exposed blank side elevations appear uncomfortable in the riverside townscape. Overall the current riverside elevation is not attractive with the backs of retail units evident in riverside views.

5.95 The scheme provides an active riverside frontage comprising of active frontages (on all floors) along with new public realm along the river. The variety in massing and roof form respects the character and appearance of the Central Historic Core Conservation Area.

5.96 In this respect the scheme is aligned with the aspirations for the city centre in the DLP 2018 (SS3) – it would enhance the setting of the River Ouse and its frontage, and deliver an attractive, vibrant and bustling environments with improved access to the riverside and linkages to other parts of the city centre.

5.97 Creation of new pedestrianised public realm adheres with policy SS3 in meeting the policy requirement to design streets around place and quality, not vehicle movement, creating civilised streets that make the city centre easy, enjoyable and safe to move around.

5.98 The scheme includes proposals to visually improve a significant number of shopfronts along Coney Street and also create new active shop frontages, along Waterloo Place and the riverside.

5.99 The composition of uses have economic and social benefits. The works are in the interest of the continued viability of the listed buildings on site by bringing them into more comprehensive use through residential occupation of the upper floors. There are economic gains that would be derived through both the provision of a range of new commercial uses, an increased population in part of the city centre and public realm which will attract visitors and trade. The benefits are helping to meet identified housing need and there are strong interlinked benefits such uses bring to the vitality of city centres. In York this is recognisable in Fossgate and Walmgate, where streets are significantly more vibrant as a consequence of the introduction of PBSA.

5.100 The proposed high-quality development along the riverside, public realm and landscaping to open up the river frontage (as recommended in the Council's CA appraisal) will demonstrably improve the way this part of the CA appears and functions, bringing a significant benefit to the vitality and viability of the city centre. These benefits are also social benefits due to the creation of high-quality, well-designed public realm, which facilitates activity and social interaction, contributing to health, well-being.

5.101 There are environmental benefits; the biodiversity value of the site is improved, and the amount of development proposed in a location that justifies a car free development makes a significant contribution to York's aspirations achieve zero carbon and reduce private car usage.

5.102 In summary the public benefits in favour of the scheme are as follows -

#### Economic

- Competitive economy & support for growth; making the city centre more vibrant and improving the public realm.

In accordance with the NPPF these benefits attract significant weight.

#### Social

- Provision of vibrant communities a number and range of homes to meet need.
- Improved design; townscape and provision of public realm creating safe places and open space.
- Provision of Waterloo Place which would become a new public space, be of biodiversity value and complement commercial units in the city centre.

Substantial weight.

## Environmental

- The significance of listed buildings on Coney Street is enhanced by providing a new viable use of the upper floors, respecting historic plan form and better revealing historic rear elevations by the removal of unsympathetic C20 extensions. The scheme in this respect is consistent with advice in NPPF para. 203 which states that in determining applications Local Planning Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- Improving biodiversity
- Moving to a low carbon economy - aligned with York's aspiration to be zero carbon. The buildings will meet policy standards for design and construction and importantly deliver car free living in the city centre.

Moderate weight.

## Equalities Assessment

5.103 The scheme has been considered with regard to the Equality Act 2010, in particular taking into account the proposed mix of uses and accessibility requirements and it is not considered that there are any specific equality implications in regards to this application and a full Equalities Impact Assessment is not required.

## 6.0 CONCLUSION

6.1 The principle of development accords with the economic and social objectives of the NPPF in respect of the economy and supporting vibrant communities and delivering a range of homes and DLP 2018 policy SS3 which relates to the city centre and its role in achieving the economic and social aspiration of the plan. In applying the NPPF the decision-maker must give significant weight to the economic benefits of the scheme and substantial weight to the delivery of housing that meets an identified need. The provision of new public realm is also a substantial benefit the scheme would deliver.

6.2 When a local planning authority finds that a proposed development would harm a designated heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory

duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.3 The harm resulting from the scheme to designated heritage assets is considered less than substantial in terms of the impact on the character of the CA. The lack of off-site affordable housing (justified on viability grounds) is also a factor that weighs against the scheme. However substantial public benefits have been identified that clearly outweigh the harm.

6.4 Technical issues can be addressed and planning conditions/obligations can secure benefits identified where necessary, such as retaining the larger retail floorplate in 19 Coney Street and provision of public access to Waterloo Place and the river walkway.

6.5 There are multiple public benefits to the scheme which cumulatively are substantial; they are economic, social and environmental. These benefits clearly outweigh the identified harm to the conservation area. In applying the NPPF and local planning policy and considering the benefits of the scheme overall clearly outweigh the harm and justify approval of the scheme.

6.6 If the Council were minded to approve the companion application for listed building consent then referral to the Secretary of State would be required, due to the objection from a statutory consultee which is one of the amenity societies, following the Arrangements for handing heritage applications: notification to Historic England and National Amenity Societies and the Secretary of State Direction 2021.

## **7.0 RECOMMENDATION:** Approve subject to Secretary of State Decision

7.1 That delegated authority to be given to the Head of Planning and Development Services to:

- Determine the final detail of the planning conditions and planning obligations below.
- Refer the companion application for listed building consent to the Secretary of State for Communities and Local Application Government under the requirements of Sections 12 and 15 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and should the application for listed building consent not be called in by the Secretary of State, then APPROVE this application subject to planning conditions and completion of a s106 legal agreement to secure the matters listed below.

## **S106 heads of terms**

- Viability review mechanism
- Scheme for public access to Waterloo Place and riverside walk.

## **Conditions**

1 TIME2 Development start within three years

2 APPROVED PLANS

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

Location plan 0001 P3  
Site plan 10000 P4  
Phasing plan 1200 P4  
Landscape GA P20997-00-001-GIL-0100 revision 11

Typical student room 7000 P2

### Site wide Elevations

Coney Street 1301 P4  
Riverside 1300 P4

Listed Buildings - Door Types and Schedule 5020 P2

### Riverside wall

Zone 3 section 1501 P4  
Zone 4 section 1500 P4

Cycle strategy 1200 P3  
Cycle stores 1205 P1  
Access strategy 1203 P2, 1204 P2, 1206 P1  
Refuse strategy 1201 P3

Zone 2 (19 Coney Street) and Zone 3 (21, 23, 25-27, 29-31, 33 Coney Street)

### Floor plans and roof

Level 00 1100 P5  
Level 01 1101 P4  
Level 02 1102 P4  
Level 03 1103 P4  
Level 04 1104 P4  
Level 05 1105 P4

Roof 1106 P4

Floor plans showing works to listed buildings

1107 P3

1108 P4

1109 P4

1110 P3

1111 P3

1112 P3

Doors, joinery and ceiling, cornice plans

5002 P1

5003 P1

5004 P1

5012 P1

5013 P2

5014 P2

Elevations

Coney Street elevation 1300 P3

No.19 Coney Street 1305 P3

No.21 Coney Street 1306 P1, 1307 P3

No.23 Coney Street 1308 P3, 1309 P2

No.25-27 Coney Street 1310 P3

No.33 Coney Street Rear 1314 P2

Large scale details 2002 P4, 2004 P3

Internal door types 5020 P2

Zone 4

Proposed demolition

0601 P3

0602 P3

0603 P3

0604 P3

0605 P3

0606 P3

Floor plans and roof

Level 00 1100 P5

Level 01 1101 P4

Level 02 1102 P4

Level 03 1103 P4

Level 04 1104 P4



Level 05 1105 P4  
Level 06 1106 P3  
Roof 1107 P4

#### Floor plans and roof showing works to listed buildings

1108 P4  
1109 P4  
1110 P4  
1111 P4  
1112 P4  
1113 P4

#### Listed Buildings - Doors / Joinery Plans

Level 02 5002 P4  
Level 03 5003 P3  
Level 04 5004 P4

#### Listed Buildings - Ceiling / Cornice Plans

Level 02 5012 P4  
Level 03 5013 P3  
Level 04 5014 P4

#### Elevations

Coney Street 1300 P3  
Riverside 1301 P3  
Waterloo Place 1302 P3  
Courtyard 1303 P3 & 1304 P4  
No.39-41 Coney Street Demolition Elevation (Front) 1306 P2  
No.39-41 Coney Street Proposed Elevation (Front) 1307 P3  
No. 39-41 Coney Street Demolition Elevation (Rear) 1309 P2  
No. 39-41 Coney Street Proposed Elevation (Rear) 1310 P3

#### Sections

1500 P3, 1501 P3, 1502 P3, 1503 P3, 1504 P3, 1505 P3, 1506 P3

#### Large scale details

2002 P3, 2003 P3, 2004

#### Proposed Works to YW Infrastructure drawing

202070-BGP-01-00-DR-C-52-01144 rev P01.

#### Flood zone/storage drawings

202070-BGP-01-00-DR-C-52-01141 P02  
202070-BGP-01-00-DR-C-52-01142 P02  
202070-BGP-01-00-DR-C-52-01143 rev P01

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

### 3 Contract for redevelopment required prior to demolition

Prior to any demolition works in the relevant zone a binding contract for the carrying out and completion of the works of redevelopment of the relevant zone, for which planning permission has been granted, shall be entered into, and evidence of that contract submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the demolition is followed by immediate rebuilding; to maintain the character and appearance of the Conservation Area and to prevent the unnecessary loss of office space.

### 4 Construction management

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall also contain a complaints procedure which shall be followed in the event of a complaint being received about noise, dust, vibration and/or lighting. All works on site shall be undertaken in accordance with the approved CEMP.

Reason: In the interest of protecting amenity.

### 5 Archaeology - evaluation

a) No archaeological evaluation or development (apart from demolition above ground or preliminary groundworks) shall take place until a written scheme of investigation (WSI) for a phase 2 evaluation has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards and guidance set by LPA and the Chartered Institute for Archaeologists.

b) The site investigation and post investigation assessment required by part a of this condition shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under part a of this condition 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 approved WSI).

c) A copy of a report on the evaluation, final 12 month hydrological monitoring report and updated archaeological remains management plan shall be deposited with City

of York Historic Environment Record to allow public dissemination of results within 3 months of fieldwork completion (or such other period as may be agreed in writing with the Local Planning Authority).

Reason: In accordance with NPPF section 16 as the site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be preserved in-situ or recorded prior to destruction.

## 6 Archaeological remains management plan (ARMP)

a) An updated ARMP shall be submitted to the local planning authority for approval following the phase 2 evaluation update and prior to commencement of development (apart from demolition above ground or preliminary groundworks). The ARMP shall include details of archaeological/hydrological monitoring, and excavation. Archaeological mitigation during construction shall be completed in accordance with the programme set out in the approved ARMP thereafter.

b) Post-investigation assessment shall be completed in accordance with the programme set out in the approved ARMP 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 ARMP).

c) A copy of a final report and evidence of publication shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 9 months of fieldwork completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with NPPF section 16 as the site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be preserved in-situ or recorded prior to destruction.

## 7 Archaeology - Hydrological monitoring

Evidence of provision for monitoring of and analysis and reporting on data from the hydrological and water quality monitoring devices for a period of 5 years (unless an alternative timeframe is approved in writing by the local planning authority following other archaeological investigation) shall be submitted in the form of an annual interim report in accordance with the terms of the approved WSI and approved in writing by the local planning authority. A copy of the final report on the archaeological programme detailed in the WSI will be deposited with City of York Historic Environment Record within six months of the completion of the monitoring period.

Reason: In accordance with Section 16 of NPPF and guidance from Historic England on in-situ preservation of organic deposits and subsequent monitoring.

## 8 Archaeology - building recording

A programme of archaeological building recording, specifically a written description and photographic recording of the buildings within the site which are listed and nos.19 and 21 Coney Street (which are buildings of merit) and the river wall, to Historic England Level of Recording 2, shall be submitted to and approved by the local planning authority in writing prior to commencement of development.

The programme of recording and reporting shall be completed in accordance with the approved details thereafter and the provision made for analysis, publication and dissemination of results and digital archive deposition with ADS will be secured. A copy of a report shall be deposited with City of York Historic Environment Record and digital archive images with ADS (to allow public dissemination of results) within 3 months of fieldwork completion (or such other period as may be agreed in writing with the Local Planning Authority).

Reason: This condition is imposed in accordance with Section 16 of NPPF as the buildings on this site are of archaeological and historic interest and must be recorded prior to demolition, alteration or removal of fabric.

## 9 Archaeology - foundation design

No development (apart from demolition above ground or preliminary groundworks) shall commence until a detailed scheme showing the scope and arrangement of foundation design (including lift pits, flood storage and drainage (including attenuation) but excluding areas where excavation has been accepted following exhaustion of all design options on the Coney St frontage as set out in detail in the ARMP) which preserve 95% of the deeper, most significant archaeological deposits on the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The site lies within an Area of Archaeological Importance. These details are required to ensure that disturbance of archaeological deposits by foundation and drainage are minimised.

Note - The design shall ensure that to the rear of the original Coney Street building line no destruction or disturbance shall be made to archaeological deposits below 8.5m AOD except for that caused by the boring or auguring of piles for the new building foundation.

## 10 HWAY40 Dilapidation survey

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

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

## 11 Ecology - construction management

No ground works, demolition works and vegetation removal shall take place until a construction management plan in respect of biodiversity (CMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. All ground works, demolition works and vegetation removal shall be carried out in accordance with the approved CMP: Biodiversity.

The CMP: Biodiversity shall include (but not be limited to) the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) Details of pollution prevention measures to avoid harm and potential mortality to fish species from pollution
- e) Details of biosecurity measures to stop the spread of waterborne diseases  
a) and Invasive Non-Native Species,
- f) Use of directional lighting during construction and operation, which will not shine upon bat roosts, and forage and commuting routes.
- g) The location and timing of sensitive works to avoid harm to biodiversity features.
- h) Programme of pre-commencement checking surveys, such as Otters and nesting birds.
- i) Responsible persons and lines of communication.
- j) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- k) Use of protective fences, exclusion barriers and warning signs.

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area.

## 12 Ecology LEMP incorporating BNG metric

A Landscape Environment Management Plan (LEMP) shall be submitted to and approved in writing by, the local planning authority prior to the commencement of the development. The development shall be carried out in accordance with details shown on the approved LEMP. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed, in accordance with the proposals in the Wold Ecology Biodiversity Net Gain Report issue 3.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: In the interests of biodiversity, to comply with policy GI2 of the Publication Draft Local Plan (2018) and secure the benefits of the scheme.

### 13 Ecology - biodiversity net gain

No development (apart from demolition above ground or preliminary groundworks) shall commence in the relevant Zone until a biodiversity enhancement scheme has been submitted to and approved in writing by the local planning authority prior to the commencement of works. The scheme shall include, but not be limited to the recommendations set out in the Ecological Appraisal provided by Wold Ecology Ltd. (July 2022) and a timetable for implementation. The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 of the NPPF 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.

### 14 Ecology - external Lighting

All external lighting shall accord with Bat Conservation Trust Guidance (2018) Bats and artificial lighting in the UK.

Reason: To protect habitats of European Protected Species in accordance with NPPF section 15.

## 15 Land Contamination

Prior to commencement of development in the relevant zone (excluding demolition), a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and approved in writing by the Local Planning Authority.

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

## 16 Land contamination – remediation

Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved 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 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.

## 17 Remediation - verification

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

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

## 18 Drainage

There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, in accordance with details

submitted to and approved in writing by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include –

- Evidence of existing positive drainage to public sewer and the current points of connection.
- The means of restricting the discharge to public sewer to the existing rate less a minimum 30 % reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.
- 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 determine the worst case volume required.
- Details of the future management and maintenance of the drainage scheme.

Reason: To ensure that no surface water discharges take place and in the interest of sustainable drainage.

## 19 Flood Risk

The development shall be carried out in accordance with the submitted Flood Risk Assessment (20T2017 issue 004). Compensatory storage shall be provided as stated in Appendix H of that document. The compensatory storage design shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of works (apart from demolition and enabling works).

The design shall include -

- Detailed design drawings
- Calculations of loss and gain of storage.
- Management, and maintenance plans for the lifetime of the development, to include details on how access will be provided for maintenance.

The approved design shall be fully implemented prior to occupation of the relevant zone and shall thereafter be retained, operated and maintained for the lifetime of the development.

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

## 20 Materials

Notwithstanding any proposed materials specified on the approved drawings or other documents submitted with the application, samples of all proposed external



building materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the commencement of the construction of the building envelope. For the avoidance of doubt, this includes vision and any non-vision glazing, flat or pitched roofs. The development shall be carried out using the approved materials.

Samples of materials shall include the following -

#### Brick Sample Panels

On-site sample panels of bricks, in each type of brick, in each type of bond, including chosen mortar and pointing, and including any special brick features are to be constructed. The sample panel shall be 2m by 1.2m minimum overall. If multiple combinations of brick and/or bond are proposed each type to be 1m by 1.2m. The agreed panel shall represent a minimum standard for the quality of workmanship that the development should achieve, and the panel shall remain on site for the duration of the brickwork package.

#### On-site mock-up sample constructions

The mock up shall be 1:1 scale but shortened overall sizes of elements can be included. The contents and size of the mock-ups shall be agreed by the LPA in advance of their construction.

Mock-up samples are to be carried out for Zone 3 and Zone 4 where different for the following:

- Brick wall with feature staggered recessed brick planes, window, metal floor spandrels integral with glazing, brick sill and parapet to head.
- Brick wall (different type) with feature staggered recessed brick planes, window, part head of commercial level interface at bottom.
- Metal wall with window and metal roof interface.
- Raising of river wall treatment and interface with existing wall below and terrace above, including sample floodwater apertures

Note: Sample materials shall 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. Samples should be provided of sufficiently large size to be able to appropriately judge the material (including joints/fixings where an important part of the visual quality of the material), and to be provided together where materials are seen together.

Flat roofs are expected to be either stone ballast finished, paved or green/brown (no exposed single ply membranes). Metal roofs are expected to be traditional standing seam type. Samples are expected to be physical (not photographic) and should be provided of sufficiently large size to be able to appropriately judge the material (including joints/fixings where an important part of the visual quality of the material), and to be provided together where materials are seen together.

Reason: In the interests of visual amenity and the impacts on heritage assets.

## 21 Large scale details

Prior to commencement of construction (of the building envelope) of the relevant zone the following large-scale details (to include section drawings and 3D drawings) and manufacturers details of the external materials shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

- Typical sections for new build at 1:20 scale - selection of typical bay construction for differing material types, with variations for differing types of recessed feature plane, including windows, ventilation grilles, guarding and any balconies, wall interfaces at ground, set back upper floor transitions, roof, open or enclosed plant room wall construction, together with overall maximum height AOD.
- Typical residential and commercial entrance areas including external soffit.
- Tunnel/ginnels and overhangs including soffits.
- Shopfronts.
- 19 Coney Street alterations to rooftop.
- Zone 4 folded roof detail.
- Riverside wall.

Reason: In the interests of visual amenity and the impacts on heritage assets.

## 22 External equipment

Any ancillary external equipment associated with servicing the building shall adhere to the following requirements –

- For flat roofs, without a solid roof parapet 1m or higher: service protrusions are not allowed within 2m of any building edge. Any service protrusions lower than 1m above roof finish level elsewhere are allowed. Any proposals for service protrusions higher than 1m above flat roof level elsewhere are to be submitted to, and approved by the Local Planning Authority prior to installation (but should generally be expected not to be permitted).
- For flat roofs with a solid roof parapet 1m or higher: any service penetrations higher than top of parapet shall be submitted to, and approved in writing by, the Local Planning Authority prior to installation.
- Pitched roofs: service penetrations are not permissible, unless approved in writing by the Local Planning Authority (through submission of drawings) prior to installation.

- Permanent external wall fixed equipment used to service the building are not permissible, unless approved in writing by the Local Planning Authority (through submission of drawings) prior to installation.
- Plant rooms equipment is not to be higher than plant room screening.
- Open style roof edge protection is not permissible, unless subsequently approved in writing by the Local Planning Authority. (Where provided it is expected to be for visual inspection purposes only, designed to minimise visual impact, and at least 2m set back from the edge of building line).

Reason: In the interests of visual amenity and the impacts on heritage assets.

### 23 Side elevation of 4 Spurriergate - scheme for restoration (following demolition of Boots)

Following demolition of 43 Coney Street a scheme for making good the exposed side wall of 4 Spurriergate (and buildings to the rear) shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details prior to first occupation of Zone 04. (The scheme as shown on proposed design intent boundary wall is not an approved drawing and any logo to the gable end of 4 Spurriergate should not be considered approved).

Reason: In the interests of visual amenity and the impacts on heritage assets.

### 24 Public realm

The landscaping schemes, as shown on the approved landscape general arrangement plan and proposed roof plan shall be completed in full prior to first occupation of the leisure units and student accommodation within the relevant phase (as shown on the approved phasing plan).

Prior to installation of the scheme details of the surfacing materials, furniture (including lighting) and the species and stock size of soft landscaping of Waterloo Place and the rooftop garden to 19 Coney Street shall be submitted to the Local Planning Authority for approval. The scheme shall be implemented in accordance with the approved details.

Any trees or plants which 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: In the interests of visual amenity as the landscape scheme and public realm is integral to the amenity of the development and the conservation area setting.

## 25 BREEAM

The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of at least 'excellent' (or equivalent). A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 6 months of first occupation/use of the building. Should the development fail to achieve a BREEAM standard of 'excellent' (or equivalent), a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a standard of 'excellent'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

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 (note it is agreed that the BREEAM assessment types can be as reported in the sustainability statement reference LL090-RPT A03).

## 26 Carbon reduction

The new build purpose built student accommodation shall achieve -

- A reduction in carbon emissions of at least 31% compared to the target emission rate (of which at least 19% should come from energy efficiency measures) as required under Part L of the Building Regulations 2013. In addition should up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) not be achieved, it shall be demonstrated that such reductions would not be feasible or viable and such details shall be agreed and approved by the local planning authority.
- A water consumption rate of no more than 110 litres per person per day (calculated as per Part G of the Building Regulations).

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.

## 27 Secure by design

A scheme of secure by design measures for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the phase (apart from demolition and enabling works) and the works shall be carried out in accordance with the approved details. The scheme shall include access control and lighting to communal areas.

Reason: To create places that are safe, inclusive and accessible in accordance with

NPPF paragraph 135f.

## 28 Cooking odours (cafe/restaurant)

Should the first use of any of the commercial/leisure units be a cafe or restaurant a scheme shall be submitted to the local planning authority prior to first occupation of that unit to demonstrate 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 student accommodation provided within the building.

Note: 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 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.

## 29 Noise (student accommodation)

The habitable rooms within the student accommodation hereby permitted shall incorporate at least the glazing specification as detailed in table 4.1: Scheme of Sound Insulation Works within the ENS noise impact assessment reference NIA-10579-22-10747-v2.

Reason: In the interests of future occupants amenity, in accordance with NPPF paragraphs 135 and 191.

## 30 Site facilities

The cycle parking storage, refuse bin storage, and disabled parking spaces shall be provided, in accordance with the approved plans prior to first occupation of the relevant phase. The facilities shall be retained for such use at all times.

- All lift doors which provide access to and from cycle stores shall be at least 1.3m wide.
- Two tier cycling storage shall be gas assisted.
- Internal lighting shall be provided to all cycle stores.

Post occupation use of the cycle facilities shall be monitored annually and the results issued to the local planning authority in writing. Should occupation levels exceed 90% of any individual store, a strategy that details a scheme for the review of cycle demand for each of the uses on site and the provision of extra spaces shall be submitted to the local planning authority and implemented in accordance with the approved details.

Reason: To ensure there is suitable cycle storage; to promote sustainable transport and in the interests of good design in accordance with sections 9 and 12 of the NPPF.

### 31 Public benefits - external improvements to buildings

Prior to first occupation of the purpose-built student accommodation hereby permitted the approved external works to the relevant building shall be fully implemented in accordance with the approved plans.

Reason: To secure the public benefits of the scheme in accordance with NPPF section 16.

### 32 Retail units (size)

The retail units as shown on the approved plans shall remain in a Class E use and shall not be sub-divided to the effect that the amount of floorspace in any of the retail units (as identified in the approved plans) is reduced, unless it is first approved in writing by the Local Planning Authority that space at level 00 in retail unit 01 is required for additional cycle storage.

Reason: In the interests of the vitality and viability of the primary shopping street and the primary shopping area; to ensure that it continues to provide a reasonable amount of larger retail spaces. In accordance with NPPF paragraph 90.

### 33 Provision of amenities in PBSA

The amenities for the occupants of the student accommodation (communal living areas, laundry, study rooms etc) shall be provided in accordance with the approved floor plans prior to first occupation of the relevant phase/zone and shall be retained for the lifetime of the development.

Reason: In the interests of good design and the living conditions of the occupants of the development.

#### 34 Flood risk management

The development hereby permitted shall incorporate the following flood risk avoidance measures -

The building management company, PBSA operator and tenants shall appoint responsible persons to sign up for the flood warning service and monitor the 24-hour flood warning risk provided by the EA. Prior to first occupation of the building the building management company and the PBSA operator shall prepare an action plan to avoid damage to any property stored within the basements, which shall include an appropriate trigger point for removal and relocation of goods (including cycles), at times of flooding. The plan shall be adhered to for the lifetime of the development.

Reason: To manage flood risk, including reducing flood risk elsewhere.

#### 35 Unexpected contamination

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.

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

#### 36 Building services

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

associated with tonal, impulsive, distinctive or intermittent characteristics.

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

### 37 Waste storage

Waste and recycling bins shall be stored in the refuse stores at all times ( except for at times of collection in respect of the retail units).

Reason: In the interests of good design in accordance with section 12 of the NPPF. To ensure there is suitable cycle storage and refuse storage areas.

### 38 Restriction of use - PBSA

The student accommodation hereby approved shall be used only as student housing accommodation. No person other than a student registered with, and engaged in, a course of full time further or higher education (in the relevant year) or a delegate registered with and attending a part time educational course or seminar within the City of York administrative boundary shall occupy any part of the development at any time.

The owner, or site operator shall keep an up to date register of the name of each person in occupation of the development together with course(s) attended. The register shall be available for inspection by the local planning authority on demand at all reasonable times.

Any occupation by other persons outside of term time shall only occur if a scheme detailing the terms of such arrangements has been first approved in writing by the local planning authority, and thereafter in accordance with the terms of such an approved scheme.

Reason: For the avoidance of doubt and in order to control the future occupancy of the development, as otherwise the development would involve other requirements in order to be NPPF compliant, such as potentially requirements in respect of affordable housing, education and open space provision.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)



- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- on the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

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

## 2. Yorkshire Water

The developer is advised that the presence of Yorkshire Water sewers in Zone 4. Yorkshire Water have advised that -

- A stand-off distance of 5 (five) metres is required at each side of the sewer centre-lines and it may not be acceptable to raise or lower ground levels over the sewer, nor to restrict access to the manholes on the sewer.
- Trees should not be planted within 5 metres either side of the line of public sewers crossing the site.
- A proposal by the developer to alter/divert a public sewer will be subject to Yorkshire Water's requirements and formal procedure in accordance with Section 185 Water Industry Act 1991.

## 3. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

## 4. 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: sought revised plans to address heritage concerns and through the use of planning conditions.