



**Notice of meeting of
Planning Committee**

To: Councillors R Watson (Chair), Bartlett, Blanchard, Cuthbertson, Hill, Horton, Hyman, Jamieson-Ball, Macdonald, Moore, Reid, Simpson-Laing, Smallwood, I Waudby and Wilde

Date: Thursday, 28 September 2006

Time: 4.30 pm

Venue: The Guildhall, York

AGENDA

**PLEASE NOTE THAT THERE WILL BE NO SITE VISITS
PRIOR TO THIS MEETING.**

1. Declarations of Interest

At this point, members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 1 -
4)

To approve and sign the minutes of the meeting of the Planning Committee held on 31 August 2006.

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the day before the meeting. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

4. Plans List

This item invites Members to determine the following planning applications:

- a) **Barbican Centre, Paragon Street, York** (Pages 5 -
(06/00526/GRG4) 20)

Section 73 application for the variation of approval to application 03/04075/GRG4, subsequently amended by application 05/00882/GRG4, to enable the existing Barbican Centre to be refurbished (together with alterations and extensions) as a separate phase to the overall redevelopment.

- b) **Barbican Centre/Kent Street Car Park,** (Pages 21 -
Paragon Street, York (03/04075/GRG4) 134)

Redevelopment including 240 apartments, hotel, and alterations to the Barbican Centre and the existing multi-storey car park.

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

Democracy Officer

Name: Rebecca Jarvis

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

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City of York Council

Minutes

| | |
|-----------|---|
| MEETING | PLANNING COMMITTEE |
| DATE | 31 AUGUST 2006 |
| PRESENT | COUNCILLORS R WATSON (CHAIR), BARTLETT, CUTHBERTSON, HORTON, HYMAN, JAMIESON-BALL, LIVESLEY (SUBSTITUTE FOR CLLR MACDONALD), MOORE, REID, SIMPSON-LAING, I WAUDBY AND WILDE |
| APOLOGIES | COUNCILLORS BLANCHARD, HILL, MACDONALD AND SMALLWOOD |

14. DECLARATIONS OF INTEREST

The Chair invited Members to declare at this point any personal or prejudicial interests which they might have in the business on the agenda.

Councillor Livesley declared a personal non-prejudicial interest in relation to agenda item 4a) (York Sixth Form College, Sim Balk Lane, York (06/01343/FUL)) as a member of Bishopthorpe Parish Council but confirmed that he had taken no part in discussion on this application.

15. MINUTES

RESOLVED: That the Minutes of the meeting held on 27 July 2006 be approved and signed by the Chair as a correct record.

16. PUBLIC PARTICIPATION

It was reported that nobody had registered to speak, under the Council's Public Participation Scheme, on general issues within the remit of the Committee.

17. PLANS LIST

Members considered a report of the Assistant Director (Planning and Sustainable Development), relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and the advice of consultees and officers.

**17a. York Sixth Form College Sim Balk Lane York YO23 2UD
(06/01343/FUL)**

Members considered a Full Application submitted by York College for amendments to elevations of the new college building, formation of a fourth floor roof extension and amendments to the main college car park (alterations to scheme approved on 4 March 2005 under reference 04/00376/FUL), at York Sixth Form College, Sim Balk Lane, York (Ref: 06/01343/FUL).

Officers updated that the objections previously raised by a neighbour, referred to in para. 3.6 of the report, had now been withdrawn following his receipt of sun path diagrams which showed that there would be no real increase in loss of light. It was also reported that Highway Network Management had no objections to the proposals.

Representatives from York College, the Planning Consultant and the Architects were in attendance at the meeting to answer Members questions.

Members referred to the extended plant room required to accommodate additional equipment to achieve the rating of "Very Good" against the BREEAM checklist. Officers confirmed that the Section 106 agreement drawn up under the earlier permission for the scheme had stated that the plant room should aim to reach a rating of "at least very good". Members also requested the developers to note that the landscaping scheme should require early and substantial planting of trees on the site.

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

- REASON:**
1. In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to visual amenity and the living conditions of nearby residents. As such the proposal complies with Policies C1 and GP9 of the City of York Development Control Local Plan.
 2. This planning permission only covers amendments to the main college building and the decked car park. Any alterations to the overall detailed layout of the site and the landscaping masterplan which have been submitted with the drawings attached to this application must be progressed through the discharge of the conditions imposed on the original planning permission.

**17b. Grays Newsagent Ltd Navigation Road York YO1 9UN
(06/01675/FULM)**

Members considered a Major Full Application, submitted by Grays Wharf, for the erection of a four and six storey office block associated substation and external works (amendment to previously approved scheme ref: 04/00885/FUL – proposed apartments to be replaced with office accommodation) at Grays Newsagent Ltd, Navigation Road, York (Ref: 06/01675/FULM).

Officers updated that Yorkshire Water had raised no objections to the scheme subject to the imposition of conditions detailed in the previous application. Members were also reminded that as part of negotiations in the previous application funding of £19,572 towards the improvement of the adjacent bus stop facilities in Walmgate and the Foss Basin Masterplan were still outstanding and would be covered by a Deed of Variation in the Section 106 Agreement.

Representatives from Marriott Hardcastle, Project Co-ordinators and King Sturge, Letting Agents were in attendance at the meeting to answer Members questions.

Officers confirmed that no objections had been received from local residents but that the consultation period did not expire until 4 September and the Press notice expired on 6 September 2006. Members were asked to delegate approval, subject to no objections being received, to the Officers in consultation with the Chair, Vice Chair and Opposition Spokesperson.

Members questioned whether additional car movements would be generated by the change from apartments to offices. Officers confirmed that the submitted layout was for 41 car parking spaces in accordance with the originally approved plan and no increase in this was proposed.

RESOLVED: That, following expiry of the consultation period and subject to receipt of no objections, Officers in consultation with the Chair, Vice Chair and Opposition Spokesperson be delegated authority to approve the application, subject to the conditions listed in the report.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to principle of the development, design issues - impact on character and appearance of conservation area, impact on local residents, highway and parking issues, archaeology, contaminated land and flooding. As such the proposal complies with Policies I6 and E4 of the North Yorkshire County Structure Plan (Alteration No.3

Adopted 1995) and Policies GP1, E3, E4, HE2, HE10, GP6 and T4 of the City of York Local Plan Deposit Draft.

COUNCILLOR R WATSON
Chair

The meeting started at 4.30 pm and finished at 5.20 pm.

COMMITTEE REPORT

Committee: Planning Committee **Ward:** Fishergate
Date: 28 September 2006 **Parish:** Fishergate Planning Panel

Reference: 06/00526/GRG4
Application at: Barbican Centre Paragon Street York YO10 4AG
For: Section 73 application for the variation of approval to application 03/04075/GRG4, subsequently amended by application 05/00882/GRG4, to enable the existing Barbican Centre to be refurbished (together with alterations and extensions) as a separate phase to overall redevelopment
By: Absolute Leisure
Application Type: General Regulations (Reg4)
Target Date: 8 May 2006

1.0 PROPOSAL

1.1 The application seeks to further vary some of the conditions of approval linked to the detailed planning permission, granted in September 2004, for the redevelopment of the existing site of the Barbican Leisure complex (ref no 03/04075/GRG4). This gave permission for an auditorium, conference centre, residential development consisting of 240 apartments, a hotel and alterations to the existing multi-storey car park. In total there are 40 conditions of approval, many of which require the submission of details and subsequent written agreement by the Council before work on site commences.

1.2 Some of these conditions have already been amended by planning permission 05/00882/GRG4 which sought to vary some of the pre-conditions and allowed details such as materials, landscaping and boundary treatment to be agreed at a later date in order to allow initial site preparation work to take place.

1.3 As a reminder to members, the area of land in question is the existing site of the Barbican complex and is bordered by Paragon Street to the north, Barbican Road to the east and Kent Street to the south. The car park is across the road from the main site and stands on the junction of Kent Street and Cemetery Road. This Section 73 application relates only to the large redevelopment site encompassing the area described above and does not relate to the conditions on the outline planning approval on the adjacent site which was for a new swimming pool.

1.4 This application has been submitted on behalf of Absolute Leisure, who are the intended operators of the refurbished centre. However, Absolute Leisure will not be freehold owners or have a legal interest in the land or buildings prior to the refurbishment of the Barbican Centre building and so will not be party to the Sec. 106 agreement. The obligations Absolute Leisure agreed will be discharged by Barbican Venture. The purpose of the application is to enable the existing Barbican Centre building to be refurbished, altered and extended in accordance with the approved scheme, as a separate phase without waiting for the remainder of the site to be developed. Therefore the application seeks to amend the wording of some of the conditions to reflect a more phased approach to the development of the site.

1.5 This application does not seek to amend any of the details of the permission. The scheme would remain exactly as that approved.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

Floodzone 2 Flood Zone 2 CONF

Schools Multiple (Spatial)

2.2 Policies:

3.0 CONSULTATIONS

3.1 INTERNAL.

3.2 Highway Network Management.

I have no objections in principle to the refurbishment of the Barbican Centre going ahead separately from the other developments already approved, and I believe that the highway conditions previously sought can be slightly amended to refer to this particular aspect of development rather than the whole scheme.

3.3 City Development.

No comments to make.

3.4 EPU.

Have no objections. The insertion of wording such as 'each phase' or 'as relates to each phase' has been suggested for inclusion with most conditions. This wording is considered acceptable, as the final objectives of the conditions will be delivered, albeit on a staggered basis.

3.5 Urban Design and Conservation.

The application relates to procedure and would not appear to affect the overall design of the scheme at the moment.

3.6 Community Services.

It appears that the application will not have any affect on the remainder of the approved scheme which is set to provide 60 affordable homes. On this basis, no comments to make.

3.7 EXTERNAL.

3.8 Fishergate Planning Panel.

Object strongly on following grounds.

i) That the proposed extensions to the Auditorium would bring the building too close to the City Walls.

ii) Road safety. The proposed extensions would result in concert goers being forced to queue much closer to Paragon Street. More dangerous still is the prospect of revellers spilling out into the road at the end of a concert or event.

iii) Increase in the number of patrons will contribute to extra noise and litter nuisance in the surrounding area, especially since the centre is licensed until 2.30am, 365 days a year.

Also questions whether the development of the Barbican Auditorium, as separate from the rest of the development, has been available for tender by other companies.

3.9 Sport England.

The overall scheme that was approved affected a swimming pool, a grass bowling green and indoor sports facilities. Replacement sport facilities and arrangements for displaced sport users were however catered for. No objections were therefore raised to the previous applications.

Further changes to the overall scheme are now proposed, which will again be subject to specific pre-conditions being met. Commencement of refurbishment work on the Barbican centre as a separate phase does not necessarily require the discharge of such conditions, and would allow early implementation of refurbishment works.

It is considered acceptance of this proposal would still require wording of planning conditions and clauses in any separate agreement to continue to safeguard the implementation and interests of an on/off site sport and recreation provision associated with the development package. Subject to this being achieved, Sport England is of the opinion that the proposal could satisfy Sport England Planning Policy Objective 7, namely

' To support the development of new facilities, the enhancement of existing facilities and the provision and/or improvement of access to the natural environment which will secure opportunities to take part in sport and which can be achieved in a way which meets sustainable development objectives'.

3.10 York Civic Trust.

The refurbishment of the Barbican Centre is insignificant in relation to the overall scheme, and we have no objection to this aspect of it. This does not signify support to any part of the remainder of the site, to which we strongly objected.

3.11 English Heritage.

Have considered the information submitted and have no comment to make.

3.12 York Georgian Society.

Very much regret any further variation of existing permissions to enable the commencement of any work on the Barbican site whilst its future is so uncertain. It is a sensitive site and it should be maintained in a way that should not detract from the setting of the City Walls and the Conservation area. PPG15 advises on demolition in the conservation area and advises that it might be appropriate to impose a condition that no building be demolished until a contract for the carrying out of works of redevelopment has been made and signed and that planning permission for those works has been granted.

It is assumed that no contract is in existence for the site's redevelopment and therefore consider that the above advice is applicable here.

There is currently a major scheme being implemented for the enhancement of the City Walls and improving access to them. It would be considerably to their detriment if the Barbican site were to become the kind of half developed site warned about in PPG15.

The Society also believes that in view of the uncertainty over the future of the whole site, it would be inadvisable to begin any construction work which might prejudice future uses. Consider it to be important that an overall scheme as a whole be developed and that the site is not proceeded with in a piecemeal fashion. There should be no construction work carried out to the Barbican centre itself until the overall future of the site becomes clear.

3.13 Environment Agency.

The Environment Agency have no comments to make on the variation of conditions as detailed in Raymond Barnes letter of 9 March 2006.

It is our understanding that all of the conditions attached to planning application 05/00882/GRG4 will be retained but that the overall development will be phased and the conditions amended accordingly to allow the discharge of conditions on parts of the site without having to apply to all of the site.

3.14 Third Parties.

12 letters of objection received making the following observations.

- Part of a much larger development and would be wrong to grant an application to vary conditions without seeing clearly what is in the new application for the rest of the site. Most likely that the remainder of the site will need a new application.
- Needs to be considered as part of the original or existing planning application.
- A new pool and sporting facilities were part of the original planning permission which was granted. The replacement of these old facilities on a nearby site is what made it possible for Absolute Leisure to use the site for other activities. Since the promised new pool and sporting facilities have now been cancelled, the grounds on which Absolute Leisure were to take over the site no longer apply. For these reasons do not believe that Absolute Leisure have a right to commence work prior to final decisions being made about the future of the whole redevelopment site and the original planning permission has been breached by the cancellation referred to above.
- Condition 2 should not be varied as we do not know how the rest of the site is to be developed. Conditions 3,4 and 5 should not be varied again as it should be certain, before work is commenced that the finished appearance is compatible with whatever is proposed for the rest of the site.
- Barbican building is a civic amenity for the health and wellbeing of the community. This is not for the well being of the community.
- Absolute Leisure did not go through a bidding process for the Barbican
- The deal is atrocious for the people of York. The Barbican cost £15 million in 1990 and it is been gifted away for £750 000.
- Original conditions have already been amended and these are been watered down further. This is to the detriment of the quality of any work carried out. They were put on for a reason and should be adhered to. It is eroding conditions and enabling developers to get away with what they want.
- The conditions of the first or amended application will be rendered obsolete by this new application.

4.0 APPRAISAL

4.1 Section 73 of the 1990 Town and Country Planning Act provides for applications for planning permission without complying with conditions previously imposed on a planning permission. The Local Planning Authority can grant such permissions unconditionally or subject to different conditions, or they can refuse the application if they decide the original conditions should continue in the same form. The proposal here is to vary some of the original conditions and if approved, a completely new decision notice would be issued.

4.2 The key issue here is whether the proposed variation of some of the pre-conditions allows the Council to retain the necessary control over the development in terms of details and timescale. The precision and enforceability of any reworded conditions is also a key consideration.

4.3 Absolute Leisure's only involvement in the redevelopment proposal is the existing Barbican centre building itself. The extant planning permission involves internal and external alterations to create a new facility comprising an auditorium / conference centre with associated facilities with single storey glazed extensions projecting towards the forecourt fronting Paragon Street. This will create a new restaurant at ground and first floor level. The existing sports hall area at the Kent Street side of the building is to be converted to form multi-functional halls and conference rooms linked to the retained and refurbished auditorium. There are no changes to the details of the extant planning permission.

4.4 The above work is ready to proceed and Absolute Leisure are keen to start work on the building and bring it back into use as soon as possible. However as the red line of the extant planning permissions relates to the entire site encompassing the 3 main phases (the Barbican Centre building, the hotel and the flats) the pre-conditions, as currently worded, can only be discharged once the details have been agreed in relation to the overall development. For example, condition 5 relates to agreeing all new external materials. In order to discharge this condition at present, all external materials used across the entire site would have to be agreed before this condition could be discharged and therefore before work could commence on any part of the site. Absolute Leisure are concerned that if there is no final developer agreed for the hotel / housing phase of the scheme then the exterior details pertaining to these phases cannot be agreed and therefore the condition cannot be discharged. Consequently they then cannot legally commence work on the redevelopment of the Barbican centre building. They therefore seek the variation of this and other similar conditions in order to permit their discharge in a phased manner (ie before work on that particular phase is to commence) and therefore allow Absolute Leisure to implement their proposals for the Barbican Centre without relying on the other end users to be agreed on the adjacent phases. It is possible that if an end developer proposes material changes to the agreed hotel or residential details then a fresh planning application would have to be submitted, delaying this process still further.

4.5 Advice on the use of planning conditions is contained in Circular 11/95. This states the importance of any conditions imposed being fair, reasonable and practicable as well as enforceable, precise and relevant to the planning permission imposed. The question is therefore whether the changes proposed still meet this test. The issue is not that the conditions will be removed or that any development is proposed without complying with the conditions imposed, it is merely about discharging the conditions in phases for the reasons outlined above.

4.6 The main issue is to ensure that the phased discharge of the conditions does not prejudice the Council's control over the site and the implementation of the development as a whole. Whilst there is no fundamental reason why a site cannot be developed in a phased

way it is important to ensure that the discharge of the details on one part of the site does not prejudice the details on the adjacent phase.

4.7 The concern here is that there is no obvious separation within the site, it has been planned as one linked development. However, there are 3 distinct parts, the existing building, the hotel and the housing. Therefore it is feasible that the development could be implemented in a phased manner providing that the areas which link the 3 phases together, such as access details can be controlled. It is important to provide some cohesion to the redevelopment work so that the development does not take place in an uncontrolled, piecemeal manner with parts left unfinished and unsightly. It is therefore recommended that a new condition be added (no.3) that requires the developer to agree the phasing details prior to any work commencing on any phase. This will ensure that the extent of the work expected to be carried out as part of each particular phase is agreed with the Council prior to any work commencing. Where specific details are required about external materials, landscaping and boundary treatment officers believe this can be controlled and that it is possible to ensure that all these relate successfully to each individual phase of the site even if the details are agreed at different times and the work is subsequently carried out separately. Most conditions will be amended to include some reference to phasing. The highways officer is also content that the highway conditions can be reworded to take into account a phased implementation of the site to ensure that any work, including any 'off site' will still have to be carried out if it is relevant to that particular phase. (see highway conditions 35 to 40).

4.8 The original application was not the subject of an Environment Impact Assessment after a screening opinion was carried out and it was concluded that one was not required. This application does not alter the development in terms of its built form and whilst a further screening opinion has been carried out, it is officers opinion that an EIA is still not required.

4.9 With regard to the Section 106 agreement, an amendment to this appears as the next agenda item. However, this application considered here merely refers to the early refurbishment of the Barbican building and the consequent phasing of the overall redevelopment and this will not effect the provisions or details of the Section 106 agreement.

4.10 For the sake of clarity and for members information the changes to the wording of the conditions are highlighted in bold. If members are minded to approve the changes, it is recommended that a completely new decision notice be issued to include all conditions. Officers consider that this would help with clarity and the subsequent policing of the conditions. The application will be sent to the Sec. of State as with previous applications.

5.0 CONCLUSION

The phasing of the development does not appear to present any significant issues from a planning point of view.

6.0 RECOMMENDATION: Approve following Sec of State Decision

- 1 The development shall be begun not later than the expiration of the five years from the date of the original planning permission ref. no 03/04075/GRG4 dated 21st September 2004.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990.

- 2 The development shall not be carried out otherwise than in complete accordance with the plans as **are applicable to each phase of the development** originally submitted and later amended by the revised drawings listed below, or as may otherwise be agreed in writing with the Local Planning Authority.

DWA - CO921 AL(0) p 01B, 02A, 03A, 04A, 05A, 06A, 07A, 08A, 21A, 27, 40B, 41B, 42A, 46A, 50A, 51A, 60A, 63, 101A, 139, 900C, 902A

Blueprint - 2087-02-001A, 002A, 003A, 004A, 005D, 006A, 007B, 008G, 009A, 010B, 011B, 012

DWA Visuals - 119A, 120, 121, 124A, 126A

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development

- 3 **A phasing programme shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the agreed phasing programme.**

Reason. To ensure that the Local Planning Authority is satisfied with the details of the phasing of the development.

- 4 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction work on any of the buildings that form part of **each phase** of the development and the works shall be carried out in accordance with the approved details.

External lighting, signage, doors, windows, balconies, eaves, glazing and curtain walling joints.

Reason: So that the Local Planning Authority may be satisfied with these details.

- 5 A sample panel of the brickwork to be used on **all new external surfaces** shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of any works to any of the buildings that form part of **each phase** of the development. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

- 6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external **roof** materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction work on any of the buildings that form part of **each phase** of this development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

- 7 Details of all means of enclosure to **each phase of development within** the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before construction work on any of the buildings hereby permitted commences and shall be provided before **that phase of** the development is occupied.

Reason: In the interests of the visual amenities of the area.

- 8 No work shall commence on **each phase of the** site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before **that phase of** development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

- 9 No work shall commence on **each phase of the** site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before **that phase of** development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

- 10 No development **on each phase of the development** shall take place until the applicant has submitted a detailed mitigation strategy **relating to each phase of the development** (covering excavation, watching brief, analysis, publication, archive deposition, and public involvement) and this has been agreed in writing by the Assistant Director (Planning and Sustainable Development).

Reason. This development will have an effect on important archaeological deposits which are preserved within the site.

- 11 No construction work on any of the buildings **on each phase of the development** hereby permitted shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme **for that phase of the development** which shall illustrate the number, species, height and position of trees and shrubs to be planted;. This scheme shall be implemented within a period of six months of the completion of **that particular phase of** development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

- 12 None of the existing trees shown to be retained on the approved plans, (including those along the Paragon Street frontage which shall be retained except where removal is required for creation of the hotel entrance lay-by) shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until 12 calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: The Local Planning Authority considers it important to safeguard these trees in a positive manner so as to secure their continued well being.

- 13 Before the commencement of and during building operations **on each phase of the development**, adequate measures shall be taken to protect the existing planting on this site. This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works **on each phase of the development**.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

- 14 Prior to the commencement of any construction work on any of the buildings **on each phase of the development** approved by this permission, details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. **No buildings** shall be occupied until the cycle parking areas and means of enclosure have been provided within **that phase** in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

- 15 No building **on each phase of the development** shall be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

- 16 Prior to the **commencement of each phase of the development** commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works **on that phase**.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

- 17 Prior to **the commencement of each phase of the development** 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 LPA.

Reason: In the interests of the safety and good management of the public highway.

- 18 Other than the demolition of the buildings no development **on each phase of the development** approved by this permission shall commence until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development **on that phase** shall proceed **only** in strict accordance with the measures approved.

Reason. To assess the risks to the water environment; to prevent pollution of the water environment.

- 19 If during **the development of any phase**, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA) shall be carried out until the applicant has submitted, and obtained written approval from the LPA, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

- 20 No construction work on any of the buildings **on each phase of development** approved by this permission should be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

- 21 All demolition and construction works, including ancillary operations such as deliveries to and dispatch from the site, that are audible at the site boundary or other position as defined by the local planning authority, shall be confined to the following hours:

| | |
|---|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |
| Not at all on Sundays and Bank Holidays | |

Reason: To protect the amenity of local residents.

- 22 Prior to the commencement of any construction work on any of the buildings **that form part of any phase** approved by this permission, the method for any piling operations shall be agreed in writing by the Local Planning Authority. All piling operations shall be done in accordance with this agreement.

Reason. To protect the amenity of local residents.

- 23 For all habitable rooms of the residential accommodation fronting Paragon Street, Barbican Road, Kent Street and Fawcett Street, the building envelopes shall be constructed so as to provide sound attenuation against external noise of not less than 35 dB(A), with windows shut and other means of ventilation provided. The

detailed scheme shall be approved in writing by the local planning authority and fully implemented before each dwelling is occupied.

Reason: To protect the amenity of future residents.

- 24 Upon completion of the development, use of the joint service yard for the hotel/Barbican and the Barbican service yard, as shown on drawing AL(O)p 902, shall be confined to the following hours:

| | |
|---------------------------|----------------|
| Monday to Saturday | 08.00 to 21.00 |
| Sundays and Bank Holidays | 9.00 to 18.00 |

Reason: To protect the amenity of local residents.

- 25 Details of all machinery, plant and equipment to be installed in or located on **any building or land** hereby permitted, which is audible at any residential or hotel accommodation, shall be submitted to the local planning authority for written approval. These details shall include maximum (L_{Amax(f)}) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents.

- 26 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 thereafter.

Reason: To protect the amenity of local residents.

- 27 Use of the roof gardens that form part of the Barbican development shall be confined to the following hours of operation :
- | | |
|------------------|-----------------|
| Monday to Sunday | 09.00 to 22.00. |
|------------------|-----------------|

Reason: To protect the amenity of future and adjacent residents

- 28 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 22.5 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

- 29 Details of the works and provision to facilitate disabled access and movement within the site and to the buildings permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before the use is commenced or the building is occupied.

Reason: To ensure adequate provision for access within the development.

- 30 Prior to the commencement of any works on site, a detailed method of works statement **relating to each phase of development** shall be submitted to and agreed in writing by the Local Planning Authority **and no phase shall commence until approval has been given to the works statement for that phase.** This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction material.

Reason: to ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway and adjacent occupants.

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

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

- 32 No gate, door or ground floor window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

- 33 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

- 34 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

- 35 **No part of any** development **that forms part of each phase of the development** shall be brought into use; until all existing vehicular crossings **within that phase** not shown as being retained on the approved plans have been removed by reinstating the kerb to match adjacent levels.

Reason. In the interests of good management of the highway and road safety.

- 36 **Any** parking and garaging shown **within each phase of the development** on the approved plans shall be kept free of obstructions at all times so that they can be used

for the primary purpose of parking motorised vehicles and bicycles **within that phase**.

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

- 37 Prior to **each phase of** the development coming into use highway visibility splays **affecting that particular phase** shall be provided at the junction of the site and Kent Street shall be free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

- 38 Prior to the commencement of the use **of any building or phase** hereby approved, provision shall be made within the site for the accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

- 39 **Each phase of the development** hereby permitted shall not come into use until the following highway works **appropriate to that phase** (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with the approved plans, or arrangements entered into which ensure the same.

- Residential block dropping off lay-by, Barbican Road
- Hotel dropping off lay-by, Paragon Street
- Pedestrian crossing points, Kent Street
- Relocated bus stop, Kent Street
- Improvements to pedestrian crossings at Fishergate Bar

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

- 40 Prior to the commencement of any works **on each phase**, a safety audit (stages 1,2 and 3) shall be carried out and submitted for approval, in accordance with the advice produced by the Institution of Highways and Transportation (IHT guidelines for the safety audit of highways1990) and guidance issued by this Council, covering all off-site highway works **associated with that phase of the development**

Reason - in the interests of highway safety.

- 41 The operation and management of the Apartment Block car park and the Hotel car park shall be undertaken in accordance with car park management schemes previously agreed in writing with the Local Planning Authority, and shall not be revised without the prior written approval of the LPA.

Reason - in order to ensure the efficient operation of this facility.

**7.0 INFORMATIVES:
Notes to Applicant**

1. 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, setting of the adjacent City Walls and Conservation Area and archaeology on the site. . As such the proposal complies with Policies H9, E4,E5 and I13 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, HE10, T4, T13,T14, T20, H2, H4, L1, C3, V1, and V3 of the City of York Local Plan Deposit Draft.

2. 2. INFORMATIVE:

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

Cafe Licence - Section 115 - Miss T Santana (01904) 551367

3. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

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

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

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

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

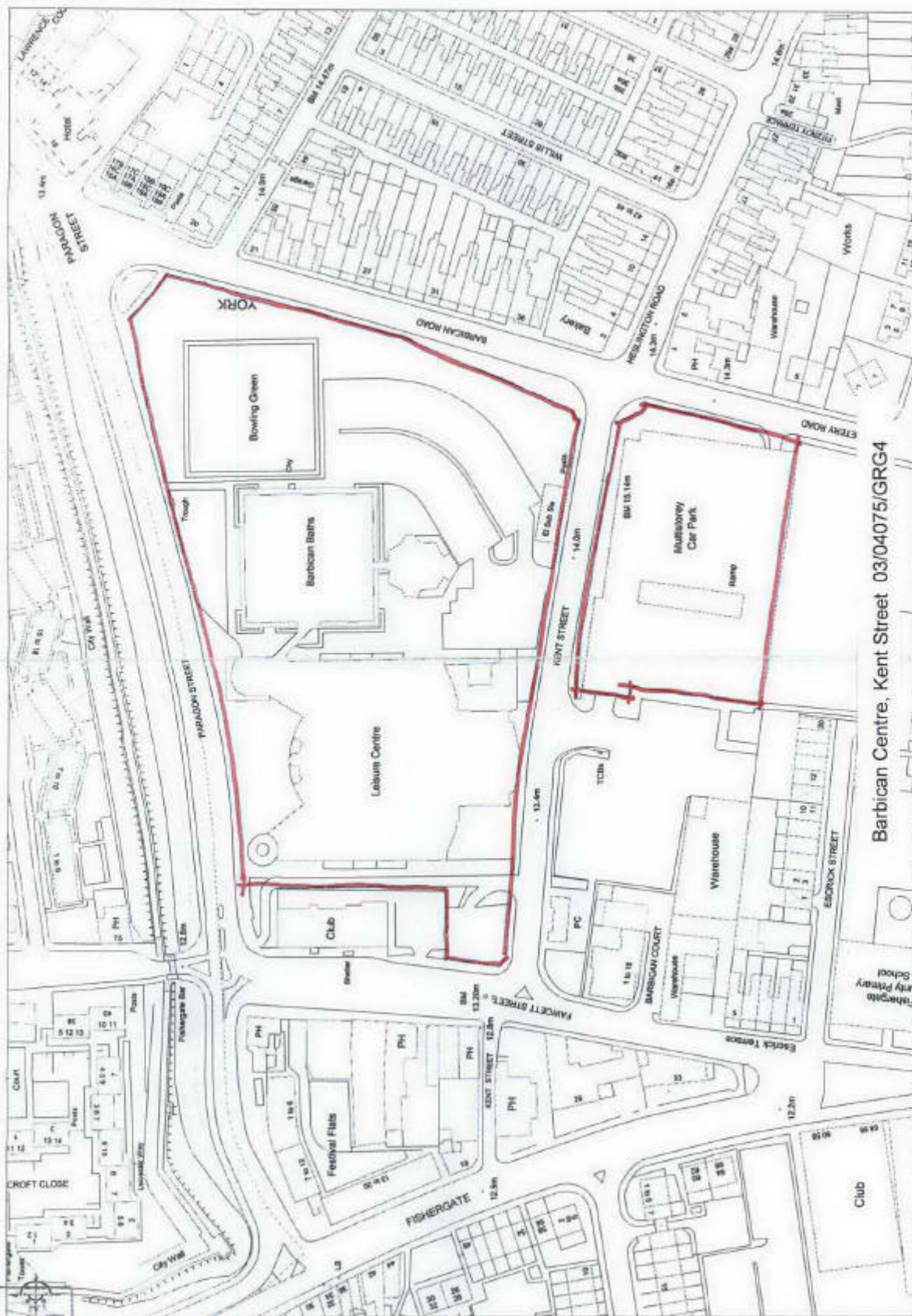
e) Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.

f) There shall be no bonfires on the site.

4. Your attention is drawn to legal obligations contained within an agreement under Section 106 of the Town and Country Planning Act 1990 relating to this development.

Contact details:

Author: Matthew Parkinson Development Control Officer
Tel No: 01904 552405



Barbican Centre, Kent Street 03/04075/GRG4

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PLANNING
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COMMITTEE REPORT

Committee: Planning Committee **Ward:** Fishergate
Date: 28th September 2006 **Parish:** Fishergate Planning Panel

Reference: 03/04075/GRG4
Application at: Barbican Centre/Kent Street Car Park Paragon Street York YO10
4AG
For: Redevelopment including 240 apartments, hotel, alterations to
Barbican Centre, alterations to existing multi-storey car park
By: City Of York Council And Barbican Venture (York) Ltd
Application Type: General Regulations (Reg4)

1.0 PROPOSAL

1.1 This application is being brought back to Committee following a request from the applicant to vary one of the terms of the proposed Section 106 legal agreement.

1.2 The application for the development as described above was presented to Committee in April 2004 (Committee report attached as appendix 2). Committee resolved that the application be approved provided it was not called in for a decision by the Secretary of State, and the implementation was subject to a legal agreement requiring a number of obligations to be fulfilled. At the same meeting a separate outline application for the erection of a community swimming pool at Kent Street was approved, also subject to referral to the Secretary of State. The relevant Minutes of that meeting are at appendix 3.

1.3 The Government Office for Yorkshire and the Humber confirmed on the 22nd June 2004 that the decision in relation to the application should be made by the Council. Planning permission was issued on 21st September 2004 (appendix 4).

1.4 Because of the Council's controlling interest in the land, a condition of any sale of the Barbican site would be the completion of the Section 106 agreement. Thus the Council could ensure that whilst the planning permission had been issued, it could not be implemented without the legal agreement being completed. The Section 106 agreement is still outstanding.

1.5 An application to vary conditions 3, 4, 5, 6, 10, 13, 17, 19 and 21 of the original permission, to allow commencement of work on site prior to compliance with these pre conditions was granted in March 2006, following the referral of the application to the Secretary of State who decided not to call in the application (reference 05/00882/GRG4. It was resolved that the outstanding S.106 should also make reference to this application, although the terms of the S.106 were not altered. (Decision notice at appendix 5). A further application to vary conditions to enable the development of the site to be phased has been submitted and is also on this agenda for consideration (application reference 06/00526/GRG4).

1.6 The applicant has now come forward with a proposal to amend the wording of one proposed obligations in the Section 106 from requiring: -

'Details of the reprovision of sports facilities within the city including the Bowling Green and development of the community swimming pool considered under application 03/04082/GRG4;'

to

'The developers to provide a capital sum of £6,385,000 to City Of York Council, who will use this sum to deliver new and improved sports facilities for the City in line with the Council's sport's strategy, instead of at present to require details of the reprovision of a pool at Kent Street and other sports facilities and the bowling green.'

1.7 The applicant's letter requesting the amendment is attached at appendix 6, with the accompanying documents, namely the approved Executive report from 7th February 2006 and extract from the York Active Leisure Strategy, at appendices 7 and 8 respectively.

1.8 In view of the length of time since the previous report to Committee regarding the application and the level of interest in this issue, it was considered appropriate to carry out an extensive reconsultation on this request. Over 660 letters have been distributed to residents, site notices have been erected and a notice has been placed in the York Press. The overall expiry date for the publicity was 13th September 2006.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

DC Area Teams East Area (1) 0003

City Boundary York City Boundary 0001

Schools Multiple (Spatial)

Areas of Archaeological Interest City Centre Area 0006

2.2 Local Plan Policies:

CYT20

Planning agreements

CYC3

Change of use of community facilities

3.0 CONSULTATIONS ON THE REQUEST TO VARY THE SECTION 106 RESOLUTION

3.1 **Internal**

City Development

States the key policy issue to be considered relates to the impact of the loss of the existing facility and anticipated future need.

1. PPG 17 in para 10 indicates that the sites of existing recreational buildings should not be built on unless an assessment has been undertaken which has clearly shown they are surplus to requirements. In the absence of such an assessment the applicant is expected to demonstrate that this is the case.

2. Policies L1b and C3 of the draft Local Plan also impose a need to prove prior to redevelopment that a facility is no longer required or an appropriate alternative serving the same catchment exists.

The original version of the S106 agreement clearly sought to address points 1&2 through a requirement to provide details of the re-provision of sports facilities. If this element of the S106 is to be altered the Council would need to be convinced that the proposed wording again adequately addresses the points highlighted. A detailed view relating to both these points should be sought from the Council's Learning, Culture and Children's Services Directorate.

Learning, Culture and Children's Services (reported in full)

'The City's Sport & Active Leisure Partnership *Active York* commissioned research into supply and demand for facilities in the City. This has included analysis for swimming pools using national participation rates and an assessment technique designed with Sport England.

This assessment has identified that; based on national participation rates, by 2015 the City will require 1,945 m² of open access public pool space. (This should be in appropriate training/ swimming pool environments rather than leisure or learner pools).

Edmund Wilson Pool, Yearsley Pool & the training pool at Waterworld currently cater for 59% of this demand. The remainder is currently unmet. There are 5 pools in the City that offer access for club bookings. However these are well used and they have very little capacity to cater for additional swimmers. The bulk of the remaining demand must therefore be met by providing new facilities.

Without significant investment, by 2015 both Yearsley and Edmund Wilson Pool will close. If the council is forced to commit its capital to building a 25m community pool on the Kent St site this committee has no way of ensuring that provision at the other sites can be retained. A new community pool would cater for only 13% of the City's total demand for swimming facilities, and may (with Waterworld) be the only public pool available in the City. Reinvestment in Yearsley, a new pool or refurbished Edmund Wilson pool to the west of the City and a partnership with the University to provide a competition standard pool would cater for 91% of the total demand for swimming.

There is no certainty that a swimming pool at the University can be delivered either by the University alone or in partnership with the Council. However until it becomes clear that it cannot, it would be inappropriate to bind the Council (or any developer) to building a pool that would compete directly for the same customers, and would quickly become unsustainable if a competition standard pool opened.

Sports Strategy

In June 2005 the council adopted *Active York's* "Blueprint for Action for sport & Active leisure" and considered the implications its contents had for sports facility planning. Most significantly this document says:

Where possible we must enhance existing significant sports sites e.g. York R.I., Burnholme Community College, Clifton Park and the University rather than placing new City wide facilities on isolated sites. Rewording the planning condition to allow investment in the existing sites and a partnership with the University would be entirely consistent with this policy.

Active York, of which the Council is a member has also published their priorities for action for

meeting the swimming demand in the city, these include:

- Offer support and assistance to a scheme to create an 8 lane 25m pool with teaching/ training pool suitable of hosting county level competition.
- Work with and represent local residents in negotiations with other pool providers to allow and encourage public access to a new range of facilities. This may also require seeking funding for facility improvements, staffing or other supporting costs.
- Work with the council to ensure that any re-provision/ replacement of community pools involves the increase in overall provision & provides high quality facilities that fill an identified gap in provision.
- Assist and advise on other schemes that offer the opportunity to increase pool facilities in the city; and support those that offer accessible, sustainable and affordable provision.

Allowing the Council to redevelop the existing pools and pursue a partnership for delivering a competition pool would make a significant contribution to the work of Active York and would be consistent with their action points above.

As we have shown that there is a demand for additional swimming facilities in the City, the provision of new pools must be seen as a positive step. However this should not be at the expense of existing well-used and popular facilities. I would therefore recommend that, to provide the best possible opportunity for sports facility improvements in the City the original planning obligation be replaced by the clause suggested by Sport England. ‘

3.2 External

Fishergate Planning Panel

Objects strongly with the following comments:-

i) The Panel states the proposal is radical departure from the scheme approved and changes the character such that it cannot be considered as a variation. It states a full consultation should take place with a full application being submitted. The alternative buildings including another hotel proposed here has not been the subject of any consultation. Also the Panel was not formally consulted on this variation (*NB letter with request letter attached was sent to the Panel*).

ii) The Local Plan states if sports facilities are to be lost they must be replaced in the same area, such that this variation would be a departure from the Plan.

iii) Sport England have similar requirements for replacement facilities

iv) The impartiality of the Council may be called in question if it will gain financially from the sale. Also the Council is joint developer so its position is further compromised. The matter should be called in for consideration by the Planning Inspectorate.

First Stop York

Support the variation to the terms of the S106 Legal Agreement and is concerned about risks to the Barbican Venture development, including the proposed 4 star hotel and conference facility, as outlined in the applicant's letter. The First Stop York tourism partnership states that it remains very interested in the plans of Barbican Venture and of Absolute Leisure Ltd. for the Barbican Centre development and the auditorium, and would welcome further information as the plans progress.

Nearby Residents and Other Interested Parties

At the time of writing 75 letters/ emails with comments have been received from. In addition a petition sheet circulated by the Labour Party has been signed by 22 residents. The comments and concerns received can be summarised as follows:-

i) The Local Plan states that where sporting facilities are lost to development then adequate replacement should be provided in the same area. If this is allowed effectively the Council will lose a prime city centre site to development without protecting and safeguarding the interests of the residents and community in York.

ii) The complex belongs to the people of York, and even less money will be paid for it now by the developers, without any facilities benefiting poorer, older people etc without transport to reach Acomb, Yearsley etc.

iii) Local residents in the inner area of York and City Centre workers have been and will be left without valuable public swimming facilities or a gym if this variation is agreed.

iv) Community swimming pools are a basic service a Council can provide, and one which Council Tax payers expect. Smaller towns are able to provide affordable public pools.

v) The alternative suggestion is a remote possibility i.e. a swimming pool at the University proposed Heslington East site. This is not in the York central area and is not at all certain as the whole Heslington East proposal is subject to a Public Inquiry. The University authorities describe talk of a swimming pool as part of their expansion plans as merely an aspiration. This does not satisfy the Local Plan.

vi) The proposal is such a radical departure from the scheme that was passed by the Planning Committee that it changes the character of the scheme by the back door. The variation, as proposed, has not been the subject of any public consultation.

vii) No planning application for a hotel on the Kent street site has been published and no details have been made available to the Public. A full consultation on this aspect should take place before conditions are waived to allow a new scheme to proceed.

viii) The morality and acceptability in legal terms of the Planning Committee who is joint applicant granting itself a variation of the agreement is questioned.

ix) Local children have been deprived of a swimming facility since the Barbican pool closed and additional location have been incurred by schools transporting children, both for parents and for schools, to other pools which have become overcrowded. Swimming is important to assisting in the adoption of healthy lifestyles and reducing obesity particularly in children, which is a national concern.

x) The developer should be made to abide by the original agreement; the pool should be built by the developer on Kent Street and not by the Council.

xi) The proposal is counter to the Government's initiatives to promote a healthier population.

xii) Residents in the south of the City have already been deprived of facilities for too long, and the proposal is contrary to the Council's transport policy since people will not be able to walk to the new facility.

xiii) The proposals favour students at the University over permanent residents in this area.

xiv) There are two rivers in this part of the City and it is therefore essential that local children are able to swim.

xv) The pool at Kent Street should be seen as an income generator and marketed to school parties, and tourists visiting the City.

xvi) There is insufficient information regarding what would be built instead of a pool at Kent Street to be able to approve this amendment.

xvii) Insufficient time has been given to the consultation regarding this amendment, i.e. 3 weeks in the holiday period.

Sport England

States it has treated the consultation as non-statutory. It states that the proposal continues to ensure replacement is provided, although the draft wording lacks clarity as to when the money would be made due, what replacement sport provision the Council would provide, how this would be ensured and when and where the facilities would be provided. An alternative wording to that suggested by the applicant is put forward as follows: -

‘Upon signing of the revised agreement, the developers provide the City Of York Council a capital sum of £ 6,385,000 who then undertake to use this to deliver new and improved sport facilities within 4 years of receipt of this money. Facilities to be provided to accord with the City’s Sport and Investment Plan (February 2006) in substitution for the re-provision of a pool at Kent Street. Improved sport facilities to include a contribution towards the construction of a 25m 8-lane community swimming pool, built to competition standards’.

Sport England states this would better safeguard the interests of the local community with a greater level of definition regarding the replacement expected, and that the revised wording would demonstrate a greater commitment to replace facilities lost and so would accord with Sport England Policy Objectives 7 and 8 (December 2005). These are:-

“7 To support the development of new facilities, the enhancement of existing facilities which will secure opportunities to take part in sport and which can be achieved in a way which meets sustainable development objectives”.

“8 To promote the use of planning obligations as away of securing the provision of new or enhanced places for sport and a contribution towards their future maintenance, to meet the needs arising from new development”.

York Georgian Society

States its objections throughout the continuing evolution of the scheme have not changed. It is suggested the scheme now be withdrawn, reconsidered, redesigned and resubmitted when viable proposals have merged. The Terry’s redevelopment may change the requirements for affordable housing and a 4 star hotel on the site.

The appropriateness of the Council granting itself permission to vary the S.106 is questioned, and whether it is appropriate for the developer to specify how the capital sum is used. The Society queries whether the agreement can be changed as a result of changed circumstances, and for how long amendments can continue to be made on an application as this is not normally acceptable. It concludes that an overall scheme should be developed and that this application should be withdrawn.

4.0 APPRAISAL

4.1 Key Issues :-

- Acceptability of alternative obligation in planning terms and in relation to Council's Sports and Leisure Strategy.

4.2 Relevant Policy Context

National Policy

The following Planning Policy Guidance Notes (PPGs) are considered of most relevance to this request:-

PPS1 (Delivering Sustainable Development) -sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

PPG13 (Transport) - the note seeks to promote more sustainable transport choices for people, and to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and seeks to reduce the need to travel especially by car in new developments. It offers guidance on the location of housing in town and city centres to promote more sustainable patterns of development and to make better use of previously developed land. Additional guidance is offered in relation to mix of uses on sites, design and safety.

PPG17 (Sport and Recreation) - Includes advice to local authorities to adopt a strategic approach to the provision of sports and recreational facilities, to protect open space for the community, to resist the loss of recreational provision and ensure facilities are accessible by a choice of modes of transport.

Statutory Development Plan (1956 York Town Map and North Yorkshire County Structure Plan).

The 1956 Plan is out of date and is considered to carry little weight in planning terms. The Plan designates the site primarily for Business use and shows the rest as a cattle market. The application is therefore technically a departure from the Development Plan and has been advertised as such in the consultation on this request.

The most relevant Structure Plan policies are as follows:

R1 - states provision will be made for the development of recreational, leisure and cultural facilities in locations accessible to both public and private transport where this is not detrimental to local interests.

Regional Spatial Strategy to 2016 (published December 2004)

S3 – states that development plans, strategies and investment programmes should take an integrated approach to development

SOC3 - states in developing strategies for retail and leisure development local planning authorities should undertake an assessment of need in their areas and apply the sequential approach set out in PPG6 to identify sufficient sites in or on the edge of existing town centres.

SOC4 - The contribution which sport and recreation makes to the health and well being of the community in the region should be reflected in development plans. Local planning authorities should inter alia:-

- 'b) Identify areas of deficiency of sport and recreation provision.
- c) Identify sites to meet the identified need, where appropriate, and provide policies to ensure that proposals for new or extended recreational and sports facilities:-
 - i) are located wherever possible within urban areas and in locations that are accessible by good public transport and other non-car modes or, where these need to be located near to existing facilities which are not well related to public transport, seek measures to increase access to the site by sustainable transport modes and minimise the impact of traffic and car parking;
 - ii) make use of previously-developed land wherever possible'

City of York Draft Local Plan

GP13 - expects developers to enter into planning obligations to provide for the infrastructure, archaeological, environmental and other significant consequences of a proposed development.

C3 - states permission will only be granted for the redevelopment or change of use of educational, social, health, community or religious facilities where (a) the proposal is of scale and design appropriate to the character and appearance of the locality, (b) it can be demonstrated that existing land or buildings are surplus to or no longer capable of meeting existing or future needs of the community, or it can be demonstrated that alternative acceptable sites for the existing use can be provided.

L1b – States permission will only be granted for the loss of a leisure facility where it can be demonstrated the either the need for the facility no longer exists or appropriate alternative facilities exist within the catchment area.

4.3 The swimming pool at the Barbican closed in 2004 and remains so. Some of the plant has been removed and the water has been drained. As stated in the original report to Committee, the loss of pool facilities without subsequent replacement would be contrary to Local Plan policies, and therefore unacceptable from a planning point of view. In the interim facilities have been made available in accordance with the statement of re-provision submitted when the application was presented to Committee in 2004. These included swimming lessons being relocated to Edmund Wilson, Yearsley and new Earswick pools. Some school sessions had been relocated to the Mount School's pool also the beauty treatment suite relocated to Edmund Wilson pool. The alternative provision had been discussed in detail with Sport England, with no objections being raised.

4.4 PPG 17 (para 33) states it is essential that local authorities have undertaken detailed assessments of needs and audits of existing facilities, and set appropriate local standards in order to justify planning obligations. Leisure Services consultation response points out that The City's Sport & Active Leisure Partnership *Active York* commissioned research into supply and demand for facilities in the City.

4.5 From the comments of the Lifelong Learning and Culture Directorate, it is clear that the existing pools are under threat of closure without significant investment, which would leave the City well short of the amount of pool space considered appropriate from the active York research. The report to the Executive (appendix 7) sets out the costs of providing a new community pool at Kent Street and improving facilities elsewhere, as summarised below: -

Usable capital receipt from sale: £6.385 m

Cost of Provision of replacement pool at Kent Street: £6 m
Cost of refurbishment or replacement of Edmund Wilson Pool: £4 m
Cost of ongoing maintenance programme at Yearsley Pool: £0.5 m

4.6 Given that the new Kent Street pool would account for all but £0.385 m of the receipt, a large proportion of the 59% demand of swimming facilities currently met (largely by Edmund Wilson and Yearsley pools) would be lost. A new community pool at Kent Street would account for almost all of the receipt from the sale of the Barbican site but would cater for only 13% of the City's total demand for swimming facilities.

4.7 The alternative put forward, for reinvestment or replacement of Edmund Wilson and maintenance of Yearsley, together with a contribution of approximately £2m towards an 8 lane 25 m competition standard pool, is supported by Sport England and would help to achieve the Active York partnership objectives. Therefore whilst the non-replacement of the Barbican pool at Kent Street appears on the face of it to represent a net loss of facilities, the circumstances and requirements for facilities have changed from the time of the first consideration of the scheme. It is no longer viable or desirable in terms of the City's wider swimming requirements in the medium to long term to insist upon the reprovision of a community pool in this location. Kent Street would not provide the 8 lane, competition standard pool for the City, as sought by Active York and Sport England.

4.8 The planning policies as mentioned above, in particular L1b of the Local Plan require either for it to be demonstrated that the existing facility is surplus to requirements or that alternative facilities are to be provided within the catchment area. The pool at the Barbican served a local population mainly drawn from the east and south of the City. Many were also students living in shared accommodation in the Fishergate area. A competition standard pool on the University campus would be within 1.5 miles of the previous pool and the two sites are linked by a bus route that is served by a bus every 6 minutes. Sports planning is carried out based on four geographical zones in the City, with both the Barbican site and the University campus in the South zone. Active York's analysis of swimming has identified the need for a competition standard pool but also indicates that this should be provided in the south or east of the City where there is the highest unmet demand.

4.9 A pool on the University campus would have a greater capacity than the previous or proposed pools at the Barbican site, it would cater for the local users of the previous pool, it would be accessible by bus for users of the previous pool who travelled to the pool via the City Centre and it would be readily accessible to residents of the east of the City. A Section 106 agreement has already been drawn up as part of the University proposals, which includes the provision of an 8 lane, 25-metre pool. It has been agreed that the pool would be provided as part of phase 1 of the development. Completion of the agreement is pending the outcome of the current Public Inquiry into the University development. However the contribution of approximately £2m towards the provision of a competition standard pool as previously identified would be available whatever the outcome of the Inquiry.

4.10 With regard to the concerns expressed by the Planning Panel, residents and the Georgian Society regarding the processing of this amendment, the Council as applicant is distinct from the Council as Local Planning Authority which is considering this matter. The amendment to the resolution has been publicised by the Planning Authority as considered appropriate, with a 3-week consultation period as normally applied to new planning applications. The Executive meeting which considered the Leisure Facilities Strategy paper attached at appendix 7 was a public meeting, and so the information regarding the alternative options for pool provision was in the public domain from that time.

4.11 Comments received including those from the Planning Panel refer to the provision of a hotel on the Kent Street site. Other than the outline application for a pool as considered and approved at the same time as the application at the Barbican, no application for a hotel or any other development had been received for Kent Street. Alternative development is not being considered with in this report, and any planning application would be the subject of consultation and would be determined upon it planning merits.

4.12 Comments received also refer to the number of amendments to the original scheme. The amendments have related to variations of conditions rather than of the details of the application, and have all involved formal applications to the Planning Authority which have been the subject of consultation and Committee consideration.

5.0 CONCLUSION

5.1 Given the circumstances set out by the applicant and the context as explained by Learning, Culture and Children's Services in its consultation response, the amendment to require reinvestment in swimming facilities rather than the provision of a pool at Kent Street represents an appropriate way of best compensating for the loss of the facilities at the Barbican site. Continued insistence on reprovision at Kent Street would jeopardise the existing public pools. The partnership strategy supports the amended approach. The Sport England alternative to the applicant's wording would better define the terms of the reinvestment.

5.2 The original application technically constitutes a departure from the Statutory Development Plan (1956 Town Map). Also the Council is part applicant. The application was referred to the Government Office for Yorkshire and the Humber. For consistency it is recommended that this request to vary the resolution be referred to the Government Office.

6.0 RECOMMENDATION:

i) That the wording of the Section 106 obligation relating to the reprovision of a swimming pool at Kent Street be amended to:-

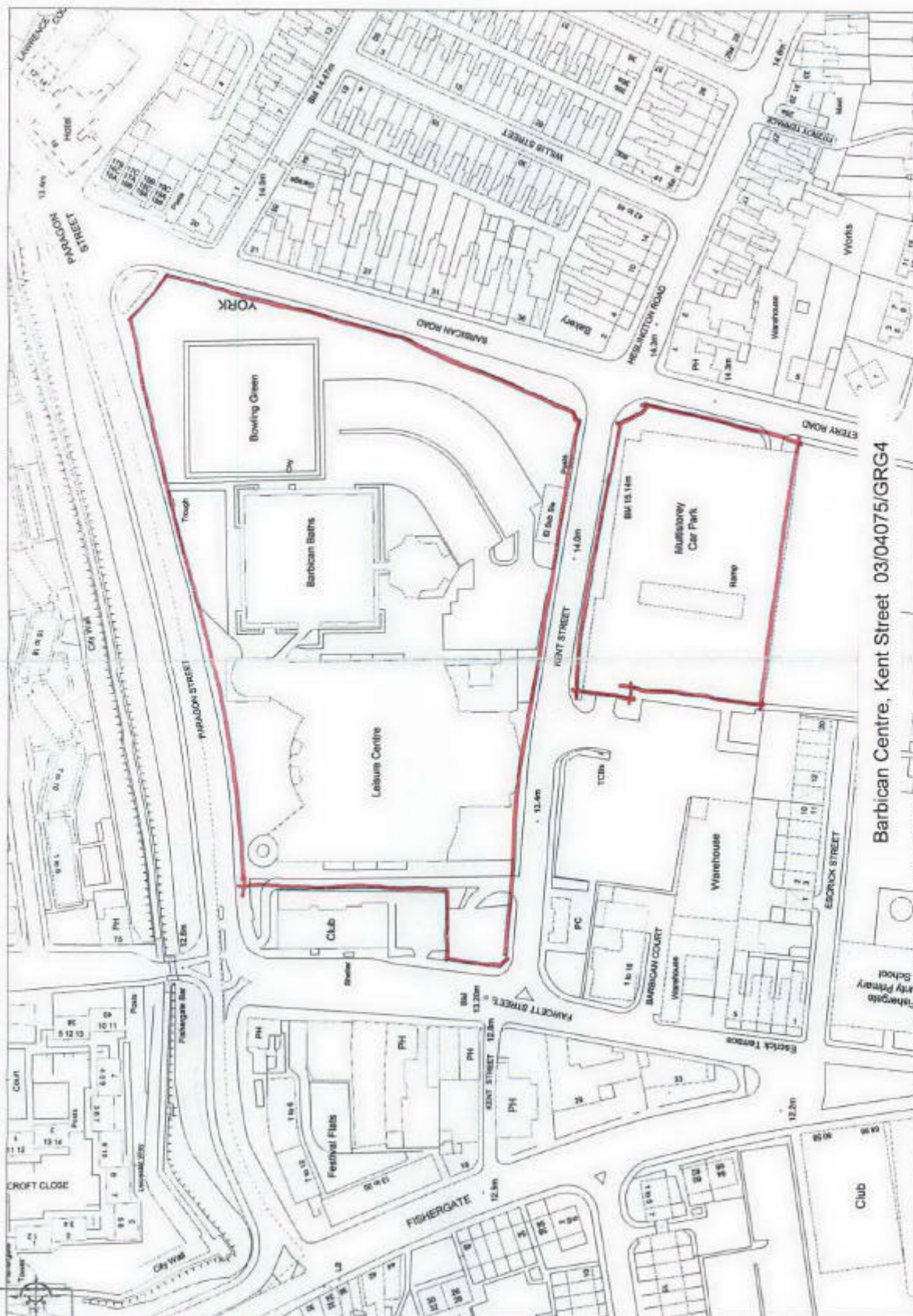
'Upon signing of the revised agreement, the developers shall provide the City Of York Council a capital sum of £ 6,385,000 who then undertake to use this to deliver new and improved sport facilities within 4 years of receipt of this money. The facilities to be provided shall accord with the City's Sport and Investment Plan (February 2006) in substitution for the re-provision of a pool at Kent Street. Improved sport facilities shall include a contribution towards the construction of a 25m 8-lane community swimming pool, built to competition standards'.

ii) That the amendment be referred to the Government Office prior to completion of the agreement.

Contact details:

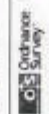
Author: Jonathan Carr Head of Development Control

Tel No: 01904 551320



Barbican Centre, Kent Street 03/04075/GRG4

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22 DEC 2003
DESIGN

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APPENDIX 2**COMMITTEE REPORT**

Committee: Planning Committee **Ward:** Fishergate
Date: 22 April 2004 **Parish:** Fishergate Planning Panel

Reference: 03/04075/GRG4
Application at: Barbican Centre/Kent Street Car Park Paragon Street York YO10 4AG
For: Redevelopment including 240 apartments, hotel, alterations to Barbican Centre, alterations to existing multi-storey car park
By: City Of York Council And Barbican Venture (York) Ltd
Application Type: General Regulations (Reg4)

1.0 PROPOSAL

1.1 As described above, this full application is for a mixed use development at the site of the Barbican Centre which is bounded by Paragon Street, Barbican Road, Kent Street and Fawcett Street (see appendix A, site location plan). An outline application for the erection of a community swimming pool (including fitness suites, dance studios and external play areas), on the site of the Kent Street Coach Park and part of the existing decked car park, is also reported on this agenda. Both applications follow extensive public consultations on the future of the Barbican Centre and the wider provision of sports and Leisure facilities within the City (see appendix B).

1.2 The proposals for the existing Barbican Centre building involve its alteration, both internally and externally to create an auditorium/conference centre with associated facilities. The alterations include a single storey largely glazed extension on the forecourt area facing Paragon Street, to house a new restaurant facility with 120 covers. Additional seating areas would be provided at the first floor and on a roof garden adjacent to the Box Office, with staff office accommodation above. The existing sports hall area would be converted to form three conference rooms and the existing auditorium would be refurbished. The service yard onto Kent Street would also be retained, and a new joint service yard for the Barbican and the proposed hotel adjacent would be created at the other side of the new conference facilities.

1.3 The new Barbican would be linked at first floor level to a five storey hotel building comprising of 120 bedrooms. This structure would be essentially semi-circular in plan form, and would sit just to the east of the Barbican building, on the site of the existing swimming pool. A service corridor would separate the buildings at ground floor. An existing terrace area, to be used as a roof garden for the restaurant, would be extended over part of the service corridor. The proposed hotel bedrooms would either have windows facing an atrium towards the centre of the semi-circle, and also facing outwards towards a landscaped area to the east of the hotel.

1.4 On the eastern part of the site, a development of 228 3, 4 and 5 storey apartments would be created, with elevations facing Paragon Street, Barbican Road (although set back from the street frontage) and Kent Street. The height of the building would rise from the entrance atrium (approximately half way along Barbican Road frontage) towards the Paragon Street and Kent Street junctions. A circular corner "tower" feature at the Paragon Street/Barbican Road junction is included. The residential buildings include areas of roof garden and lift heads projecting above the general roof plain of the five storey accommodation.

1.5 Areas of open space for the residential accommodation would be provided in front of the Barbican Road elevations (with retention of the existing landscaping and mounding along this frontage), and to the rear of the development adjacent to the proposed hotel. A private children's play area for the apartments would also be included within this area.

1.6 The main entrance point into the apartments would be from Barbican Road via the central atrium. Vehicular access from Kent Street would lead to a basement parking area for 144 vehicles, together with one cycle space per apartment. Lift access and stair access from the basement would be provided to the residential floors.

1.7 In order to accommodate part the new community swimming pool across Kent Street, part of the existing car park here would be removed, to a leave a total of 270 parking spaces. These spaces would be publicly available, and would primarily serve the new Barbican and the Swimming Pool.

1.8 The application has been identified as falling into Schedule 2 development as defined in the Environmental Impact Assessment Regulations. A screening opinion has been carried out, and a full Impact Assessment is not required. However the applicant has submitted detailed assessments in relation to transport, noise, air quality, the environment (including Geology, hydrology, contamination) and archaeology, Statements relating to the design of development and energy efficiency have also been submitted.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

DC Area Teams East Area (1) 0003

City Boundary York City Boundary 0001

Schools Multiple (Spatial)

Areas of Archaeological Interest City Centre Area 0006

2.2 Policies:

CYGP1
Design to safeguard/enhance development

CYGP3
Planning against crime

CYGP11
Accessibility/people with mobility problems

CYHE2
Development in historic locations

CYHE9
Scheduled Ancient Monuments

CYHE10
Archaeology

CYT4
Cycle parking standards and provisions

CYT13
Car park standards in York CC/District C

CYT14
Public car parking maintained

CYT20
Planning agreements

CYH2
Affordable housing on housing sites

CYH4
Housing devp in existing settlements

CYH5
Residential densities over 25 per ha

CYL1
Open spaces in new residential devts

CYC3
Change of use of community facilities

CYV1
Criteria for visitor related devt

CYV3
Criteria for hotels and guest houses

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management

The Section states that transport consultants have been engaged by the applicant to consider the impact of the redevelopment of the existing Barbican Centre and the Kent Street coach and car parks. Situated on the edge of the City Centre, the site is conveniently located for a range of local services and is within easy reach of a number of pedestrian and cycle facilities. There are also several high frequency bus services which pass the site making it convenient for public transport users.

The Consultants conclude that the redevelopment of the Barbican Centre will have a relatively small impact on the traffic flows to be found on the adjacent highway network as the auditorium remains unaffected and the new pool complex will replace the existing facilities. The Hotel and residential elements of the scheme are predicted to generate around

150 two way trips in the AM and PM peaks. The majority of these trips will be travelling in the opposite direction to the current peak hour traffic i.e. out of town in the AM peak and into town in the PM peak, thus helping to reduce their impact on peak hour traffic conditions. Once distributed on the local road network, the Consultants predict that they will have a minimal impact on the highway network. The Foss Basin study which has recently been undertaken by consultants engaged by the City Council, has taken account of the predicted traffic generation associated with the Barbican redevelopment and our own mitigation strategy prepared as a result of the reports findings, takes account of development within this site. The mitigation strategy, known as the Foss Basin Master Plan, recommends a series of transport measures, both short term and long term to cope with the expected development schemes in this area. In the case of the Barbican development, a contribution is sought, based on the predicted additional peak hour trips.

The development proposals necessitate the removal of the 120 space Barbican Centre car park, a reduction in the number of available spaces 390 to 270 at Kent Street multi-storey car park and the loss of the 26 space coach park also on Kent Street. With such a reduction in public parking capacity on the site, the surrounding residential streets would become extremely vulnerable to a transfer of demand unless action is taken to protect them. As a consequence the developer has set aside £25,000 to cover the set up costs of a residents parking scheme covering the streets in the Heslington Road area and for the issue to residents of the first year's permits free.

The parking ratio for the 240 apartments proposed on the site has been set at 60%, to accord with the principles of sustainability. As a measure to promote more sustainable modes of transport, the developer is willing to meet the costs of setting up a car share club for those residents without a vehicle of their own and provide revenue support for the first two years of its operation (when it is hoped to be self-financing). The club will be open to residents in adjoining streets to join, if they so wish. A further measure being offered is a six month bus pass or a free cycle to every household in the apartment block. All these measures are strongly welcomed and should be included in a section 106 agreement attached to any consent granted.

It is being suggested that St. Georges Field can provide additional car parking capacity to meet the needs of guests to events at the Barbican during the evenings. A condition attached to the previous consent for the Barbican requires that there be 500 spaces available in that locality to meet this demand. If such an alternative provision is to be accepted, it is considered necessary to upgrade the pedestrian route between the two sites so as to make the journeys safe and convenient for the public. Some proposals have been drawn up by the Consultants to show how this might be achieved, however they are still subject to further detailed design to ensure that they are achievable in practice. A section 278 agreement will need to be entered into with the applicant to cover these associated highway works.

The Section concludes that there are no highway objections to this application subject to :

- (a) a series of standard highway conditions
- (b) a section 278 highway agreement covering changes and improvements considered necessary to the adjoining road network.
- (c) a section 106 agreement covering:
 - a contribution towards the costs of implementing the Foss Basin Master Plan transport measures.

- the costs of setting up and issuing permits for the first year of a residents parking scheme in the Heslington Road area.

- the supply of either a six month bus pass or a cycle to every resident in the new apartments within the development site.

- the costs of setting up and operating, for the first two years, a car share club for the benefit of residents within the development and the surrounding streets.

(d) the submission and agreement of Green Travel Plans covering staff employed at the Barbican site and the Hotel complex.

Environmental Protection Unit

States there are no objections to the application but has the following comments.

a) Contaminated land. A review of the data collected by the Council in relation to contaminated activities identifies previous uses as a small coal merchant and wool merchants in the 19th Century and as the City Cattle Market. Additionally the Church of All Saints and associated grave yard were located on the site. It is not considered that any of the previous activities would give rise to contamination, and bore holes excavated for archaeological purposes identified the ground was rich in organic matter. It is not considered that the generation of gases would be any greater than from rich organic soils.

b) Air Quality. The section states that the air quality assessment concludes that predicted increase in traffic flows resulting from the redevelopment would not be sufficient to trigger large increases in pollutant concentrations by 2005. Both with and without the redevelopment the predicted pollutant concentrations for 2005 are less than those predicted for the 2002 baseline, because the pollution model assumes individual vehicles would be cleaner by that year. The assumption takes account of continued improvement in vehicle emissions technology and the introduction of more stringent vehicle emission standards. This approach to the assessment is well recognised and conforms to the government guidance notes on this matter. The redevelopment will however have a minor impact on air quality concentrations, with the greater increases predicted around Kent Street car park (0.8 UG/Metres cubed at the Cemetery Road/Barbican Road receptors). In conclusion though the level of traffic generated would not be sufficient to outweigh the general improvement and air quality predicted to arise by 2005 and there are no grounds to refuse the application due to impact on air quality. The results of the assessment undertaken for the development are in line with the findings of the wider Foss Basin assessment recently commissioned by the Council.

c) Noise and Odours. It is stated that this mixed residential and commercial area is already subject to road traffic noise, and there are potential issues of noise and odours from the development which could impact on the amenity of future and existing residents. It would be necessary during the development phase to employ appropriate demolition and construction techniques to minimise noise and dust generation. A noise survey undertaken in line with planning policy guidance was submitted with the application which shows area of the site all within noise categories B and C dependent on the time of day and it would therefore be necessary to reduce internal noise levels of the final development through the use appropriate construction materials. Also once the development is completed, future residents could potentially be disturbed from noise from deliveries to the Barbican Complex and Hotel and from noise from associated plant and machinery. Conditions would be recommended to control these matters, as well as to ensure that any units involving the

preparation and the cooking of food would have adequate facilities for the treatment and extraction of odours to avoid a negative affect on neighbouring premises.

Environment, Conservation and Sustainable Development

Has the following comments on the revised drawings in relation to Urban Design and visual impact issues:-

a) There was a concern regarding the effect of the development on the scheduled ancient monument i.e. the City Walls opposite on Paragon Street. The monolithic nature of the design proposals have been modified in terms of the massing and articulation in order to respond more appropriately to this location and context.

b) The re-elevation of the front of the Barbican Centre has an acceptable affect on the surroundings which at present is a space of poor quality in urban design terms. The proposed hotel has been designed to respond dynamically in its form, mass and elevations to the Barbican Centre and the elevations have a variety in their articulation.

c) The re-elevation of the residential block facing the City Walls have reduced their visual impact upon them and in Urban design terms this area is suitable for the identity proposed. Again the articulation of the elements has improved, with a stronger vertical rhythm being introduced and the architectural vocabulary is appropriate for the context.

d) There is a general concern about the deficiency of amenity space and this would need to be compensated by within a section 106 agreement with commuted sums for the relevant provision appropriately located.

With regard to landscaping issues, the Section states:-

a) The entrance drop off point to the hotel causes the removal of three well established Plain trees, and a condition should be attached to provide tree protection method statement to avoid the loss of any further trees. More details of the proposed landscape treatment between the residential block and the hotel are requested, and the landscaping here will play an important role on the softening of the scene. Planting for block (a) could be covered in detail by a landscaping condition. The ground floor reception rooms should have direct access onto Barbican Road amenity space and levels should be designed so it is possible that areas not such a restrictive tall plinth at the base of the building, in order to encourage active use of the external space.

c) A residential area includes the required amount of public open space for the size of the development although provision of a play area for children is warranted although provision of a play area for children is warranted.

With regard to the REVISED SCHEME, the Section states that a landscaping strategy has been submitted. The trees selected within it are attractive and appropriate, and the strategy states that the trees on Paragon Street could be retained. It also acknowledges that the space between the Hotel and the residential block is narrow in relation to the height of the buildings which is of concern although within the limitations the planting concept/species would be appropriate. It is queried whether the architecture helps to ensure that the natural landscape buffer along Barbican Road is effective although the more informal planting approach along Barbican Road is appropriate.

Life Long Learning and Leisure

States the proposal delivers required investment to update and improve the facilities and services offered at the Barbican Centre including the events and entertainments programme. It delivers the objectives set out in the 2000 Best Value review of the Council's Leisure Services. The scheme as a whole, through the capital receipt, enables the Council to deliver on its sports plan objective of investing in and refurbishing the Council's 3 existing swimming pools.

The scheme enables more satisfactory arrangements to be made for gym and fitness provision in the new Community Pool building and in local school facilities addressing the issues raised in the Best Value review.

It also states that public art should be included within developments or, which could involve works which are intrical to the design of the development such as windows or gates. With regard to parks and open spaces, the section states in relation to the ORIGINAL scheme it was difficult to ascertain whether there was sufficient onsite open space. The lack of playing facilities was also raised as a concern. With regard to sport and active leisure facilities, this section supports the strategic approach to the planned reinvestment for replacement, retention and refurbishment of existing provision and the creation of new facilities where appropriate. A contribution towards offsite provision of open space for sport in the south zone of the city to develop community use of site such as Fulford Playing Fields, Walmgate, Glen Gardens, All Saints School and Millthorpe School is requested.

In relation to the REVISED DETAILS, the Directorate is satisfied with the on site amenity space provision, and the proposed off site contributions towards play space and outdoor sports provision.

City Development

States the land is not allocated in the draft local plan but is currently used as a community facility. It states policy C3 of the Local Plan only allows for the redevelopment or change of use of such facilities where:

- a) The proposal is of an appropriate scale and design to the character and appearance of the area.
- b) It can be shown that the existing land or buildings are surplus to, or no longer capable of meeting, the existing or future needs of the local community, or it can be demonstrated that alternative acceptable sites for the existing use can be provided.

The relocation of the community swimming pool and Gym to across Kent Street is in accordance with point c of the above policy although the bowling green would need to be replaced if still required. Consultation with Leisure Services is recommended on these issues.

With regard to point a, the comments of the Conservation and Environment Section will be relevant and policy HE9 regarding the need to consider the setting of a scheduled ancient monument is relevant.

With regard to housing, policy H4 of the Draft Local Plan, which allows for development on land which is vacant, derelict or underused; or involves infilling, redevelopment or conversion of existing buildings; and is of an appropriate scale and density to the surrounding development and would not result in the loss of open space or have a detrimental impact on existing landscape features, is mentioned. The sites location is in accordance with PPG3 and H5 of the local plan which aimed to avoid housing development which makes inefficient

use of land and aims to provide more intensive housing in and around existing centres and close to public transport modes.

The erection of 240 dwellings on the site overall is considered to be appropriate in residential density terms in exceeding the minimum density requirements of the local plan and recent government planning policy guidance.

An affordable housing target of 25% is sought to accord with policy H2 of the Draft Local Plan, with planning policy guidance note 3 and also affordable housing circular 6/98. It is stated that in accordance with the housing needs survey and housing waiting lists, at least 70% of the affordable homes should be for rent and 30% for discount sale. It states the level of discount would be dependent on the projected sales prices of the homes and would be set at a level to make them realistically affordable.

Car and cycle parking should have regard to local plan policies, with a minimum cycle parking space provision of one per two bedroomed dwelling (policies T4 and T13 of the Local Plan are relevant).

Policy L1 of the Draft Local Plan offers guidance on the provision of open space in applications of over 10 dwellings and consultation with the life long learning and leisure directorate is recommended.

With regard to the proposed hotel, policy V3 is highlighted. This allows for new hotel developments provided that (a) it is compatible with the surroundings in terms of siting, scale and design (b) it would not result in the loss of residential accommodation which had less than four bedrooms when originally built, and (c) it would not adversely affect the residential character of the area. Views of the Conservation Team would be required with regard to points a and c.

In conclusion, the Section states that the development of the site for a mix of leisure, hotel, community and residential use is supported in policy terms subject to the above comments.

Community Services

With regard to THE ORIGINAL submission, the section requested further details in relation to the proposed size, mix and location of affordable homes within the scheme.

Commenting on the REVISED scheme, the Section confirms agreement in principle for 25% affordable housing provision at the site, with 12 in the block at Fawcett Street, so that the Managing Housing Association could control the service charge. The remaining affordable units would be a mix of rent and discount sale homes, with a greater proportion of 1 and 2 bed flats sought. Also discussion regarding the relocation of the 'Arclight' hostel for the homeless to the site has taken place, though the developer does not consider this feasible. An off site contribution with reduced on site affordable provision has been discussed as an option.

Education Services

States that based on a number of two bedroomed dwellings proposed within the scheme (108), the development is calculated to generate 28 primary school pupils. However taking into account other developments approved adjacent to the site, there would still be a surplus provision of 41 places locally and so no contribution is sought in respect of such pupils. With regard to the foundation stage, it is calculated that the site would generate 14 pupils, with a resultant contribution of £46,214 being sought to increase provision accordingly. With regard to secondary schools, the site generates a calculated 16 additional pupils, and a

resultant contribution towards education provision of £153,408. These sums are calculated in accordance with the supplementary guidance approved by the authority relating to the additional provision of education resulting from new developments within the city. In total, therefore, a financial contribution of £199,622 is sought from the applicant to ensure that there is an acceptable impact on local education provision.

Councillor D'Agorne

Writes as Fishergate Ward Councillor to request careful attention to traffic and parking implications of the developments. He states leaving aside issues of adequacy of replacement of swimming facilities there are the main concerns of nearby residents. He states in particular the transport statement does not take into account the demand for special events and concerts at the auditorium and residents will not accept that visitors will go out of the way to pay in more distant car than park for free on their streets. It is suggested that a parking scheme in the surrounding streets be funded and to allow residents in those streets to use "car club" facilities offered to new residents of the development. The size of a proposed car park also warrants careful scrutiny given the various demands on space generated by the surrounding facilities.

In respect of the transport statement, the provision of a car sharing scheme and pool vehicle for residents is strongly supported and assurances would be required about the contractual requirements for 40% of residents not provided with parking, so that residents could be assured this ratio could create unplanned on street parking. Also given the need for a crossing of Kent Street and increased traffic, a redesign to resemble a "Home Zone" to encourage low speeds and pedestrian friendly environment is suggested. This would be particularly important at the point where vehicles emerge from the car park and new flats.

3.2 External

Fishergate Planning Panel

Commenting on the ORIGINAL scheme states the following:

- a) the scheme is excessive over development - too much, too massive to high.
- b) the scheme would have an adverse impact on local residents especially in Barbican Road from this tall cliff and concrete surrounded so close to these homes.
- c) there would be an adverse effect on the historic monument (City Walls).
- d) the whole proposal is unsympathetic in scale and design to the surrounding area.
- e) it is proposed to lose the bowling green which was already relocated from Kent Street car park.
- f) Little consideration has been given to the whole local infrastructure given all other proposals close to the Foss Islands Corridor.

In particular the traffic impact on the already congested system from Walmgate Bar into the Fishergate Gyratory, down Walmgate, Foss Islands, Lawrence Street, Fulford Road and Bishopthorpe Road, and Clifford Street and Piccadilly.

- b) Air pollution - Into one of the City's air quality blackspots.
- c) Increased light and noise pollution.
- d) Can servers cope with the main service providers.

As a final comment it is stated that this seems a very short term financial panacea with very little regard to the long term economic health of York.

In respect of the REVISED scheme and ADDITIONAL INFORMATION, the Panel reiterates the above comments.

Adjacent Residents and Other Interested Parties

In response to the original consultation, approximately 70 letters were received from individuals or on behalf of other interested parties (such as the Labour Party Fishergate Branch and Fishergate Primary School). The comments in respect of The ORIGINAL SCHEME as summarised below.

1. The proposed development, particularly the residential accommodation would block out light (daylight and sunlight) from adjacent residential dwellings and due to its height would have an overbearing impact upon them.
2. The proposed apartments would be too close to Kent Street and Barbican Road and would dominate the city walls, being out of scale. This site is also close to the conservation area and other listed buildings which would be adversely affected.
3. The lay-by and refuse management area on Barbican Road would create a smell and visual detriment to Barbican Road residents and attract taxis/drop offs creating disturbance particularly at night for residents. A drop off could also create traffic congestion.
4. The residents of Barbican Road would have their views ruined by the four/five storey residential accommodation, particularly views of the city walls.
5. The cycle park and refuse store facilities close to Barbican Road would be a target for vandals, and the cycle park would create disturbance to Barbican Road residents opposite.
6. Existing bowling green, landscaping and pleasant environment so close to the town would be lost.
7. There would be a reduction, and loss of privacy to adjacent residents due to the height of the proposed buildings with facing windows and roof terraces.
8. The scheme represents gross overdevelopment of the site and is far too dense.
9. There would be little public or private space for the prospective residents.
10. There would be disruption to the wildlife and bird life within the existing landscaped areas along Barbican Road.
11. There would be additional noise created within the area from residents and visitors to the 240 apartments, as well as to the hotel, and casino and restaurant/bar proposals.
12. York does not need anymore luxury apartments and there are already too many flats being built within the city. Also the area is already over populated.
13. The photographic illustrations submitted with the application misrepresent the proposals, reducing the apparent height of the development compared to existing properties and buildings adjacent to the site.

14. The scheme submitted under this application had changed since the previous consultation exercises took place, and so as invalidated the consultation process. Also there has been inadequate consultation with the proposals overall, particularly with adjacent residents.

15. The volume of extra traffic created by the development would create congestion within the area, adding to existing congestion problems for example along the inner ring road. There is insufficient parking proposed within the development, leading to congestion on nearby residential streets and reducing parking spaces for existing residents. Also the site is not well located for use of public transport. Facilities such as the railway station. Legal parking within the locality would be increased.

16 The Kent Street Coach Park is an essential facility for tourists, and its removal would damage York as a whole.

17. The recycling facility within the existing Barbican Car Park which is used by residents should be replaced and not lost as a result of the scheme.

18. The proposal would further reduce public car parking within the city, and prices within Kent Street car park are too high. They would therefore be reduced affordable parking within the city.

19. The level of glass to be used and increased artificial light and illumination would be "too flashy" and would create additional light pollution.

20. The proposal goes against local plan policies which seek to improve and enhance leisure and recreational facilities within the city and the Council should be encouraging fitness in line with recent government initiatives to increase health and tackle obesity.

21. Existing Barbican Centre provides a facility for a very wide section of the community in York and should not be lost. Such groups include students, the disabled, school children and younger children, parents and the elderly. In particular it is commented that the site is used by the disabled who could not afford private sports facilities elsewhere in the city.

22. The spreading of fitness classes throughout the city would make it much harder for the public to attend them and is currently the case in this central location.

23. The public leisure facilities and pool should all be retained in one location rather than separated to make way for a private leisure facility.

24. A casino would not be in keeping with the heritage and character of York and would contribute to additional noise and disturbance in the early hours of the morning in this area.

25. There is no need for a further hotel in this area which already has several within a short distance.

26. Noise pollution and disturbance would be created during the building works which would adversely affect local residents.

27. A larger pool as currently exists should be retained and refurbished rather than demolished and replaced by a smaller pool.

28. The retention of the gate from Kent Street car park to the Fishergate Primary School premises is welcomed which could be used by residents of the new flats, particularly as suggested that it be repositioned and appropriate planting being incorporated to avoid crime

opportunities. Also a brick wall between the school field and the barbican development should be maintained rather than a fence.

Since receipt of REVISED PLANS, 12 letters have been received, the responses are summarised as follows:-

- 1) The proposal is still contrary to the development plan.
- 2) The proposed re-provision of facilities would be inadequate, and the alternative venues may not be available.
- 3) Other developments in the locality should be taken into account in considering traffic concerns. Also the measures put forward by the applicant are a recognition of the potential traffic problems the scheme would create.
- 4) It is queried what would happen to the relocated coach parking when St George's Field floods, and also the car parking allocated here for the auditorium users.
- 5) The consultation was based on the future of the swimming pool provision rather than all other facilities.
- 6) The scale, height and density would still be unacceptable.
- 7) Apartment owners would be more likely to own cars than is suggested by the applicant, therefore there would be inadequate provision.
- 8) The proposed roof gardens would lead to noise at all times and reduce privacy to neighbours. Also the lift heads would increase the height of the building.
- 9) The late night users (2am) would create disturbance for nearby residents.

English Heritage

In relation to the ORIGINAL proposals, states that it held a number of pre-application discussions with the architects primarily over the re-development of the Barbican site. It states archaeologically the evaluation has indicated that the Barbican site is of mixed significance ranging of little or no significance over much of the site to highly significant burial site adjacent to Kent Street. It is understood the development proposals take account of this latter site.

There are no comments to make with regard to the retained and refurbished Barbican Centre building and the re-elevated frontage to Barbican to Paragon Road. It is not felt that this would change the appearance of the Conservation Area or the setting of the City Walls.

It is stated that the proposed hotel has been designed to acknowledge the Barbican Centre and its footprint and elevations reflect this. The elevations are considered dynamic and varied with the curb enabling the rhythm of bedrooms to be made interesting rather than repetitive, and the roof reinforcing this articulation. There are some reservations over the entrance details and the area linking the hotel with the Barbican and the Paragon Road frontage remains unresolved.

With regard to the residential block, some concerns over articulation and consequent impact are expressed, especially in relation to the City Walls. It is argued that whilst the site lends itself to a scheme of urban massing and form broadly as proposed, there are reservations over the fenestration and articulation of the block. It states the Paragon Street frontage does

not reflect the established architectural principle of detailed ground and top floors, with a subservient elevation to the floors in between, and that the massing of the block would be more convincing with the introduction of an architectural hierarchy than further articulation between the two "bookend" features along Paragon Road. The top floor/roof level details appear unrelieved, which is critical, and the symmetrical use of materials would help reinforce the design hierarchy.

With regard to the AMENDED scheme, English Heritage confirms that it is now broadly supportive of the design amendments which will assist in reducing the impact of the proposed Paragon Street frontage on the city walls. It states that large buildings do not automatically detract from the setting of the Walls, and believes that the quality of design can leave the walls unharmed. The alterations are considered to sufficiently achieve greater modelling of the residential block with a better defined architectural language and expression of the units within the elevations for English Heritage not to object to the proposals.

Commission for Architecture and the Built Environment

States that having reviewed the application, it is satisfied that the Authority can come to a decision with English Heritage's advice and does not wish to comment further.

Conservation Area Advisory Panel

Commenting on the ORIGINAL plans, felt the scheme to be a gross overdevelopment of the site which destroys the character of that part of the City and dominates the City Walls. It states the scale and character should respect the City Walls, and the building line set back to allow for more landscaping. Also felt the design was poor quality.

Commenting on the REVISED proposals, the Panel felt its previous comments were still relevant.

North Yorkshire Police

Commenting on the ORIGINAL scheme states a total 78 property related crimes have been recorded in the immediate vicinity of the Barbican Centre between January 2003 and January 2004. Comments of the specific aspects of the scheme are as follows:-

a) Residential Block A (junction of Fawcett Street and Kent Street) It is stated there would be no parking for residents and that the transport statement mentions the possible use of Kent Street or St George's Field Car Parks. Residents would have to park their vehicles out of sight of the properties in surrounding streets or car parks which are not secure and this increases their susceptibility to vehicle crime also consideration of a "secured by design" award scheme for this block is suggested.

b) Kent Street Multi-storey Car Park. It is stated there appears an opportunity to raise this car park to full "secured car park" award scheme standards.

c) Main residential apartment block. It is stated the open plan access up to the building line renders all ground floor windows and doors vulnerable to attack, particularly during periods of warm weather when windows would be left open and in darkness hours. Defensible space to eliminate some of these problems could be created by appropriate fencing or shrubbery, and all vulnerable ground floor windows and doors should be appropriately test the British Standards. Also public access should be restricted to the main apartment block through fitting of an access control system managed by a concierge perhaps or other restricted systems incorporated. Similarly the basement car parking area should be secured

to appropriate standards. It is also recommended that cycle stores in the basement should be enclosed and kept secure to encourage their use. Stores of no more than 10 cycles should be developed. Any proposed cycle store for 22 cycles on the Barbican Road facing aspect, would not be directly overlooked from Barbican Road or from the development itself and its solid construction could create a hidden area where a cycle thief could operate unseen. Consideration of the relocation of this store where it could be overlooked is suggested, together with the use of brick pillars and open sides to allow better surveillance without the need to reposition the store as an alternative. Lighting around the main block should be carefully designed to cover potential high risks and deter intruders.

d) Hotel. Again there is restricted access and security measures are recommended, in particular CCTV coverage of the hotel entrance, which by its very nature would be accessible and open at all times. Again the open plan access up to the building line of hotel could make ground floor windows vulnerable, so fencing or shrubbery to create a defensible space is again suggested.

e) Barbican Centre. Most crimes in around the Centre relate to thefts from lockers in changing rooms. The relocation of the pool and sports facilities from the Barbican Centre should ensure reported crime would be greatly reduced.

In conclusion the statutory requirements of the Crime and Disorder Act are reiterated and the developer is urged to work towards a "secured by design" award scheme for the whole of Barbican site.

Any comments on the REVISED scheme will be reported to Committee.

North Yorkshire Fire and Rescue

The service has no objections to the original scheme, providing the works are carried out in accordance with the building regulations.

First Stop York

Commenting on the ORIGINAL scheme states:

a) Improvement of the auditorium is welcomed as it is seen by the tourism industry in York as a critical facility for large scale conference and exhibition space. Proposals to improve this facility are strongly welcomed as major conferences bring millions of pounds of benefit to the City's economy.

b) The proposed 4 star hotel with in-house leisure and conference facilities is welcomed as a significant new investment in high quality hotel facilities in the city.

c) The proposal to develop the hotel immediately adjacent to the auditorium would maximise opportunities for these facilities to work together complementarily, creating maximum benefits for the tourism in the city.

d) First Stop York would be pleased to work with the developers of the auditorium and the hotel operator to market these facilities for conference, business and leisure markets.

e) There is concern about the loss of the coach parking and car parking for major events at the Barbican. Due attention should be given to these coach parking and car parking issues arising from the redevelopment in the forthcoming discussions on the Local Transport Plan.

f) There is a concern of detail relating to the space available within the refurbished auditorium to provide adequate service for a major conference with regard to refreshment areas, break out rooms, exhibition space etc. when the auditorium is at capacity.

Yorkshire Water

With regard to water supply, states any supply issues and be resolved under the appropriate Water Industries Act and there are no planning issues in respect of this matter. It states the existing 100mm main which enters the site supplies the Barbican only and the developer will expect to find this type of apparatus on site. The developer has already contacted Yorkshire Water and is aware of this main. With regard to waste water, two conditions are recommended relating to development of the site with separate drainage for foul and surface water, and requiring no piped discharge of surface water prior to completion of the approved surface water drainage works.

Environment Agency

Has no objections in principle to the development but recommends conditions relating to site investigations to establish whether there is any contamination at the site could affect the water environment and for remedial measures should any contamination be identified to be carried out. Also a condition requiring details of the method of piling foundations to be submitted for approval is recommended.

With regard to the AMENDED scheme, the Agency states it has no further comments to make than those already expressed.

The Yorkshire Architectural and York Archaeological Society

States the scale and massing of the current Barbican Centre was designed with impact on the city walls in mind and at no stage was the development overpowering of the ancient monument. It states it fears this is not true of the proposed developments, since the hotel and flats elements are massive and totally dominate both the city walls and the relatively small scale housing on Barbican Road. It is hoped the scheme could be redesigned to reduce its impact on the city walls and surrounding properties.

Any comments received in respect of the amended scheme will be reported to Committee.

York Georgian Society

States in relation to the ORIGINAL scheme, it is not opposed in principle to redevelopment of the site or the uses proposed, but considers the scheme to be gross over-development. It is concerned there is little amenity space or open space provided within the scheme and most of is concerned about the greatly increased number of cars to be accommodated. It is questioned to how the existing infrastructure could cope with the additional traffic and queried the nature of road alterations which would be required. Further information about the changes and alterations which will be required to enable the existing road capacity to absorb so much additional traffic was requested.

With regard to the setting, it is considered that the 5 storey height elevations of the hotel blocks facing the walls do not respect their dominance and fail to recommend the demands of their status. An uncomfortable feeling of confrontation is created with the walls from the new development and the surround neighbourhood is small scale and low rise, with the 4 and 5 storey high blocks of flats overtopping and dominating properties along Barbican Road in an unacceptable way. The development would be disruptive of the predominant grain and context and create a ghetto-like enclave incapable of assimilation into its setting.

With regard to the architecture, it is felt that it is out of date and was of a style already disposed of in other areas. The buildings were felt to be monotonous and barrack-like, with the scheme being alien to the character of the city and lacking local distinctiveness largely due to the use of unsustainable new materials and a proprietary walling system for the upper storeys of the flats. These materials and mechanistic style of design, it is felt, fail to produce the quality of architecture required.

In conclusion, the Society states the application would be detrimental to the setting of the conservation area and by its height, size and massing would detract from the setting of the walls which form the boundary of the conservation area. The materials and design would not be that which is required here and the increase in traffic would have a sustainable impact on the locality and setting of the conservation area. Refusal of the application is recommended.

In respect of the REVISED proposals, the Society considers the measures proposed relating to traffic impact would be short term and unlikely to deal adequately with problems. Also the addition of a roof over the corner tower and lift housings would increase the height of the residential blocks in places, and the articulation of elevations does not meet the criticism of the monolithic form of the development.

York Civic Trust

States it considers the proposed uses acceptable in principle but has reservations regarding their disposition on the sites and on the setting of the city walls. The Trust argues that there should be have a development brief with a resultant traffic impact study before any detailed scheme was prepared.

With regard to the layout, the principle concern of the Trust is that the footprint of the buildings have no apparent logic and that the configuration not only ignores the site boundaries and importance of the relationship to the city walls but also the impact on all joining houses. It states this results in an over development of the site and creation of meaningless and small non-useable areas of open space producing a disturbing ventura affect and micro-climate. It is concluded the site could not cope with a hotel and residential development unless both are substantially reduced in size.

With regard to the residential units, it states while the principle is acceptable, the density, scale, layout and heights and configuration of the block is unrelated to the location. Together with a mediocre design and unsuitable materials, the building is unworthy of this sensitive site. Also it is stated the massing would cut off important views of the city walls and be altogether too overpowering. It considers the choice of materials and strong rooflines and the use of pressed metal as a roofing material would be alien features in York and inappropriate in close proximity to the city walls. Also the location of a cycle shed and bin store on the Barbican frontage is insensitive and serves to show how unsympathetic the scheme is to the surroundings. The level of amenity space is considered minimal.

With regard to the hotel, its architectural form and relationship to the Barbican Centre is not it is felt been properly resolved, its squeezing between the new Barbican and the proposed residential development would result in a poor outlook and virtually no setting of its own. The narrow alleyway between the hotel and the Centre would, it is argued, be a wind tunnel and muggers paradise and the hotel service yard would be some distance from its kitchens, with the prospect of bins being prominently displayed. The 19 car spaces in the basement of the hotel suggests guests and visitors to the conference facilities etc. would have to use the revamped Kent Street Car Park, which presents potential security problems and involves crossing Kent Street as well as competing for events being held at the Barbican Centre itself.

The housing at the junction of Kent Street/Fawcett Street is considered to be a better part of the scheme with its more modest scale, but the radius curve is so tight that those travelling from Fawcett Street into Kent Street have to cross the centreline of Kent Street to negotiate the corner. Any redevelopment should take the opportunity to improve the radius here.

With regard to traffic generation, the development will form an enormous impact not only on the Foss Basin traffic corridor but on the existing road network of the whole area. It states there are several existing problem points e.g. Paragon Street/Fawcett Street junction from the junction of Cemetery Road and Fishergate. The Trust strongly recommends no permission be granted without a Traffic Impact Study being prepared and examined, which should then have informed a development brief.

In conclusion the scheme is considered disappointing, especially with regard to its setting close to the city walls, where a disjointed collection of buildings with little or no relationship to each other would be proposed. It is felt the entire scheme is huge and overpowering and should more modest in scale, massing and density. The design is considered mediocre and materials foreign to York. A block model is requested and it is recommended that the applications be refused.

The Trust has requested that its comments be circulated to Members and so they are attached as appendix C.

Sport England

Commenting on the ORIGINAL proposal, states the loss of the bowling green with no apparent replacement conflicts with its Planning Policy objectives which seek to prevent the loss of facilities or if unavoidable, require a replacement (equivalent or better). It therefore objects to the proposal, but recommends that if the Council is minded to approve, the application should be linked to the swimming pool application by a Section 106 Agreement to ensure replacement is provided. This should be in advance of the construction or within a given time period to minimise disruption to swimmers. Details of the Section 106 should ensure an enhancement of facilities.

Following submission of the REVISED PLANS and ADDITIONAL INFORMATION (which include details of the relocation of the bowling green facility) Sport England withdraws its objection, subject to alternative facilities being made available as outlined in the statement of re-provision and a Section 106 Agreement as suggested above.

4.0 APPRAISAL

4.1 Key Issues :-

- Impact upon setting of adjacent listed buildings and ancient monument (City Walls) as well as setting of adjacent conservation area.
- Impact of development upon amenity of nearby residents and occupants.
- Highway, traffic and parking implications.
- Implications for air quality and noise related issues.

- Impact on archaeology at the site.
- Level of open space provision.
- Affordable housing considerations for new residential development.
- Security and designing out crime considerations.
- Impact on Education provision in local area.
- Loss of provision of leisure and sports facilities from existing Barbican Centre.
- Sustainability issues and energy efficiency of new buildings proposed.
- Provision of enhanced auditorium/conference facilities and quality hotel within the city.
- Standard of amenity available for prospective residents of new accommodation.

4.2 Policy Context

National Policy

The following Planning Policy Guidance Notes (PPGs) are considered of most relevance to this application:-

PPG1 (General Policy and Principles) - promotes sustainable development as well as mixed use development, offers guidance on the operation of the plan laid on the system, as well as offering guidance as to the considerations to be taken into account in determining planning applications.

PPG3 (Housing) - seeks to promote the optimum use of previously developed land for residential development, particularly in urban areas. However it requires development to respect the local character. The developer should not be required to provide more car parking than they are willing to provide particularly in urban areas where public transport is available or where there is a demand for car free housing.

PPG13 (Transport) - the note seeks to promote more sustainable transport choices for people, and to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and seeks to reduce the need to travel especially by car in new developments. It offers guidance on the location of housing in town and city centres to promote more sustainable patterns of development and to make better use of previously developed land. Additional guidance is offered in relation to mix of uses on sites, design and safety.

PPG15 (Planning and the Historic Environment) - Emphasises that new buildings should be carefully designed where they stand along side historic buildings and the principles of scale, height massing and materials need to be taken into account the setting of adjacent listed buildings and ancient monuments.

PPG16 (Archaeology and Planning) - Confirms that the desirability to preserve archaeological deposits is a material planning consideration, and offers guidance on the handling of remains and the weight to be attached to them in planning decisions.

PPG17 (Sport and Recreation) - Includes advice to Local Authorities to adopt a strategic approach to the provision of sports and recreational facilities, to protect open space for the community, to resist the loss of recreational provision and ensure facilities are accessible by a choice of modes of transport.

Statutory Development Plan (1956 York Town Map and North Yorkshire County Structure Plan).

The 1956 Plan is out of date and is considered to carry little weight in planning terms. The Plan designates the site primarily for Business use and shows the rest as a cattle market. The application is therefore technically a departure from the Development Plan and has been advertised as such.

The most relevant Structure Plan policies are as follows:

H9 - Allows for the provision of residential use particular in and around historic core of York, through permitting suitable new developments and the conversion of suitable existing property and vacant upper floor space.

E4 - States buildings and areas of special townscape, architectural or historic interests will be afforded the strictest protection.

Policy I13 states provision will be made for the development of tourist accommodation and facilities which will

- a) help to develop and maintain the viability of the tourist industry.
- b) increase the provision of serviced accommodation.
- c) assist the extension of the tourist season, the provision of employment in winter months and the development of conference, trade, particularly in Scarborough, Harrogate and York.
- d) improve the range of local facilities.

R1 - states provision will be made for the development of recreational, leisure and cultural facilities in locations accessible to both public and private transport where this is not detrimental to local interests.

E5 - states development proposals which could result in damage to, or destruction of, sites of archaeological importance will normally be refused.

City of York Draft Local Plan

GP1 - requires a standard of design that respects the local environment.

GP3 - encourages crime prevention measures in new developments, including natural surveillance of paths and spaces, secure locations for car and cycle parking and satisfactory lighting.

GP4 - states the principles of sustainable development as defined in the policy should be regarded in all development proposals.

GP11 - requires new developments and their open space areas to provide for access and facilities for people with mobility problems as well as carers with children, including parking facilities.

HE2 - states in areas adjoining conservation areas or where the setting of listed buildings, scheduled monuments or nationally important archaeological remains would be affected, development would be expected to respect their settings.

HE9 - states permission will not be granted for development which would adversely affect a scheduled ancient monument of its setting.

HE10 - required development which involves the disturbance of existing ground levels within the area of archaeological importance to be subject to a field evaluation to assess the extent and importance of any remains and requires applicants to demonstrate that less than 5% of any deposits would be disturbed or destroyed. Also where physical preservation in situ is not possible, provision must be made for a professional excavation and recording of the archaeology in accordance with an agreed scheme.

T4 - requires cycle parking to be provided in all new developments in accordance with local plan standards.

T13 - requires developments to provide car parking in accordance with the local plan requirements.

T14 - states the level of off street public car parking in the city centre will reflect and respond to the Transport and Economic development strategies of the Council.

T20 - states where traffic, pedestrians and cyclists could be accommodated by special facilities or appropriate improvements to the highway network affected, applicants will be expected to enter into a section 106 Agreement and a highways agreement to make an appropriate contribution to such improvements.

H2 - requires a contribution towards a provision of affordable housing for all the residential developments on site on the hectare or 25 dwellings or more.

H4 - allows for new housing development on land not allocated on the proposals map where the site is vacant, derelict or underused, or it involves infilling, redevelopment or conversion of existing buildings, and is of an appropriate scale and density to the surrounding development and would not have a detrimental impact on existing landscaped features.

H5 - states negotiations will be undertaken to achieve residential densities greater than 25 dwellings per hectare, and in particular higher density development will be encouraged where the site lies in the city centre or in close proximity to a regular bus route to the centre, and the housing is complementary in terms of scale and character to nearby developments and will not harm local amenity.

L1 - requires appropriate levels of children's play space, outdoor sport and recreational space, and open amenity space, to be provided for all new developments of 10 dwellings or more. Where on site provision is not practicable, a contribution in the form of a commuted payment to provision off site maybe acceptable.

C3 - states permission will only be granted for the redevelopment or change of use of educational, social, health, community or religious facilities where (a) the proposal is of scale and design appropriate to the character and appearance of the locality, (b) it can be demonstrated that existing land or buildings are surplus to or no longer capable of meeting existing or future needs of the community, or it can be demonstrated that alternative acceptable sites for the existing use can be provided.

V1 - seeks to encourage visitor related development and seeks account to be taken of adequate service arrangements, accessibility to public transport routes, increased traffic, parking cycles and pedestrian movement, any improvement in prosperity of tourism industry and the economy, any adverse impact on the reasonable use and enjoyment of adjacent buildings and land, and any adverse impact on the countryside setting of the city.

V3 - states permission will be granted for new, and extensions to, hotels and guest houses within the defined settlement limits provided that it is compatible with its surrounding in terms of siting, scale and design and would not result in the loss of residential accommodation which when originally built had less than four bedrooms, and would not have an adverse affect on the character of the residential area.

4.3 IMPACT OF DEVELOPMENT ON LOCALITY IN PARTICULAR SETTING OF CITY WALLS AND ADJACENT CONSERVATION AREA. As described in Section 1, the application includes major additional development of the Barbican site and its curtilage. The model and illustrative photographs help to visualise the height, scale and form of what is proposed here. The scale of the development and the height of different elements of it have attracted significant objections from interested parties and organisations. Many are concerned that the apartment block and hotel are excessive in height and footprint and alien to the character of the particular area and to York. In considering the site however, it is notable that the existing road layout and existing building on the site create a distinctiveness which is not generally reflective of the development adjacent to it. Therefore any development or redevelopment proposed could not be said to remove any existing conformity of the site to the local character.

4.4 The scheme incorporates contemporary design to reflect the guidance within the Draft Local Plan. It also involves the optimum use of the land in this Centre/ edge of Centre location Brownfield site as encouraged in national and local planning policy. However a concern of many objectors is whether the development proposed represents over development of the site.

4.5 The principles of the layout and design are supported by officers. The hotel form and orientation adjacent to the retained Barbican building create an imaginative solution by maximising views over the proposed landscaped area to the east. The height of the hotel would exceed that of the Barbican, although the location is more central to the site between the buildings, helping to minimise the overall apparent height. The curved design also helps to reduce the perceived height from street level.

4.6 The residential accommodation block would, although linked into one structure, include significant variation in height and modelling. Frontages are presented to Paragon Street, Barbican Road and to Kent Street to maintain and create street enclosure. Following discussions with English Heritage and The Environment and Conservation Section regarding initial concerns, details of the scheme including the fenestration, roofline, and elevations (particularly to Paragon Street) have been amended. These revisions have satisfied the points raised by English Heritage particularly in relation to the impact of the development on the setting of the City Walls. The apartments would be set some 36 m from the City Walls at the nearest point. It is not considered that at this distance the section of the block facing the walls would adversely affect their setting. The fact that the frontage of the site would be broken rather than continuous (comprising the apartments, a space before the hotel the hotel entrance and then the enhanced Barbican frontage) would ensure that there would be no sense of 'competing' frontage as raised as a concern by objectors. Similarly, the variation in height along Barbican Road, the landscaped open space along the frontage and the variation in distance of the building to the road frontage would help to reduce any dominant impact opposite the existing residential terrace. The frontage to the block to Kent

Street would assist in urban design terms to turn the corner of the site at this junction with Barbican Road.

4.7 IMPACT OF DEVELOPMENT UPON RESIDENTIAL AMENITY. The main block of residential accommodation would be located adjacent to existing terraced housing fronting onto Barbican Road. The 3, 4 and 5 storey development proposed here has attracted objections from a number of residents across Barbican Road concerned with loss of light and privacy, as well as views. This part of the development would significantly exceed the height of the nearest dwellings opposite as well as views. From a planning perspective, it is acknowledged that the type and form of housing proposed differs to that adjacent, but the distance between the existing and proposed dwellings would be sufficient to ensure that there would not be a significant loss of light. Most of the frontage to Barbican Road would be set back at about 35 m from the terrace opposite, with the central section and atrium being lower in height. The taller corner elements would still be over 30 m from the dwellings. In addition, the retention of existing landscaping and mounding to the roof frontage, together with additional planting, would help to mitigate any impact here.

4.8 Concerns have also been raised that the development would create unacceptable additional noise and odours affecting nearby residents. Again it is not considered that the scheme would unacceptable increase levels of noise over those experienced in this inner urban area. The quieter residential use would sit between the hotel at the site and existing residential properties on Barbican Road. The conference facility in the New Barbican would be further still from this area of housing. The servicing areas to these facilities would be from Kent Street, a considerable distance from existing housing and shielded from it by the residential block. In terms of noise from additional traffic, the parking proposed on the site would not lead to a significant additional level of traffic noise on the streets adjacent. The applicant also confirms that there would not be a casino within the 'New Barbican'. Further it is not considered that the cycle store and refuse store building adjacent to Barbican Road would result in significant disturbance to residents across the road. In addition, it is suggested that the hours of use of the roof gardens of the apartments could be restricted by condition (and controlled by the management company of the apartments) to minimise any potential for night time disturbance for nearby residents resulting from the use.

4.9 The smaller residential block of 12 flats at the corner of Fawcett Street and Kent Street would be adjacent to a blank gable wall of the recently completed Paragon Mews flats development. The development would also be some 30 m from the 3 storey flats across Kent Street, which in planning terms would be sufficient to ensure an adequate level of privacy is maintained.

4.10 HIGHWAY, TRAFFIC AND PARKING IMPLICATIONS. In summary, the scheme and the application for the swimming pool on Kent Street would result in the retention of 270 public parking spaces at the decked car park on Kent Street, 144 spaces in the basement car parking area for the residential accommodation, 60 spaces for hotel guests, 17 staff spaces. Covered secure cycle parking would be provided on a 1 for 1 basis for the residential accommodation (both the smaller block of 12 flats and the 228 apartments in the main block) as well as for staff at the hotel. The Transport Assessment submitted with the application has been considered by officers and following negotiations, additional measures to mitigate the impact of the development upon the local highway network and parking in the streets adjacent to the site have been proposed, as confirmed in the Highway Network Management Section's comments. These measures would be considered satisfactorily address the concerns originally raised, in seeking to ensure the encouragement of alternative modes of transport to the car whilst ensuring the impact on adjacent streets and the convenience of existing residents is not unduly harmed. The contribution towards establishment of a residents parking scheme in the adjacent residential area, improvements to pedestrian route between the site and St Georges Field Car park (where a new coach

dropping off point would be provided) and the site, and to fund the alterations to the highway necessitated by the proposals could be the subject of a section 106 agreement. The agreement would also require a contribution towards the proposal to improve the local highway network as part of the recently approved Foss Basin Master Plan.

4.11 The applicant has sought to address more detailed concerns raised regarding drop off points, servicing and parking arrangements as well as effect on bus stop on Barbican Road with further revised plans and information. The Highway Network Management Section has confirmed that the outstanding details could be finalised by conditions of any approval granted.

4.12 LOSS OF PROVISION OF LEISURE AND SPORTS FACILITIES FROM EXISTING BARBICAN CENTRE. The refurbishment of the existing Barbican Centre building to create an enhanced auditorium and conference venue, with the consequent loss of sporting facilities and demolition of the swimming pool has generated a significant degree of objection from third parties as reported above. Clearly the loss of such facilities without subsequent replacement would be contrary to Local Plan policies, and therefore unacceptable from a planning point of view. In response to this level of objection, the re-provision of existing sporting facilities to alternative venues has been further clarified. The outline application which accompanies this application involves the creation of a new community swimming pool together with fitness suites and dance studios whilst permanent alternative venues would be provided for the sports hall uses (at All Saint's School), the climbing wall (at Oakland's School and other sporting activities) also at All Saint's School where an enhanced facility would be managed by the Council and would allow badminton, basketball and football to be accommodated in the sports hall). As detailed in Appendix D, other activities and classes would utilise the school hall and dance studio. On completion of the swimming pool building, these activities would continue at All Saint's School and also take place at the new facility so increasing overall capacity.

4.13 The appendix also mentions that day time sessions for 50+ users would transfer to a voluntary sector sports club at the same cost to customers. The overall level of provision of sporting venues and activities would be maintained within the City following the closure of existing facilities at the Barbican Centre and whilst the new community swimming pool and studios were under construction. Once the new facility was complete, there would be an overall increase in the level of sporting provision for the facilities within the City.

4.14 The proposed new swimming pool would replace an aging facility which does not currently provide an attractive environment for pool users. Following the consultation process which took place prior to submission of the applications, the provision of a community swimming pool as an alternative venue is considered to be appropriate and acceptable in allowing for the loss of this facility as part of the application.

4.15 Again as detailed in Appendix D, an alternative bowling green site would be provided at "The Retreat" on Heslington Road, with the authority funding the repair and redressing of the green and refurbishment of facilities at this site. The pavilion would be relocated for the 2004 playing season, and the Authority would take responsibility for the maintenance of the green and facilities. Again therefore, alternative acceptable facilities would be provided upon the loss of the existing facilities from this site and so in planning terms the proposal would accord with Local Plan policy. The scheme now raises no objections from Sport England.

4.16 IMPLICATIONS FOR AIR QUALITY AND NOISE POLLUTION. From the Environmental Protection Unit's comments it appears that the proposed development would have a minor impact upon existing air quality within the locality, although the general improvement in air quality by 2005 would still occur, largely due to cleaner vehicle technology. From a planning perspective, the development would not result in a significant

reduction in air quality and so there would be no basis upon which to refuse the application on the strength of any concerns relating to air pollutants generated by the scheme.

4.17 In considering the potential of the site to create noise nuisance for adjacent occupants, the existing level of road traffic noise is taken into account by the Environmental Protection Unit. However a number of safeguards are suggested as conditions of any approval to seek to limit any additional noise created, including during the demolition and construction stage. The recommended conditions are set out at the end of this report.

4.18 The unit has also considered the potential for noise disturbance for residents of the proposed accommodation, and suggests appropriate levels of sound attenuation being incorporated into the new development. Conditions to control the hours of operation of the proposed uses of auditorium and conference centre, together with restrictions on the use of the service yard are also recommended, again to protect residential amenity. Subject to these limitations and restrictions being imposed, the level of noise created by the development and its impact upon existing adjacent occupants and prospective future occupants of accommodation on the site would be contained to acceptable levels.

4.19 IMPACT UPON ARCHAEOLOGY AT THE SITE. From the evaluation submitted and the Council Archaeologist's comments, the site appears to be divided into an area containing significant archaeological deposits including burials, largely beneath the current staff car park off Kent Street, and locations where deposits are sparse or have been destroyed by the previous cattle market on the site. Given that it would not be possible to preserve all deposits in situ, there is an opportunity to allow public participation within a programme of excavation of part of the site. The programme would include analysis, publication and deposition of archive material within the Yorkshire Museum, and would in doing so accord with the provisions of draft policy HE10. The conditions as set out in section 6 are considered to be appropriate in safeguarding deposits on site where possible and ensuring that the proper excavation, analysis and deposition takes place where is otherwise appropriate.

4.20 LEVEL OF OPEN SPACE PROVISION AT THE SITE. Policy L1 of the Local Plan sets out the amount of open space required in new residential developments for children's play space, outdoor sports provision and open amenity space provision. With regard to children's play space, the amended scheme identifies an area of 940sq metres adjacent to the site which would be equipped to local equipment play area standards. In order to achieve this a contribution from the applicant of £60,830 would be required for the installation of equipment, surfacing and security, with a five years maintenance sum of £37,658 also being necessary. A further offsite contribution towards the balance of the area normally required would be made towards play area for older children (for use at either Cemetery Road or Navigation Road) totalling £5,720 with a maintenance contribution of £2,210. Clearly it would not be possible to provide the space provided for outdoor sport at the site (calculated at 5,661 sq metres). Following a formula adopted in considering previous planning applications for residential development and accepted by developers, a sum of £63,760 would be required towards offsite provision, as a contribution towards the Fulford School sports development. These totals would be sought as part of a Section 106 legal agreement should the application be approved.

4.21 With regard to onsite open amenity space, it is calculated that from Policy L1, a total of 2,108 sq metres of onsite provision would be normally sought. The amended scheme includes 2,798 sq metres of open space at ground level, and introduces landscaped roofed terraces to a total of 520 sq metres to give a total of 3,315 sq metres. Taking into account areas of planting and landscaped mounding, the level of open amenity space at the site would it is calculated accord with Local Plan requirements. The open areas would help to ensure that a reasonable standard of amenity is provided for the occupants of the residential

accommodation, with the areas providing a buffer between the Barbican Road frontage, and also between the hotel and the main residential block. Although the development is relatively dense, the open spaces provided would provide an on site facility to enhance residential amenity here.

4.22 IMPACT ON EDUCATION PROVISION IN LOCAL AREA. Using the formula set out in the Supplementary Planning Guidance adopted by the Authority in relation to developer contributions towards education provision, a total contribution of £199,622 would be required to account for the additional demand of local schools. As set out in the Education Services comments, this equates to £46,214 for foundation stage education (14 additional pupils) and £153,408 towards secondary education (16 additional pupils). The overall contribution would be required as part of a section 106 agreement if the application were to be approved.

4.23 AFFORDABLE HOUSING CONSIDERATIONS. Following negotiations with the applicant, agreement in principle has been reached for the provision of 60 affordable homes at the site, representing 25% of the overall total. 12 of the affordable homes would be provided in the stand alone block at the corner of Fawcett Street and Kent Street to be rented and a mixture of 1 and 2 bedroomed flats. The managing Association would be able to control the service charge for this block. The remaining 48 affordable homes would be provided in the main residential accommodation with a proportionate mix between affordable rent and discount homes for sale provided. More detailed discussions would be required as part of a section 106 agreement. As an alternative to the provision of 25% affordable homes at the site, the developer has been asked to consider whether the Arc Light service on Leeman Road could be located within the development. It is not considered in planning terms that the Planning Authority could insist upon the accommodation of the Arc Light service within the scheme, although should the applicant be willing to contribute towards the off-site relocation of the hostel, then reduced on site provision of affordable accommodation may be considered acceptable.

4.24 SUSTAINABILITY ISSUES AND ENERGY EFFICIENCY OF NEW BUILDINGS PROPOSED. An energy use statement has been submitted as part of the application, which covers areas of energy conservation, energy supply and CO2 emissions, the use of innovative energy systems, the selection of materials and use resources, transport and landscape and open space strategies. The latter two issues are covered more comprehensively in the Transport Statement and Main Design Statement also submitted as part of the application. With regard to energy conservation, measures such as all dwellings and the hotel including south facing surfaces, good daylighting being provided, high levels of insulation being incorporated and the inclusion of passive ventilation systems are proposed. Consideration of heating systems, white goods, lighting and cooking facilities within the development is also included. With regard to energy supply and CO2 emissions, the provision for solar water heating for two of the residential units, information on the sourcing of green electricity for residents and the off setting of CO2 emissions under "Climate Cares" Programme would be incorporated. The adoption of low water use services and appliances within the development, the fitting of water metres to each residential property, provision of underground water storage tanks for storm water run off, and the provision of permeable hard surfaces wherever possible would all be considered as part of the development to minimise water usage and its impact. The provision of duct space and main roof areas for south facing photovoltaic panels to be installed in future years (when their use becomes financially viable) has been considered within the development. These areas are promoted as the helping to demonstrate a commitment to the use of innovative energy systems within the proposed development. The statement also includes details of the sourcing of materials for use in the development, and refers to the proposed reused use of UPVC. Provision for recycling of waste materials and appropriate collection schemes would it is stated be integrated into the development. In addition, guidance to purchases and tenants would be provided when properties are sold or let. Whilst a number of the measures put forward

within this statement are matters which would be incorporated into the detailed design and operation of the buildings, it is considered that the commitment to the statement should be included as part of a Section 106 Agreement to ensure that the measures proposed within it are implemented. Generally, the measures proposed demonstrate that a developer has shown a commitment to the principles of sustainable development as required by planning policy guidance and in particular Draft Local Plan Policy GP4.

4.25 PROVISION OF ENHANCED AUDITORIUM/CONFERENCE FACILITIES AND QUALITY HOTEL WITHIN THE CITY. The 1500 auditorium would continue to play host to concerts and live entertainment with 50 performance events per year as a minimum proposed. The facility together with the proposed function room which would have a capacity of 400 persons would also host wedding receptions, private and corporate functions, supporting events and arts and cultural exhibitions. The facilities would allow large scale conferences to be hosted at the centre. In addition the refurbished Barbican would include a 300 seater restaurant, and be physically linked to the adjacent hotel. These proposals would accord with Draft Local Plan Policies seeking to encourage visitor development and facilities within the city, attracting additional events to the city and bringing significant benefits to the local economy as highlighted by First Stop York in its consultation response. The provision of these facilities and enhancement of the existing auditorium without the loss of the existing sports facilities from the City is considered to be welcomed in enhancing the City's status as an events and conference venue. Concerns regarding the development of another hotel in the City could not be considered as material in planning terms since this is a matter of market conditions for such accommodation.

4.26 STANDARD OF AMENITY FOR PROSPECTIVE RESIDENTS. The site is within walking distance of the City Centre and local transport routes. The facilities provided in the refurbished Barbican Centre building and the community swimming pool would be "on the doorstep" of residents. In addition, the level of community space provided meets the Local Plan standards, and cycle storage and refuse/recycling storage facilities would be appropriate for the development. Providing that conditions are attached to any approval granted, as recommended by the Environment and Protection Unit, the standard of residential amenity overall provided within the development would be acceptable. The optimum use of the site for residential development as part of a larger mixed use development accords with Central Government policy in making best use of Brownfield sites within urban areas, whilst providing for appropriate living conditions for the prospective occupants of the accommodation.

4.27 SECURITY AND DESIGNING OUT CRIME CONSIDERATIONS. The applicant has considered the comments submitted by the North Yorkshire Police Liaison Officer, and confirms that measures to restrict access to the residential basement car parking area, to the Hotel and Barbican service corridor and to the hotel entrance would be incorporated within the scheme. The inclusion of restricted opening windows in ground floor apartments and an inclusion of appropriate fencing are also confirmed. The reduced Kent Street car park would be subject to enhanced security to discourage crime and ensure its increased level of use. It is noted that generally the Police Liaison Officer would anticipate a significant reduction in reported crime due to the relocation of the pool and sports facilities partly into the new facility subject to the outline application also reported.

5.0 CONCLUSION

5.1 The proposals have generated a significant level of objection in relation to the impact of the development upon the amenity of member residents, upon traffic generation within the locality, upon the setting of the adjacent City Walls and the conservation area, and the loss of sporting and leisure facilities from the existing Barbican Centre. The documentation

submitted with the original scheme, together with additional information supplied and amendments to the scheme address many of the concerns which have been raised.

5.2 Negotiations with English Heritage and the Council's Environment and Conservation Section have resulted in amendments relating to the design of the residential block, meeting concerns expressed regarding the effect on the setting of the City Walls and the Conservation Area. Whilst the development is dense, it is considered appropriate for this inner urban location that maximises the use of the site without over dominating or adversely affecting the surrounding area to a significant degree.

5.3 The distances between the proposed development particularly the residential accommodation and existing residential accommodation adjacent to the site, together with the provision of landscaping what it is considered ensure that acceptable levels of privacy are maintained, and that the development does not over dominate adjacent property. Subject to conditions relating to sound attenuation measures and restricting hours of use of elements of the scheme as well as hours of demolition/construction, to help to ensure that residential amenity is being maintained for existing residents and safeguarded for future residents of the accommodation proposed.

5.4 A series of measures proposed by the applicant to minimise the impact of traffic generation upon the local highway network are considered to be acceptable and would be incorporated into a Section 106 agreement relating to the development should permission be granted. Together with measures included within the Energy Efficiency Statement, the proposals constitute a sustainable form of development optimising the use of the land whilst seeking to minimise the use of resources and promoting alternative modes of transport to the car.

5.5 The development includes for an acceptable level of affordable housing provision on site, in accordance with Local Plan requirements. The applicant has also confirmed that appropriate levels of contribution towards the provision of education and open space provision would be offered as part of a Section 106 legal agreement. The effect on local infrastructure and facilities is therefore considered to have been appropriately considered.

5.6 The additional clarification and confirmations received from the applicant demonstrate that the existing facilities within the Barbican Centre would not be lost to the City, and that strategies have been developed for both the interim period whilst the site is being developed both Barbican Centre and the proposed swimming pool site, and once both developments have been completed such that the existing level of provision would be maintained and eventually enhanced. Many of the concerns which have been raised relate to the loss of these facilities and it is therefore considered that the inclusion of alternative facilities is an important requirement of any approval of this application. The re-location of these facilities does now allow for the development of a greatly enhanced auditorium and conference facility linked to a quality hotel development which would bring significant additional investment to the City.

5.7 In summary, the development would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, setting of the adjacent City Walls and Conservation Area and archaeology on the site. As such the proposal complies with Policies H9, E4, E5 and I13 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, HE9, HE10, T4, T13, T14, T20, H2, H4, H5, L1, C3, V1 and V3 of the City of York Local Plan Deposit Draft.

5.8 The application technically constitutes a departure from the Statutory Development Plan (1956 Town Map). Also the Council is part applicant. The application would therefore be referred to the Government office for Yorkshire and the Humber should Members be minded to approve. The application is recommended for approval subject to referral to the Government Office, subject to the conditions as set out below and also subject to the following matters to be incorporated into a Section 106 legal agreement:-

- i) A contribution towards local education provision of £199,622
- ii) Contribution towards children's playspace provision - £60,830 with maintenance sum of £37,658, towards play space for older children - £5,720 with maintenance sum of £2,210, towards outdoor sports provision - £63,760.
- iii) £25,000 towards setting up of respark in adjacent streets (if required by residents)
- iii) Affordable Housing provision of 25% on site
- v) Off site highway and pedestrian improvements, including footpath links to St Georges Field Car Park
- vi) Contribution to the Foss Basin Traffic Master Plan of £335,841.
- viii) A contribution towards the relocation of coach parking from Kent Street to an acceptable alternative location.
- ix) Adoption of measures to encourage the use of sustainable transport modes by new residents, including free cycles or 6 months bus passes, and establishment of a car sharing scheme to also be available to nearby residents.
- x) Details of the re-provision of sports facilities within the city including the Bowling Green and development of the community swimming pool considered under application 03/04082/GRG4.
- xi) Commitment to incorporation of measures to ensure energy efficiency in the design and features of the development and its operation.
- xii) The submission and agreement of Green Travel Plans for staff employed at the New Barbican and the hotel complex.

5.9 The Section 106 Agreement would be entered into by the subsequent purchaser of the site, since the Council as part applicant could not be party to the agreement also as Planning Authority.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 and SOS

- | | | |
|---|--------|--|
| 1 | TIME1 | Development start within five years |
| 2 | ACCOR2 | INDevelop't in accord with revised plans |
| 3 | VISQ2 | IN Large scale details required |

- 4 VISQ7 Sample panel ext materials to be approv
- 5 VISQ8 Samples of exterior materials to be app
- 6 VISQ4 Boundary details to be supplied
- 7 ARCH1 Archaeological programme required
- 8 ARCH2 Watching brief required
- 9 No development shall take place until the applicant has submitted a detailed mitigation strategy (covering excavation, watching brief, analysis, publication, archive deposition, and public involvement) and this has been agreed in writing by the Assistant Director (Planning and Sustainable Development).

Reason. This development will have an effect on important archaeological deposits which are preserved within the site.

- 10 LAND1 IN New Landscape details
to be planted
- 11 LAND2 Retention of trees shown on plans
- 12 LAND3 Protection of existing planting
- 13 HWAY18 Cycle parking details to be agreed
- 14 HWAY19 Car and cycle parking laid out
- 15 HWAY31 No mud on highway during construction
- 16 HWAY40 Dilapidation survey
- 17 HWAY39 IN Off site highway works, details reqd
- 18 No development approved by this permission shall be commenced until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall then proceed in strict accordance with the measures approved.

Reason: To assess the risks to the water environment; to prevent pollution of the water environment.

- 19 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA) shall be carried out until the applicant has submitted, and obtained written approval from the LPA, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

- 20 Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

- 21 All demolition and construction works, including ancillary operations such as deliveries to and dispatch from the site, that are audible at the site boundary or other position as defined by the local planning authority, shall be confined to the following hours:

| | |
|---|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |
| Not at all on Sundays and Bank Holidays | |

Reason: To protect the amenity of local residents.

- 22 Prior to commencement of the development hereby permitted, the method for any piling operations shall be agreed in writing by the local planning authority. All piling operations shall be done in accordance with this agreement.

Reason: To protect the amenity of local residents

- 23 For all habitable rooms of the residential accommodation fronting Paragon Street, Barbican Road, Kent Street and Fawcett Street, the building envelopes shall be constructed so as to provide sound attenuation against external noise of not less than 35 dB(A), with windows shut and other means of ventilation provided. The detailed scheme shall be approved in writing by the local planning authority and fully implemented before each dwelling is occupied.

Reason: To protect the amenity of future residents

- 24 Upon completion of the development, use of the joint service yard for the hotel/Barbican and the Barbican service yard, as shown on drawing AL(O)p 902, shall be confined to the following hours:

| | |
|---------------------------|----------------|
| Monday to Saturday | 08.00 to 21.00 |
| Sundays and Bank Holidays | 9.00 to 18.00 |

Reason: To protect the amenity of local residents

- 25 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any residential or hotel accommodation, shall be submitted to the local planning authority for written approval. These details shall include maximum (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents.

- 26 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 thereafter.

Reason: To protect the amenity of local residents.

- 27 Use of the roof gardens that form part of the Barbican development shall be confined to the following hours of operation :
Monday to Sunday 09.00 to 22.00.

Reason: To protect the amenity of future and adjacent residents

- 28 HT1 IN Height
- 29 ACC1 Precise details of access for disabled
- 30 Prior to the commencement of any works on site, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction material.

Reason: to ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway and adjacent occupants.

- 31 HWAY10 Vehicular areas surfaced, details reqd
- 32 HWAY29 IN No gate etc to open in highway
- 33 HWAY35 Servicing within the site

Contact details:

Author: Jonathan Carr Development Control Officer
Tel No: 01904 551320

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City of York Council

Committee Minutes

| | |
|-----------|---|
| MEETING | PLANNING COMMITTEE |
| DATE | 22 APRIL 2004 |
| PRESENT | COUNCILLORS R WATSON* (in the Chair), BARTLETT*, CUTHBERTSON, HILL, HOPTON*, HYMAN*, KING*, MERRETT*, MOORE*, MORLEY, REID*, SIMPSON-LAING*, SMALLWOOD (as substitute for HORTON), I WAUDBY*, M WAUDBY (as substitute for MACDONALD) and WILDE* |
| APOLOGIES | COUNCILLORS HORTON and MACDONALD |

*attended site visits

PART A – MATTERS WHICH THE COMMITTEE DEALT WITH UNDER DELEGATED POWERS

61. INSPECTION OF SITES

The following sites were inspected before the meeting:

J Sainsbury Plc, Foss Bank, York
 Barbican Centre/Kent Street Car Park, Paragon Street, York
 Barbican Centre Swimming Pool

62. DECLARATIONS OF INTEREST

The Chair invited Members to declare at this point any personal or prejudicial interests which they might have in the business on the agenda.

Cllr Morley declared a personal non-prejudicial interest in agenda item 4 (Heslington Village Design Statement – For Approval) as the City of York Council representative on the University Council.

Cllr Morley declared a personal prejudicial interest in agenda item 6a (Link Road between Hallfield Road and James Street, York). He left the room and took no part in the discussion or decision on this item.

Cllr Reid declared a personal non-prejudicial interest in agenda item 6b (J Sainsbury Plc, Foss Bank, York).

Cllr Wilde declared personal non-prejudicial interests in agenda items 6c (Barbican Centre/Kent Street Car Park, Paragon Street, York) and 6d (Kent Street Car Park, Kent Street, York) as a resident of Wellington Street.

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Cllr Merrett declared personal non-prejudicial interests in agenda items 6c (Barbican Centre/Kent Street Car Park, Paragon Street, York) and 6d (Kent Street Car Park, Kent Street, York) as his daughter had swimming lessons at the Barbican pool.

67c. BARBICAN CENTRE/KENT STREET CAR PARK, PARAGON STREET, YORK

Members considered a report which presented an application for redevelopment including 240 apartments, a hotel, alterations to the Barbican Centre and alterations to an existing multi-storey car park.

This full application was for a mixed use development at the site of the Barbican Centre which was bounded by Paragon Street, Barbican Road, Kent Street and Fawcett Street. An outline application for the erection of a community swimming pool on the site of the Kent Street Coach Park and part of the existing decked car park was also reported to this meeting (minute 67c refers). Both applications followed extensive public consultations on the future of the Barbican Centre and the wider provision of sports and leisure facilities within the City.

The proposals for the existing Barbican Centre building involved its alteration, both internally and externally to create an auditorium/conference centre with associated facilities. The alterations included a single storey largely glazed extension on the forecourt area facing Paragon Street to house a new restaurant facility. Additional seating areas would be provided at the first floor and on a roof garden adjacent to the Box Office, with staff office accommodation above. The existing sports hall area would be converted to form three conference rooms and the existing auditorium would be refurbished. The service yard onto Kent Street would also be retained, and a new joint service yard for the Barbican and the proposed hotel adjacent would be created at the other side of the new conference facilities.

The new Barbican would be linked at first floor level to a five storey hotel building comprising of 120 bedrooms. This structure would be essentially semi-circular in plan form and would sit just to the east of the Barbican building, on the site of the existing swimming pool. A service corridor would separate the buildings at ground floor. An existing terrace area, to be used as a roof garden for the restaurant, would be extended over part of the service corridor. The proposed hotel bedrooms would either have windows facing an atrium towards the centre of the semi-circle or facing outwards towards a landscaped area to the east of the hotel.

On the eastern part of the site, a development of 228 3, 4 and 5 storey apartments would be created, with elevations facing Paragon Street, Barbican Road (although set back from the street frontage) and Kent Street. The height of the building would rise from the entrance atrium (approximately half way along Barbican Road frontage) towards the Paragon Street and Kent

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Street junctions. A circular corner "tower" feature at the Paragon Street/Barbican Road junction was included. The residential buildings included areas of roof garden and lift heads projecting above the general roof plain of the five storey accommodation.

Areas of open space for the residential accommodation would be provided in front of the Barbican Road elevations (with retention of the existing landscaping and mounding along this frontage), and to the rear of the development adjacent to the proposed hotel. A private children's play area for the apartments would also be included within this area.

The main entrance point into the apartments would be from Barbican Road via the central atrium. Vehicular access from Kent Street would lead to a basement parking area for 144 vehicles, together with one cycle space per apartment. Lift access and stair access from the basement would be provided to the residential floors.

In order to accommodate part of the new community swimming pool across Kent Street, part of the existing car park here would be removed to leave a total of 270 parking spaces. These spaces would be publicly available and would primarily serve the new Barbican and the Swimming Pool.

The application had been identified as falling into Schedule 2 development as defined in the Environmental Impact Assessment Regulations. A screening opinion had been carried out, and a full Impact Assessment was not required. However the applicant had submitted detailed assessments in relation to transport, noise, air quality, the environment (including geology, hydrology and contamination) and archaeology. Statements relating to the design of development and energy efficiency had also been submitted.

Internal consultation had been undertaken with the Council's Network Management, Environmental Protection, Environment, Conservation and Sustainable Development, Lifelong Learning & Leisure, City Development, Community Services and Education Services sections and with Councillor D'Agorne, one of Fishergate ward councillors. External consultation had taken place with the Fishergate Planning Panel, English Heritage, the Commission for Architecture and the Built Environment, the Conservation Area Advisory Panel, North Yorkshire Police, North Yorkshire Fire and Rescue, First Stop York, Yorkshire Water, the Environment Agency, the Yorkshire Architectural and York Archaeological Society, the York Georgian Society, the York Civic Trust, Sport England, adjacent residents and other interested parties.

Representations were made at the meeting in objection to the application, by the York Civic Trust, the Conservation Area Advisory Panel, local residents, the Save Our Barbican campaign group and Cllr Brian Watson, City of York councillor, and in support of the application.

The following additional papers had been circulated to Members:

- A briefing note containing information from Network Management, information on the relocation of sports facilities and an update on air quality implications;

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- A letter of objection on behalf of members of the over 50 keep fit classes;
- A plan prepared by York Civic Trust indicating the sight line from the city walls towards the proposed development;
- A plan of the proposed cycle and pedestrian link with St George's Field Car Park.

An update from officers was received which included the following points:

- Details of 8 additional highway conditions requested by Network Management;
- That the financial contribution towards the Foss Basin Transport Masterplan, under the Section 106 Agreement, had been revised and was now calculated at £406,290;
- That the establishment of a car sharing scheme to be available to residents, under the Section 106 Agreement, had been amended to the establishment of a car club;
- That comments had been received from the Fishergate Labour Party objecting to the application;
- That a petition, with 6,108 signatories, had been received from the Save Our Barbican campaign group.

It was clarified with regards to information included on pages 130-131 of the report that the trees on Paragon Street would be retained and that Walmgate had been included in error on a list of sites for provision of open space for sport. It was also clarified that the restaurant, including the bar and roof top areas, had a seating capacity of 305.

The concerns expressed by some Members regarding the proposals included:

- The number of people who would be present if both the auditorium and the conference centre were full to capacity and the consequential impact on traffic and parking;
- Lack of staff parking, especially given the likely number of staff and the need to use vehicles to travel home late at night;
- Loss of sports facilities and inadequate proposals for their relocation;
- Problems with the consultation process at the pre-application stage;
- Loss of the swimming pool facility for two years or possibly more, between the current pool closing and the new one opening;
- Provision of children's play area facilities at the same sites as for other developments in the Foss Basin area, where capacity would be stretched and children would have to cross major roads to visit them;
- Safety issues relating to pedestrians crossing the junction at Fishergate Bar;
- Risk of pedestrian crossings on the Fishergate Gyratory causing gridlock;
- Loss of on site coach parking;
- Proximity to and scale in relation to the historic city walls;
- Poor quality of architecture;
- Poor amenity levels for new and existing residents;
- Loss of local community facilities;
- Apprehension that a casino may operate from the site in the future;

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- Dissatisfaction with the planning process and advice given.

It was noted that a contribution of £25,000 was proposed towards the setting up of respark in adjacent streets under the Section 106 Agreement and Members requested that this be made available to residents at no cost for four years, which required an additional contribution of £12,500.

It was requested that a condition and a Section 106 Agreement contribution be included to address the safety issues for pedestrians crossing the junction at Fishergate Bar. Members also requested that condition 11, regarding the retention of trees, be strengthened.

Members also expressed the view that everything possible should be done to ensure that disruption was minimised for users of sports facilities.

RESOLVED: That the application be approved:

- (i) Subject to approval by the Secretary of State;
- (ii) Subject to the following conditions:

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

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990.

2 The development shall not be carried out otherwise than in complete accordance with the plans as originally submitted and later amended by the revised drawings listed below, or as may otherwise be agreed in writing with the Local Planning Authority.

DWA - CO921 AL(0) p 01B, 02A, 03A, 04A, 05A, 06A, 07A, 08A, 21A,27, 40B, 41B, 42A, 46A, 50A, 51A, 60A, 63, 101A, 139, 900C, 902A

Blueprint - 2087-02-001A, 002A, 003A, 004A, 005D, 006A, 007B, 008G, 009A, 010B, 011B, 012

DWA Visuals - 119A, 120, 121, 124A, 126A

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development.

3 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

External lighting, signage, doors, windows, balconies, eaves, glazing and curtain walling joints

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Reason: So that the Local Planning Authority may be satisfied with these details.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

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

Reason: So as to achieve a visually cohesive appearance.

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

Reason: In the interests of the visual amenities of the area.

7 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

8 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

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Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

9 No development shall take place until the applicant has submitted a detailed mitigation strategy (covering excavation, watching brief, analysis, publication, archive deposition, and public involvement) and this has been agreed in writing by the Assistant Director (Planning and Sustainable Development).

Reason. This development will have an effect on important archaeological deposits which are preserved within the site.

10 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

11 None of the existing trees shown to be retained on the approved plans, (including those along the Paragon Street frontage which shall be retained except where removal is required for creation of the hotel entrance layby) shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until 12 calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: The Local Planning Authority considers it important to safeguard these trees in a positive manner so as to secure their continued well being.

12 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing planting on this site. This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

13 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in

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writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

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

Reason: In the interests of highway safety.

15 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

16 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.

17 No development approved by this permission shall be commenced until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall then proceed in strict accordance with the measures approved.

Reason: To assess the risks to the water environment; to prevent pollution of the water environment.

18 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the applicant has submitted, and obtained written approval from the Local Planning Authority, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

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Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

19 Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

20 All demolition and construction works, including ancillary operations such as deliveries to and dispatch from the site, that are audible at the site boundary or other position as defined by the Local Planning Authority, shall be confined to the following hours:

| | |
|---|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |
| Not at all on Sundays and Bank Holidays | |

Reason: To protect the amenity of local residents.

21 Prior to commencement of the development hereby permitted, the method for any piling operations shall be agreed in writing by the Local Planning Authority. All piling operations shall be done in accordance with this agreement.

Reason: To protect the amenity of local residents

22 For all habitable rooms of the residential accommodation fronting Paragon Street, Barbican Road, Kent Street and Fawcett Street, the building envelopes shall be constructed so as to provide sound attenuation against external noise of not less than 35 dB(A), with windows shut and other means of ventilation provided. The detailed scheme shall be approved in writing by the Local Planning Authority and fully implemented before each dwelling is occupied.

Reason: To protect the amenity of future residents

23 Upon completion of the development, use of the joint service yard for the hotel/Barbican and the Barbican service yard, as shown on drawing AL(O)p 902, shall be confined to the following hours:

| | |
|---------------------------|----------------|
| Monday to Saturday | 08.00 to 21.00 |
| Sundays and Bank Holidays | 9.00 to 18.00 |

Reason: To protect the amenity of local residents

24 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any residential or hotel accommodation, shall be submitted to the Local Planning Authority for written approval. These details shall include maximum (L_{Amax}(f)) and

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average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the Local Planning Authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents.

25 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 thereafter.

Reason: To protect the amenity of local residents.

26 Use of the roof gardens that form part of the Barbican development shall be confined to the following hours of operation:

Monday to Sunday 09.00 to 22.00.

Reason: To protect the amenity of future and adjacent residents

27 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 22.5 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: To establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

28 Details of the works and provision to facilitate disabled access and movement within the site and to the buildings permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before the use is commenced or the building is occupied.

Reason: To ensure adequate provision for access within the development.

29 Prior to the commencement of any works on site, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction material.

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Reason: To ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway and adjacent occupants.

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

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

31 No gate, door or ground floor window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

32 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

33 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

34 The development shall not be brought into use; until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

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

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

36 Prior to the development coming into use highway visibility splays shall be provided at the junction of the site and Kent Street, free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

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Reason: In the interests of road safety.

37 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

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

- Residential block dropping off layby, Barbican Road
- Hotel dropping off layby, Paragon Street
- Pedestrian crossing points, Kent Street
- Relocated bus stop, Kent Street
- Improvements to pedestrian crossings at Fishergate Bar

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

39 Prior to the commencement of any works, a safety audit (stages 1,2 and 3) shall be carried out and submitted for approval, in accordance with the advice produced by the Institution of Highways and Transportation (IHT guidelines for the safety audit of highways1990) and guidance issued by this Council, covering all off-site highway works associated with this development.

Reason: in the interests of highway safety.

40 The operation and management of the Apartment Block car park and the Hotel car park shall be undertaken in accordance with car park management schemes previously agreed in writing with the Local Planning Authority, and shall not be revised without the prior written approval of the Local Planning Authority.

Reason: in order to ensure the efficient operation of this facility.

And with the following informatives:

1. Informative:

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

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Works in the highway - Section 171/Vehicle Crossing - Section 184 - Mr P Ellis (01904) 551361
Cafe Licence - Section 115 - Miss T Santana (01904) 551367

2. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

- a) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".
- b) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.
- c) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.
- d) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.
- e) Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.
- f) There shall be no bonfires on the site.

3. Your attention is drawn to the existence of a legal obligation under Section 106 of the Town & Country Planning Act 1980 relating to this development.

4. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, setting of the adjacent City Walls and Conservation Area and archaeology on the site. . As such the proposal complies with Policies H9, E4,E5 and I13 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, HE10, T4, T13,T14, T20, H2, H4, L1, C3, V1, and V3 of the City of York Local Plan Deposit Draft.

- (iii) Subject to a Section 106 Agreement covering the following:

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- a) A contribution towards local education provision of £199,622;
- b) Contribution towards children's play space provision - £60,830 with maintenance sum of £37,658, towards play space for older children - £5,720 with maintenance sum of £2,210, towards outdoor sports provision - £63,760;
- c) £37,500 towards setting up and provision of respark in adjacent streets for 4 years at no cost to residents (if required by residents);
- d) Affordable Housing provision of 25% on site;
- e) Off site highway and pedestrian improvements, including footpath links to St Georges Field Car Park and measures to improve safety for pedestrians crossing the junction at Fishergate Bar;
- f) Contribution to the Foss Basin Traffic Master Plan of £406,290;
- g) A contribution towards the relocation of coach parking from Kent Street to an acceptable alternative location;
- h) Adoption of measures to encourage the use of sustainable transport modes by new residents, including free cycles or 6 months bus passes, and establishment of a car club to also be available to nearby residents;
- i) Details of the reprovision of sports facilities within the city including the Bowling Green and development of the community swimming pool considered under application 03/04082/GRG4;
- j) Commitment to incorporation of measures to ensure energy efficiency in the design and features of the development and its operation;
- k) The submission and agreement of Green Travel Plans for staff employed at the New Barbican and the hotel complex.

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[Note: Cllrs Merrett, Simpson-Laing, Smallwood, Wilde, King, Hill & Hopton requested that it be recorded that they had voted against the decision to approve the application and had indicated their support for its refusal.]

67d. KENT STREET CAR PARK, KENT STREET, YORK

Members considered a report which presented an outline application for a community swimming pool.

This outline application accompanied the full application for the auditorium, conference centre, residential development and hotel also reported to this meeting (minute 67d refers). The details put forward for determination at this stage were the siting of the building and the means of access. The design, external materials and landscaping details would be subject to a reserved matters application should this application be approved.

The site was bounded by Kent Street to the north, the existing decked car park to the east, with flats at Barbican Court, a warehouse and the rear of properties along Escrick Street to the south and west. The proposal involved the erection of a new community swimming pool together with fitness suite and dance studios within a new building, largely on the site of the existing Kent Street coach park but also over part of the decked Kent Street public car park. The proposal would result in a reduction in the capacity of this car park to 270 spaces. To the west of the new building up to the Fawcett Street frontage and also partly to the rear, an equipped external play area would be created. This would necessitate demolition of the existing public toilet block.

The site plan submitted with the application showed vehicular access from the eastern end of the Kent Street frontage, to serve 4 disabled spaces at the front, 20 public cycle spaces, the service area and, towards the rear of the building, 10 staff car parking spaces, 8 minibus spaces and 10 staff cycle spaces. To the front of the site on the public highway, the bus stop would be relocated to outside the new building and a drop off zone would also be created. Other on street highway works would include a central refuge adjacent to the point where the existing footpath/cycle path crosses Kent Street, and a build out just offset and opposite from the proposed new vehicular entrance.

The application had been identified as falling into Schedule 2 development as defined in the Environmental Impact Assessment Regulations. A screening opinion had been carried out and a full Impact Assessment was not required. However in conjunction with the application for the Barbican Centre site redevelopment, the applicant had submitted detailed assessments in relation to transport, noise, air quality, the environment (including geology, hydrology and contamination) and archaeology. Statements relating to the design of the development and energy efficiency had also been submitted.

Internal consultation had been undertaken with the Council's Network Management, Environmental Protection, Environment, Conservation and

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Sustainable Development, Lifelong Learning & Leisure and City Development sections and with Councillor D'Agorne, one of Fishergate ward councillors. External consultation had taken place with the Fishergate Planning Panel, North Yorkshire Police, First Stop York, Yorkshire Water, the York Georgian Society, the York Civic Trust, Sport England, adjacent residents and other interested parties.

Representations were made at the meeting in support of the application and by Cllr Brian Watson, City of York councillor.

Officers outlined a number of additional conditions of approval that had been requested by the Environment Agency and the Council's Environmental Protection Unit.

Members emphasised the need for disabled parking provision to be close to the pool and requested that this be considered when reserved matters were brought forward. Concern was expressed that the application had not been taken to the Disabled Persons' Advisory Group (DPAG) for consultation and it was agreed that this would be done before the reserved matters stage.

Concern was also expressed regarding the site of the children's play area on the corner of the site near the main road, with regards to the amount of traffic fumes in the area and particularly its impact on asthma sufferers. It was requested that an informative be added to ensure that these concerns were taken on board prior to the reserved matters stage.

Members queried the proposed location of the entrance to the pool, which was closely staggered with the entrance to the hotel and residential parking. Officers reported that they had reviewed this matter and were satisfied that the junction was safe.

Members also raised the question as to whether parking charges would be refunded for users of the pool and asked officers to investigate this further.

Other concerns raised included the issues to be resolved in relation to finding a credible, alternative location for the coach park and the difficulty in understanding the impact the proposal would have on public and school swimming in the city with the information currently available.

RESOLVED: That the application be approved:

- (i) Subject to the approval of the Secretary of State;
- (ii) Subject to the following conditions:

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

- a) the expiration of five years from the date of this permission; or

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b) the expiration of two years for the date of approval of the last of the reserved matters to be approved; which ever is the later.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990.

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

Details to be submitted: design, external appearance, boundary treatment and landscaping of the proposed development to be carried out, including a schedule of all facing materials to be used.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of the development.

3 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

4 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

5 No development shall take place until a detailed mitigation strategy (covering excavation, watching brief, analysis, publication, archive deposition and public involvement) as been submitted to and agreed in writing by the Local Planning Authority. The strategy shall thereafter be implemented to the satisfaction of the Local Planning Authority.

Reason: In order to mitigate the effect of the development upon archaeological deposits which are preserved at the site.

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6 The development shall not be carried out otherwise than in complete accordance with the plans as originally submitted and later amended by the revised drawings listed below and received on the date indicated, or as may otherwise be agreed in writing with the Local Planning Authority.

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Reason: To achieve an acceptable form of development.

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

Reason: In the interests of the visual amenities of the area.

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

Reason: So as to achieve a visually cohesive appearance.

9 Details of the works and provision to facilitate disabled access and movement within the site and to the buildings permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before the use is commenced or the building is occupied.

Reason: To ensure adequate provision for access within the development.

10 Prior to any commencement of any works on site, a detailed method of work statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and route to be taken by vehicles transporting the demolition and construction material from the site.

Reason: To ensure that the works are carried out in a safe manner with a minimum disruption to users of the adjacent public highway and adjacent occupants.

11 Details of soil and vent stacks, heating and air conditioning plant etc, including fume extraction and odour control equipment, with details of any external ducting, shall be submitted to, and approved in writing by, the Local Planning Authority before the development commences.

Reason: In the interests of visual amenity and to protect the amenities of occupants of adjoining properties.

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12 Prior to commencement of the development, full details of all piling operations of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the proposed method of piling and type of machinery to be used, as well as the duration of this stage of the development.

Reason: In the interests of the amenity of adjacent and nearby residents.

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

Reason: In the interests of satisfactory and sustainable drainage.

14 No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. A drainage of surface water from the site shall thereafter take place in accordance with the approved details.

Reason: To ensure that the development shall be properly drained.

15 There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that no surface water discharge takes place until proper provision has been made for its disposal.

16 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

17 Vehicular access shall be from Kent Street; and details of the design of this access, together with associated sightlines, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of highway safety.

18 Before the permitted access is brought into use, the existing access between the site and Kent Street shall be stopped up to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

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

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

20 The development shall not come into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

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

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

22 No part of the site shall come into use until turning areas have been provided in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

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

23 Prior to the development coming into use, highway visibility splays shall be provided at the junction of Kent Street, free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

24 The development shall not commence until details of the internal road layout have been submitted to, and approved in writing, by the Local Planning Authority. No building/dwelling shall be occupied until the internal road has been provided, up to base-course level, in accordance with such approved plans. The wearing course shall be laid within two years of the base-course being laid or prior to the occupation of the penultimate house, whichever is the sooner.

Reason: In the interests of road safety.

25 No gate, door or ground floor window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

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26 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

27 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

28 The garage shall be fitted with doors which shall at no time, even whilst being open or shut, protrude forward of the position of the face of the garage door whilst in the closed position.

Reason: To prevent cars projecting into the public highway and obstructing the free passage of road users.

29 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.

30 Vehicular access shall be from Kent Street; and details of the design of this access, together with associated sightlines, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of highway safety.

31 Before the use hereby permitted commences the plant room of the building shall be noise insulated in accordance with a scheme to be approved in writing by the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents.

32 Before the use hereby permitted commences, a detailed scheme for controlling the noise of deliveries to and from the site shall be agreed in writing by the Local Planning Authority. This scheme shall include measures to control noise from reversing vehicles and noise from the unloading/loading

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of vehicles. The hours during which deliveries will be permitted shall also be included. The approved scheme shall thereafter be complied with at all times, unless a variation of the scheme is first agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents.

33 No development approved by this permission shall be commenced until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall then proceed in strict accordance with the measures approved.

Reason: To assess the risks to the water environment; to prevent pollution of the water environment.

34 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the applicant has submitted, and obtained written approval from the Local Planning Authority, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

35 Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

And with the following informatives:

1. Reasons for approval :-

In the opinion of the Local Planning Authority the proposal, subject to the conditions and obligations contained within a legal agreement listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, and archaeology on the site. As such the proposal complies with Policies , E5 and of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3 GP11, HE10, T4, T13, T14, T20, of the City of York Local Plan Deposit Draft.

2. Your attention is drawn to the existence of a legal obligation under Section 106 of the Town & Country Planning Act 1980 relating to this development

APPENDIX 3

3. The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be observed:-

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

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

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

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

v) Any asbestos containing materials should be removed by licensed contractors to a licensed disposal site.

vi) There should be no bonfires on the site.

4. Attention is drawn to the proximity of the proposed external play area to the busy junction of Fawcett Street and Kent Street. Any reserved matters application(s) would be expected to incorporate details which seek to minimise the impact of traffic noise and fumes within the play area.

(iii) Subject to a Section 106 Agreement covering the following:

a) The implementation of or funding towards off site highway improvements to address the requirements and additional impact of the development upon the local highway network. This would include the provision of an improved footpath link from St George's Field car park to the site and a coach dropping off point within that car park;

b) Funding towards the highway measures identified in Foss Basin Traffic Study;

APPENDIX 3

- c) A contribution towards the provision of acceptable alternative coach parking facilities elsewhere within the City;
- d) A commitment to the incorporation of measures to ensure energy efficiency in the design and features of the development and its operation;
- e) The submission and agreement of a Green Travel Plan for staff employed at the pool building;

[Note: Cllrs Merrett, Simpson-Laing, Smallwood, Wilde, King & Hill requested that it be recorded that they had voted against the decision to approve the application.]

COUNCILLOR R WATSON,
Chair.

The meeting began at 3.30 pm and ended at 10.50 pm.

APPENDIX 4



APPROVE PLANNING PERMISSION

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING GENERAL REGULATIONS, 1992**

To:

City Of York Council And Barbican Venture (York) Ltd
c/o DWA Architects
4 Park Street
Selby
YO8 4PW

Application at: Barbican Centre/Kent Street Car Park Paragon Street York YO10 4AG
For: Redevelopment including 240 apartments, hotel, alterations to Barbican Centre, alterations to existing multi-storey car park
By: City Of York Council And Barbican Venture (York) Ltd
Application Ref No:: 03/04075/GRG4
Application Received on: 22 December 2003

CONDITIONS OF APPROVAL:

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

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990.

2 The development shall not be carried out otherwise than in complete accordance with the plans as originally submitted and later amended by the revised drawings listed below, or as may otherwise be agreed in writing with the Local Planning Authority.

DWA - CO921 AL(0) p 01B, 02A, 03A, 04A, 05A, 06A, 07A, 08A, 21A,27, 40B, 41B, 42A, 46A, 50A, 51A, 60A, 63, 101A, 139, 900C , 902A

Blueprint - 2087-02-001A, 002A, 003A, 004A, 005D, 006A, 007B, 008G, 009A, 010B, 011B, 012
DWA Visuals - 119A, 120, 121, 124A, 126A

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development.

3 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

External lighting, signage, doors, windows, balconies, eaves, glazing and curtain walling joints

Reason: So that the Local Planning Authority may be satisfied with these details.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be

APPENDIX 4

approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

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

Reason: So as to achieve a visually cohesive appearance.

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

Reason: In the interests of the visual amenities of the area.

7 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

8 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

9 No development shall take place until the applicant has submitted a detailed mitigation strategy (covering excavation, watching brief, analysis, publication, archive deposition, and public involvement) and this has been agreed in writing by the Assistant Director (Planning and Sustainable Development).

Reason. This development will have an effect on important archaeological deposits which are preserved within the site.

10 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

11 None of the existing trees shown to be retained on the approved plans, (including those along the Paragon Street frontage which shall be retained except where removal is required for creation of the hotel entrance layby) shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until 12 calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or

APPENDIX 4

becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: The Local Planning Authority considers it important to safeguard these trees in a positive manner so as to secure their continued well being.

12 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing planting on this site. This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

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

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

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

Reason: In the interests of highway safety.

15 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

16 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 LPA.

Reason: In the interests of the safety and good management of the public highway.

17 No development approved by this permission shall be commenced until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall then proceed in strict accordance with the measures approved.

Reason: To assess the risks to the water environment; to prevent pollution of the water environment.

18 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA) shall be carried out until the applicant has submitted, and obtained written approval from the LPA, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

19 Development approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

APPENDIX 4

20 All demolition and construction works, including ancillary operations such as deliveries to and dispatch from the site, that are audible at the site boundary or other position as defined by the local planning authority, shall be confined to the following hours:

| | |
|---|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |
| Not at all on Sundays and Bank Holidays | |

Reason: To protect the amenity of local residents.

21 Prior to commencement of the development hereby permitted, the method for any piling operations shall be agreed in writing by the local planning authority. All piling operations shall be done in accordance with this agreement.

Reason: To protect the amenity of local residents

22 For all habitable rooms of the residential accommodation fronting Paragon Street, Barbican Road, Kent Street and Fawcett Street, the building envelopes shall be constructed so as to provide sound attenuation against external noise of not less than 35 dB(A), with windows shut and other means of ventilation provided. The detailed scheme shall be approved in writing by the local planning authority and fully implemented before each dwelling is occupied.

Reason: To protect the amenity of future residents

23 Upon completion of the development, use of the joint service yard for the hotel/Barbican and the Barbican service yard, as shown on drawing AL(O)p 902, shall be confined to the following hours:

| | |
|---------------------------|----------------|
| Monday to Saturday | 08.00 to 21.00 |
| Sundays and Bank Holidays | 9.00 to 18.00 |

Reason: To protect the amenity of local residents

24 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any residential or hotel accommodation, shall be submitted to the local planning authority for written approval. These details shall include maximum (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents.

25 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 thereafter.

Reason: To protect the amenity of local residents.

26 Use of the roof gardens that form part of the Barbican development shall be confined to the following hours of operation :

Monday to Sunday 09.00 to 22.00.

Reason: To protect the amenity of future and adjacent residents

27 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 22.5 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be

APPENDIX 4

implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

28 Details of the works and provision to facilitate disabled access and movement within the site and to the buildings permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before the use is commenced or the building is occupied.

Reason: To ensure adequate provision for access within the development.

29 Prior to the commencement of any works on site, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction material.

Reason: to ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway and adjacent occupants.

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

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

31 No Gate, door or ground floor window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

32 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

33 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

34 The development shall not be brought into use; until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

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

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

36 Prior to the development coming into use highway visibility splays shall be provided at the junction of the site and Kent Street free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

37 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously

APPENDIX 4

submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

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

- Residential block dropping off layby, Barbican Road
- Hotel dropping off layby, Paragon Street
- Pedestrian crossing points, Kent Street
- Relocated bus stop, Kent Street
- Improvements to pedestrian crossings at Fishergate Bar

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

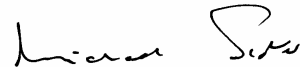
39 Prior to the commencement of any works, a safety audit (stages 1,2 and 3) shall be carried out and submitted for approval, in accordance with the advice produced by the Institution of Highways and Transportation (IHT guidelines for the safety audit of highways1990) and guidance issued by this Council, covering all all off-site highway works associated with this development.

Reason - in the interests of highway safety.

40 The operation and management of the Apartment Block car park and the Hotel car park shall be undertaken in accordance with car park management schemes previously agreed in writing with the Local Planning Authority, and shall not be revised without the prior written approval of the LPA.

Reason - in order to ensure the efficient operation of this facility.

Date:



Assistant Director (Planning & Sustainable Development)

Notes to Applicant

1. INFORMATIVE:

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Mr P Ellis (01904) 551361

Cafe Licence - Section 115 - Miss T Santana (01904) 551367

2.

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

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

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

APPENDIX 4

- c) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.
- d) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.
- e) Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.
- f) There shall be no bonfires on the site.

3. Your attention is drawn to legal obligations contained within an agreement under Section 106 of the Town and Country Planning Act 1990 relating to this development.

4. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, setting of the adjacent City Walls and Conservation Area and archaeology on the site. . As such the proposal complies with Policies H9, E4,E5 and I13 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, HE10, T4, T13,T14, T20, H2, H4, L1, C3, V1, and V3 of the City of York Local Plan Deposit Draft.

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**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING GENERAL REGULATIONS, 1992
(AS AMENDED BY THE TOWN AND COUNTRY PLANNING GENERAL (AMENDMENT) REGULATIONS, 1998)**

To:

DWA Architects Ltd
39 Blossom Street
York
YO24 1AQ

Application at:

Barbican Centre Paragon Street York YO10 4AG

For:

Section 73 application to vary conditions 3,4, 5, 6, 10, 13, 17, 19 and 21 to allow commencement of work on site prior to compliance with the above pre-conditions of decision no. 03/04075/GRG4 for redevelopment including 240 apartments, hotel, alterations to Barbican Centre, alterations to existing multi-storey car park

By:

City Of York Council And Barbican Venture (York) Ltd

Application Ref No.:

05/00882/GRG4

Application Received on:

22 April 2005

CONDITIONS OF APPROVAL:

1 The development shall be begun not later than the expiration of the five years from the date of the original planning permission ref. no 03/04075/GRG4 dated 21st September 2004.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990.

2 The development shall not be carried out otherwise than in complete accordance with the plans as originally submitted and later amended by the revised drawings listed below, or as may otherwise be agreed in writing with the Local Planning Authority.

DWA - CO921 AL(0) p 01B, 02A, 03A, 04A, 05A, 06A, 07A, 08A, 21A, 27, 40B, 41B, 42A, 46A, 50A, 51A, 60A, 63, 101A, 139, 900C, 902A

Blueprint - 2087-02-001A, 002A, 003A, 004A, 005D, 006A, 007B, 008G, 009A, 010B, 011B, 012
DWA Visuals - 119A, 120, 121, 124A, 126A

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development

3 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction work on any of the buildings that form part of this development and the works shall be carried out in accordance with the approved details.

External lighting, signage, doors, windows, balconies, eaves, glazing and curtain walling joints.

Reason: So that the Local Planning Authority may be satisfied with these details.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of any works to any of the buildings that form part of this development. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

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

Reason: So as to achieve a visually cohesive appearance.

6 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before construction work on any of the buildings hereby permitted commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

7 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

8 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

9 No development shall take place until the applicant has submitted a detailed mitigation strategy (covering excavation, watching brief, analysis, publication, archive deposition, and public involvement) and this has been agreed in writing by the Assistant Director (Planning and Sustainable Development).

Reason. This development will have an effect on important archaeological deposits which are preserved within the site.

10 No construction work on any of the buildings hereby permitted as part of this phase of the development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted;. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

11 None of the existing trees shown to be retained on the approved plans, (including those along the Paragon Street frontage which shall be retained except where removal is required for creation of the hotel

entrance layby) shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped without the previous written consent of the Local Planning Authority until 12 calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: The Local Planning Authority considers it important to safeguard these trees in a positive manner so as to secure their continued well being.

12 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing planting on this site. This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

13 Prior to the commencement of any construction work on any of the buildings approved by this permission details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

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

Reason: In the interests of highway safety.

15 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

16 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 LPA.

Reason: In the interests of the safety and good management of the public highway.

17 Other than the demolition of the buildings no development approved by this permission shall commence until the applicant has undertaken an investigation to assess the impact of the site on the water environment; identify the risk of pollution and specify any remedial measures required; and a method statement detailing these measures has been submitted to, and approved, by the Local Planning Authority. Thereafter, the development shall then proceed in strict accordance with the measures approved.

Reason. To assess the risks to the water environment; to prevent pollution of the water environment.

18 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA) shall be carried out until the applicant has submitted, and obtained written approval from the LPA, an addendum to the Method Statement. This addendum must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

19 No construction work on any of the buildings approved by this permission should be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

20 All demolition and construction works, including ancillary operations such as deliveries to and dispatch from the site, that are audible at the site boundary or other position as defined by the local planning authority, shall be confined to the following hours:

| | |
|---|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |
| Not at all on Sundays and Bank Holidays | |

Reason: To protect the amenity of local residents.

21 Prior to the commencement of any construction work on any of the buildings approved by this permission, the method for any piling operations shall be agreed in writing by the Local Planning Authority. All piling operations shall be done in accordance with this agreement.

Reason. To protect the amenity of local residents.

22 For all habitable rooms of the residential accommodation fronting Paragon Street, Barbican Road, Kent Street and Fawcett Street, the building envelopes shall be constructed so as to provide sound attenuation against external noise of not less than 35 dB(A), with windows shut and other means of ventilation provided. The detailed scheme shall be approved in writing by the local planning authority and fully implemented before each dwelling is occupied.

Reason: To protect the amenity of future residents

23 Upon completion of the development, use of the joint service yard for the hotel/Barbican and the Barbican service yard, as shown on drawing AL(O)p 902, shall be confined to the following hours:

| | |
|---------------------------|----------------|
| Monday to Saturday | 08.00 to 21.00 |
| Sundays and Bank Holidays | 9.00 to 18.00 |

Reason: To protect the amenity of local residents

24 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any residential or hotel accommodation, shall be submitted to the local planning authority for written approval. These details shall include maximum (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents.

25 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 thereafter.

Reason: To protect the amenity of local residents.

26 Use of the roof gardens that form part of the Barbican development shall be confined to the following hours of operation :

| | |
|------------------|-----------------|
| Monday to Sunday | 09.00 to 22.00. |
|------------------|-----------------|

Reason: To protect the amenity of future and adjacent residents

27 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 22.5 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

28 Details of the works and provision to facilitate disabled access and movement within the site and to the buildings permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before the use is commenced or the building is occupied.

Reason: To ensure adequate provision for access within the development.

29 Prior to the commencement of any works on site, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction material.

Reason: to ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway and adjacent occupants.

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

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

31 No gate, door or ground floor window shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

32 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

33 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

34 The development shall not be brought into use; until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb to match adjacent levels.

Reason. In the interests of good management of the highway and road safety.

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

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

36 Prior to the development coming into use highway visibility splays shall be provided at the junction of the site and Kent Street free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

37 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

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

- Residential block dropping off layby, Barbican Road
- Hotel dropping off layby, Paragon Street
- Pedestrian crossing points, Kent Street
- Relocated bus stop, Kent Street
- Improvements to pedestrian crossings at Fishergate Bar

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

39 Prior to the commencement of any works, a safety audit (stages 1,2 and 3) shall be carried out and submitted for approval, in accordance with the advice produced by the Institution of Highways and Transportation (IHT guidelines for the safety audit of highways1990) and guidance issued by this Council, covering all all off-site highway works associated with this development.

Reason - in the interests of highway safety.

40 The operation and management of the Apartment Block car park and the Hotel car park shall be undertaken in accordance with car park management schemes previously agreed in writing with the Local Planning Authority, and shall not be revised without the prior written approval of the LPA.

Reason - in order to ensure the efficient operation of this facility.

Date:14 March 2006



M.Slater
Assistant Director (Planning & Sustainable Development)

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, effect on highway and pedestrian safety and convenience, setting of the adjacent City Walls and Conservation Area and archaeology on the site. . As such the proposal complies with Policies H9, E4,E5 and I13 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, HE10, T4, T13,T14, T20, H2, H4, L1, C3, V1, and V3 of the City of York Local Plan Deposit Draft.

2. INFORMATIVE:

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361
Cafe Licence - Section 115 - Miss T Santana (01904) 551367

3. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not

adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

- a) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".
- b) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.
- c) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.
- d) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.
- e) Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.
- f) There shall be no bonfires on the site.

4. Your attention is drawn to legal obligations contained within an agreement under Section 106 of the Town and Country Planning Act 1990 relating to this development.

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Mr B Woolley
Director of City Strategy
9 St. Leonard's Place
York
YO1 7ET

Direct line: 553312
Our ref:
Your ref:
Contact:

16th August 2006

Dear Mr Woolley,

03/04075/GRG4 Barbican Centre/Kent Street Car Park, Paragon Street, York YO10 4AG

I am writing to you as one of the joint applicants for the development of the Barbican Centre/Kent Street Car Park, Paragon Street, York, to request the amendment of the resolution of the Section 106 agreement requirement for this development to read:

- The developers to provide a capital sum of £6,385,000 to City of York Council, who will use this sum to deliver new and improved sports facilities for the city in line with the City's sports strategy, instead of as present to require details of the re-provision of a pool at Kent Street and other sports facilities and the bowling green.

Background

Following an initial market testing exercise the council received bids, in August 2001, from five short listed developers responding to a number of objectives including the construction of a pool, built to modern standards, and of sufficient size to accommodate all the existing user groups.

Subsequently in November 2002, Barbican Venture (York) Ltd. were chosen as the preferred developer and their bid comprised of a £3m capital receipt and a 25m "County Standard" pool to be owned and operated by the council.

In October 2003 legal advice was received, that as the council wished to have ownership of the pool and control over elements of its appearance and layout, this fell within the definition of "works procurement regulations" of the EC public procurement regime. As the value of the construction work and related procurement services were over the threshold limits, the building construction project would need to be advertised Europe wide. The Council's Executive on 16 December 2003 therefore authorised Property Services to secure tenders by following the EC procurement regime to deliver the Kent Street pool. This had the effect

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that Barbican Venture would not be responsible for constructing the pool and that the capital receipt from the land sale would be used to build the pool.

In October 2003 Barbican Venture, following an extensive archaeological survey which provided the opportunity for undercroft car parking for the proposed apartments and hotel, submitted a revised scheme. The scheme relocated the swimming pool to the coach park adjacent to Kent Street, the two star hotel became a four star hotel and apartments rose in number to 240. This resulted in an increase in the value of the capital receipt from £9.6m to £10.33m (less fees and costs of relocating customers) to be spent on the three pools and a better scheme overall in planning and leisure terms.

On 16 December 2003 the Council's Executive chose this latest scheme anticipating that the Council would enter into a contract with Barbican Venture for the delivery of the proposals with the exception of the construction of the pool which would be procured by the council.

It was further decided that the pool would close on 31 May 2004 ahead of the redevelopment. This date was set in order to give time to plan effectively for the relocation of customers and redeployment of affected staff.

Following extensive pre-application discussions over a period of 2 months, Barbican Venture and the Council submitted joint applications for the redevelopment of the Barbican site and the council submitted an outline application for the new pool site on 22 December 2003.

In summary, at the time of the planning application and the subsequent Planning Committee decision on 22 April 2004 to approve Barbican Venture's scheme, Barbican Venture would not be involved in constructing the pool and the council's Executive had made a clear commitment that the capital receipt from the Barbican land sale would be used as a contribution towards the total cost of the rebuild/refurbishment of the city's three pools.

The protracted delay throughout 2004/5 caused by legal action brought by the "Save our Barbican" group led directly to Barbican Venture's nominated house builder withdrawing and Barbican Venture being unable to proceed with the sale. A subsequent downturn in the apartments market in York, together with a substantial increase in building costs, made it impossible for Barbican Venture to pay a similar price for the land.

In February 2006 the Council's Executive however did accept a revised offer for the Barbican land, which following subsequent negotiations is £6,385,000. This offer provides for a scheme in keeping with the original planning application:

- 240 apartments, including 60 affordable
- a 4* hotel linked to the Barbican Auditorium to provide a large scale conferencing facility

and, subject to the approval of a new planning application on the site of the previously proposed Kent Street swimming pool:

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- a budget hotel

The Executive confirmed that the whole receipt (which would include a further £1,850,000 if the sale of the coach park site and the Auditorium completed) would be used to fund the council's revised Leisure Facilities Strategy, that subject to further feasibility work, would include:

- the refurbishment or relocation of the Edmund Wilson Pool
- the retention of the Yearsley Pool, with a planned regime of repair and maintenance works, and
- subject to successful conclusion of ongoing 'partnership' discussions with the University, a contribution to the 'competition standard pool' on the University site

City of York Council

During the interim until the Leisure Facilities Strategy is complete City Sports and Active Leisure has put the following arrangements in place:

- Alternative arrangements for sports hall users were made with All Saints School. These facilities came on stream in November 2004. Clubs, courses and fitness classes were scheduled into the facilities at All Saints with the remaining time being made available for casual bookings. Attendance numbers have stayed the same at All Saints as they were at the Barbican Centre. Some of the clubs have had more enquiries about joining.
- A replacement bowling green has been provided at the Retreat on Heslington Road.
- The climbing wall which was part of the sports provision has been replaced by a new state-of-the-art facility at Oaklands School (opening 2 September 2006)
- The majority of swimming groups and classes were successfully relocated with attendance remaining the same or increasing. With respect to swimming lessons the swimming programmes at Edmund Wilson and Yearsley pools were reviewed and extra swimming lessons were provided at both pools creating 310 lesson spaces (compared to 374 at the Barbican pool). 8 out of 10 school sessions were relocated.
- Alternative arrangements for gym members were negotiated with two commercial gyms in the city.

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The sale and redevelopment of this land was always intended to be the route to delivering the city's desire to maintain swimming facilities on three sites in the City. The Council as Leisure Authority had planned to refurbish Edmund Wilson and Yearsley Pools and build a community 25m pool on the Kent St site as detailed in application 03/04082/GRG4. However since the original application there has been a number of financial and strategic changes that make this no longer viable.

- The sale of the land is now not generating sufficient resources to meet all of the Council's original leisure requirements. This means that we can either provide for the new pool on the Kent Street site **or** replace and refurbish our existing facilities at Edmund Wilson and Yearsley.
- The City's Sport & Active Leisure Partnership *Active York*, of which the council is a partner have produced a sports facilities strategy that highlights the need for a competition standard facility in the South or East of the City (copy attached).
- The Council has now clearly identified that its priority for swimming pools has to be to safeguard existing levels of provision before creating new. This strategy was adopted by the Council in February 2006 (copy of paper attached).
- The Council is now in discussion with the University of York over a possible partnership arrangement to provide an open access 25m x 25m pool within the university campus. We recognise that this is not currently a certainty but believe it would be financially unsound to develop a small pool within a mile of the campus with the knowledge that a larger, better equipped facility is being considered. Such a facility would clearly attract users from the community pool making the capital investment disproportionate to the level of community benefit derived, and make the community pool no longer viable in revenue terms. The only sensible option available to the Council is to continue partnership discussions to a conclusion and invest in sports facilities accordingly.

The Council's Executive is happy to commit the full capital receipt for the site to the replacement/ refurbishment and provision of sports facilities in the city. I am also fully satisfied that the other sports relocation obligations mentioned in the original planning report (including the reprovision of the bowling green) have all been complied with completely, as stated above.

If the wording of this obligation is not amended the Barbican Venture development may not proceed and there is no certainty that a new developer can be found to replace this scheme. In the event a new developer did replace Barbican Venture it is known that this will take up to 2 years to reach this stage of the development and the capital receipt would be substantially reduced. There will therefore be a number of lost opportunities to the City in addition to the leisure ones including.

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- A 4* hotel and conferencing facilities and the associated employment which were identified at the original application stage as being in considerable demand in the City.
- Sixty much needed affordable housing units on the edge of the city centre. York's Housing needs survey 2002-2007 identifies the need for 950 new affordable homes per annum. At the current time there are few developments being presented for planning and much of the proposed provision is tied up in complex inquiry processes. This development has a site, a builder and conditional approval to build and is therefore considered to be valuable in terms of meeting our affordable housing targets.

Barbican Venture (York) Ltd.

Barbican Venture is aware that the Council's ambitions for swimming facilities in the city have changed since the original application was considered. Since the review of policy in February 2006 it is no longer appropriate to link this development with the construction of a swimming pool on the current Kent Street coach park.

I believe that, if the Section 106 condition is not amended Barbican Venture will be unable to complete the purchase of the Barbican land, for the agreed sum of £6,385,000. Accepting the Council's intention to use this receipt to fund future investment in its leisure facilities Barbican Venture cannot be obligated to provide or build a swimming pool. The Council has already made the decision, in order to comply with EU procurement regulations, to take responsibility for the provision of the pool. If Barbican Venture do not purchase the Barbican Land I believe that this would be a significant loss to the City both in terms of the loss of capital for reinvestment in the City's sports facilities and the loss of a high quality hotel and residential properties (including 60 affordable units).

Absolute Leisure Limited

Initially in the marketing of the Barbican land the Council sought bids from developers who could provide an experienced operator who would manage the Barbican Auditorium on behalf of the developer and provide a quality entertainment programme. The Barbican Venture bid included Absolute Leisure Limited (ALL) as their operator.

In February 2004, the council's Executive approved ALL as an acceptable operator and offered a separate conditional development agreement and lease to the company. This had the effect of separating ALL from Barbican Venture's development proposals. None of the obligations in the approved form of the Section 106 agreement specifically relate to the Auditorium and it has been agreed between the Council's Executive and Barbican Venture that all the financial contributions due under that agreement would be funded by Barbican Venture.

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I therefore seek that any amendment to the Section 106 agreement specifically absolves ALL from being named as developer in the agreement.

I trust that, in considering the content of this letter, you can see the merits in the proposed amended resolution both for this development and for the future of sports provision in the City.

Yours sincerely

Neil Hindhaugh
AD: Head of Property Services



Executive

7 February 2006

Report of the Director of Resources and the Assistant Director (Lifelong Learning & Culture)

Leisure Facilities Strategy

Purpose of Report

1. This report sets out the options available to members for reprovision of the Council's leisure facilities based on a revised capital receipt for the Barbican site. Members are asked to:
 - Approve a revised offer for the site submitted by Barbican Venture (York) Limited
 - Pursue a partnership approach with the University to provide a publicly accessible 8 x 25m pool
 - Approve a 5 year strategy for Edmund Wilson and Yearsley pools

Background – The Previous Offer

2. The Executive has previously selected The Barbican Venture (York) Limited (BV) and Absolute Leisure Limited (ALL) as the preferred developers for the Barbican site and the Barbican Centre (the auditorium) respectively and agreed Heads of Terms for the scheme. The principal aspects of the deal at that time were:
 - A £2.5m refurbishment of the Barbican Centre to be operated by ALL
 - The Kent Street Centre, a community pool and fitness suite to be built and operated by the Council on the Kent Street coach park site
 - An apartment block consisting of 240, 1 and 2 bed flats including 60 affordable units
 - A 4 star+ private hotel linked to the Barbican Centre with conferencing facilities
 - £500k refurbishment of Kent Street car park with 270 (out of the current 390) spaces retained for public car parking
 - The remainder of the £10.33m capital receipt allocated for refurbishment of Yearsley and Edmund Wilson pools
3. The offer from BV was £9.565m for the land, plus £0.765m from Absolute Leisure Limited (ALL) for a leasehold interest in the Barbican Centre, making a total of £10.33m. This, together with the £0.148m already allocated in the programme, gave a total capital budget of £10.478m. From this immediate allocations were made for:

| | £m | |
|-------------------------------|--------------|--------------------|
| Fees | 0.440 | provisional budget |
| Edmund Wilson Urgent Works | 0.059 | actual spend |
| All Saints sports hall scheme | 0.063 | actual spend |
| Relocation of bowling green | 0.091 | actual spend |
| TOTAL | 0.653 | |

4. (There was a further requirement for £0.672m to meet Section 106 costs imposed in the planning process over and above the £0.437m being provided by BV but members agreed to fund this from departmental capital budgets shared between DEDES and Education and Leisure.)
5. £9.825m was therefore left to contribute to refurbishing the 3 Council pools. The estimated cost of achieving this was over £12m meaning there was an assumed shortfall of over £2m on the original scheme which would have to be met from additional capital resources.

Subsequent Events

6. The protracted delay throughout 2004/5 caused by the legal action brought by the "Save our Barbican" group led directly to BV's nominated house builder withdrawing and BV being unable to proceed with the sale. A subsequent downturn in the apartments market in York, together with a substantial increase in building costs, made it impossible for BV to find a replacement house builder willing to pay a similar price for the land; this despite a full national trawl. The only offer BV was able to put forward was with S. Harrison Group, a local housebuilder, as the nominated housebuilder. It was worth just £5.055m net and was rejected by the Council.
7. BV therefore began to explore the development market, seeking a developer partner willing to promote a revised development. The first developer partner that showed interest was NCS Logistics but they were not able to secure the necessary funding to be able to make a bid. BV was, however, successful in their quest with Capital and Provident. This company and its clients have an established track record in the property sector, participating in development and investment transactions in both the residential and commercial markets in the UK and internationally.
8. Outside of this process, in December 2005, S. Harrison put forward two offers of their own based on the land area excluding the coach park:
 - a) £7.0m subject to obtaining planning permission to change the use of the 240 apartment building to student accommodation for rent
 - b) £9.0m subject to obtaining planning permission for a new, high-density, scheme of student accommodation with a hotel on the Paragon St. / Barbican Rd. junction

S. Harrison were advised that they should work through BV, the preferred developer, though this suggestion was not taken up. There was therefore no option but to discount both bids on the grounds that they were only provisional and offered no certainty that an acceptable scheme could be worked up or a credible offer delivered.

The Barbican Centre

9. On 27 October the Council completed with ALL agreements to lease the Barbican Centre comprising, Short Term Lease, Conditional Development Agreement (CDA), Long Term Lease, and Licence to use two pianos. The purpose of the Short Term Lease is to allow ALL to host events until ALL has satisfied the conditions of the CDA. The CDA is a contract that specifies 5 conditions that ALL have to satisfy (the outstanding condition being to obtain a satisfactory Premises Licence) before commencing the £2.5m refurbishment of the property and paying the agreed purchase price of £0.765m (this sum includes fittings) at which point the Long Term Lease begins.

The New Offer

10. BV's revised scheme and offer proposes to develop the existing Barbican land and Kent Street car park and now includes the coach park site (see the plan edged black at Annex 1). The scheme, as shown on the plan at Annex 2, would consist of the following developments:
- A 4-5 star hotel with circa 165 bedrooms with undercroft car parking, the probable operator to be Radisson SAS
 - A care home for the elderly including specialist Alzheimer beds to be owned by Sunrise Senior Living
 - Two apartment buildings (104 and 12, 1 and 2 bed flats) including 25% affordable units
 - Refurbishment of Kent Street car park with the existing 390 spaces for public car parking
 - A budget hotel with circa 100 bedrooms
 - Provision, and 10 year rent free use, of a community centre with attached covered play area
11. The offer is £7.05m plus £47k for legal fees. This includes a leaseback of the Kent Street car park for 12 months rent-free. In addition it provides for a profit share arrangement on the land to be used for the apartments. Including the £0.765m from ALL for the auditorium the revised offer is therefore a minimum of £7.815m compared to the original offer of £10.33m.
12. The sale will be structured on the basis that initially all the Barbican land and the car park will be sold for £6,250k plus legal costs of £35k. Then, if planning permission for the budget hotel is granted, the coach park site will be sold for £800k plus £12k legal costs. The sale will be conditional on the developer constructing a multi-purpose community centre and leasing the building to the council rent-free for a period of 10 years. Table 1 illustrates the breakdown of the revised offer.

| Table 1 | £000 |
|-----------------------------------|--------------|
| Auditorium | 765 |
| Barbican Pool / Car Park | 6,250 |
| Kent Street Coach Park / Car Park | 800 |
| Legal Fees | 47 |
| Subtotal | 7,862 |
| Less spend to date | -653 |
| Less Leisure element of s106* | -153 |
| Net Usable Receipt | 7,056 |

* But see para. 27 below.

13. Table 2 compares the revised offer to the original bid.

| Table 2 | Original Bid £m | Revised Bid £m |
|----------------------------|----------------------------|---------------------------|
| Barbican land and car park | 9.565 | 6.285 |
| Barbican Centre (ALL) | 0.765 | 0.765 |
| Kent Street Coach Park | 0.000 | 0.812 |
| Total | 10.330 | 7.862 |

14. The only conditions attached to the offer is that BV obtain a satisfactory planning permission for the budget hotel and that the Council indemnifies BV in respect of any Section 106 costs over and above £440k (as in the previous deal – see para. 27 below).
15. It is BV's intention to purchase the Barbican land and the car park by 31 March, 2006 and start on site in May. BV will take on the risk of obtaining planning permission for the revised scheme.

Best Value

16. There is a requirement that land owned by a local authority should be sold for the best consideration that can reasonably be obtained under the circumstances. In valuation terms, best consideration will be open market value. (This restriction was relaxed in August 2003 and a statutory instrument gave a local authority the power to sell land for up to £2m less than best consideration, provided the authority considers that the sale will contribute to the promotion or improvement of the economic, social or environmental well-being of the area). This transaction achieves open market values for the disposal of Council assets and in addition provides improvements and inward investment that benefit the city.
17. It was recognised at the outset that the redevelopment of the Barbican site for a mix of residential leisure and other uses would be best dealt with through engaging with a single developer who would co-ordinate the final scheme proposals and develop the necessary infrastructure. BV was chosen as the preferred developer as part of an open market tender process undertaken by the

Council. An "open book" approach has been taken, with BV sharing information on their development costs and the open market bids received from other developers for the various components of the development proposals. In turn, the BV offer is mainly made up from these developers' bids for serviced sites, that is with infrastructure works to be provided by BV to make the individual sites immediately available for development. The detail of these offers is as follows.

18. **The Apartment and Care Home Sites:** The highest use value for the site would have been expected to be for residential apartments for sale. However, the market conditions have changed since the disposal was first considered with reduced demand for such properties (particularly from purchasers seeking blocks of apartment for investment) and the dramatically increased building costs.
19. At the point when BV's previous house builder was no longer willing to purchase the site and build the 240 apartment block, because of the delay caused by the judicial review, BV advertised the availability of the site to house builders nationally in an attempt to find a successor. The Property Services file contains copies of letters from various house builders and agents stating they are not interested in acquiring the site. BV then looked at alternative residential uses for the site and located Sunrise Senior Living who wanted to build a care home in York and Barratt Homes who are willing to build a smaller apartment building.
20. Examining the Barratt offer, it is the only offer BV has been able to secure (BV would have nothing to gain by not putting forward the best offer that was available) and the Barratt's development appraisal supports the offer made.
21. The sale contract will contain a provision for the council to share in any uplift of the apartment values from that stated in the development appraisal.
22. The offer BV has secured from Sunrise Senior Living is higher than the Barratt offer for a similar site area.
23. **The 4-5 star hotel and the budget hotel:** The incorporation of a minimum 4 star hotel within the development with a covered pedestrian way linked to the Auditorium has been identified as bringing added value to the redevelopment and has become one of the objectives of the land sale. This will make the Auditorium an attractive facility for holding large scale conferences in York and thereby enhance the financial viability of the hotel .
24. The primary tool for establishing market values is to use evidence of land sales. However, in York there has been no recent sale of a hotel site. An independent valuer's report has therefore been obtained to validate the values assigned to these two sites are at open market values.
25. **Kent Street Car Park:** The value assigned to the car park is based on BV securing a car park operator under a commercial lease arrangement, the projected income stream having a value in the investment market. BV's property appraisal of the market value of this asset is also supported by an independent valuer's report.

Financial Implications of the Revised Offer

26. The 2005/06 capital programme, as reported in Capital Monitor Two, is reliant on capital receipts of £11.8m. It is anticipated that £12.7m is achievable although at least £6.25m of this is assumed to be generated from the sale of the Barbican site. Failure to sell the site and receive the receipt by 31 March, 2006 will leave a funding shortfall of £5.35m. The shortfall will have to be financed by borrowing. This will have a direct impact on the Council's 2006/07 revenue budget, costing the authority an additional £214k in minimum revenue provision¹. In addition, the Council will lose interest on the capital receipt of £23k for each month that the sale is delayed beyond the end of the financial year. It is therefore crucial to the finances of the Council that this receipt is received before the end of this financial year.
27. The Section 106 developers' contribution costs to be met by the Council previously amounted to £672k. Members agreed that Leisure and Heritage would contribute £137k towards this with Planning and Transport contributing £535k. It is unlikely, however, that Leisure and Heritage will have any resources available to make their contribution and as a result these costs will have to be deducted from the overall receipt. However, the revised scheme, with fewer residential units and including a care home may be expected to reduce both travel and education needs and this may be reflected in a reduced Section 106 requirement.
28. The sale of the Kent Street car park has always been assumed as part of the deal. The income budget has therefore already been reduced in previous years. There could be a further knock-on effect if the provider's operator undercut the Council's pricing structure and thereby diverting revenue from nearby car parks. The level of this cannot be quantified at this point.
29. There is the option of withdrawing preferred developer status from BV and putting the development land and the car park on the market again to establish whether a new and/or different mix of uses would raise a higher offer. The following points however, militate against taking this course of action:
- We do not know that the market for apartment land will recover. The Council would be left with a derelict site for some time and this could undermine ALL's confidence in proceeding with the Auditorium
 - We may lose occupier interest in the 4-5 star hotel and having a hotel adjacent to and with a physical link to the Barbican Centre (to make the Auditorium an attractive conference venue) was one the set objectives of the land sale
 - All the scheme drawings are the copyright of BV making it very difficult for any new developer to come in and pick up the scheme that has planning permission
 - A different development scheme would require a new planning application with further potential for delay

¹ The Minimum Revenue Provision is a statutory charge to the accounts to reflect to repayment of debt. If the level of borrowing increases then the Council has to provide a minimum of 4% towards its repayment.

- The 50% affordable housing provision will significantly reduce the capital value of the residential site
- The impact of any new retendering exercise would result in a significant delay to the receipt. The financial impact on the revenue budget of a delay in the estimated receipt would be £23k per month in lost interest as set out above

The Care Home

30. The York population is ageing with a larger proportion of residents aged over 75 needing support each year. As well as Council provided services there is a growing demand on the private sector. Some of this is from financially independent people who wish to make their own care arrangements. The scheme proposed for the Barbican site by Sunrise Senior Living will include a care home for 101 residents consisting of 80, one and two person bedrooms, including 20 Alzheimer beds.
31. The site is ideal in so far as it is close to City Centre amenities and enjoys good transport links with other parts of the City and beyond. This is a new model for older people's accommodation for this area and it is clearly targeted at those with the resources to fund high quality accommodation and any private care they need. Whilst it is an untested model locally the additional capacity to support older people with dementia should supply a need as both demographic and health projections suggest that there will be a significant rise in the number of people over 85 suffering from dementia within York in the next 20 years.
32. The DoH Green Paper on "Independence Well Being and Choice" sets out the governments vision for the future of adult social care. This stresses:
- the need for services that are of a high quality
 - the need to help maintain the independence of the individual by giving them greater choice and control.
 - that the local authority has key strategic and leadership roles, working with a range of partners to provide well planned, integrated services making the most of available resources to meet the needs of a diverse community

All of these objectives are addressed by this development. City of York Social Services Department comments that it would be helpful if some of the affordable homes in this development were reserved for care staff to give them a greater variety of affordable housing options within the city given the recruitment and retention issues that exist in current care services.

Issues for the Leisure Facilities Strategy

33. The Council's strategy has been since 2000 to refurbish / rebuild the 3 traditional pools on the 3 existing sites. Much has changed since 2000 and there are now a number of issues to consider concerning this strategy:

a) Capital Cost:

The costs of these three schemes are estimated at:

| | £m | |
|-------------------------|---------------|--|
| Kent Street | 6.000 | capped figure |
| Edmund Wilson | 3.382 | at 2 nd quarter 2009 prices |
| Yearsley (basic scheme) | 2.736 | at 2 nd quarter 2008 prices |
| Procurement costs, etc. | 0.330 | |
| TOTAL | 12.442 | |

34. These figures are guidelines and should be regarded as minimum figures. For example, the Barbican cap was set in 2004 since when construction inflation has run at 6%. With a budget of £7m there is therefore a shortfall of at least £5.4m. No capital provision has been identified to close this gap. The capital programme is already facing a funding shortfall over the 4 year programme on top of an aggressive capital receipts target. In order to fund this gap further major receipts would have to be identified. This is not likely.
35. The question of whether prudential borrowing could allow the funding gap to be closed has been examined. However, this would require substantial additional revenue resources to be made available to finance and repay the debt. The additional revenue cost of prudential borrowing for an asset expected to have a life of over 25 years is around £90k per annum on every £1m borrowed. With a gap of £5.4m this would equate to an additional £486k per annum and no means of paying for this has been identified. (Savings attributable to the projected improved performance of the new Kent Street facility has already been reflected in the Council's budget).
36. In summary it is simply no longer possible to fund the cost of the 3 pool schemes originally envisaged.

b) Revenue Cost:

37. The year on year requirement to make revenue savings means that we must find the most cost-effective ways to provide the pools if we are to avoid cuts elsewhere in the leisure programme. We know that modern leisure facilities can generate a surplus whilst still providing targeted programme. We need to target investment in the first instance in schemes that can reduce the Council's revenue costs and increase participation through improved customer standards.

c) The Programme:

38. The delay in starting the refurbishment programme means that it is no longer credible to deal with each of the 3 pools in turn; their condition is too fragile. Whilst Yearsley continues to function reasonably adequately further expenditure is approaching with the need to replace the filters. The position at Edmund Wilson is becoming more pressing with significant plant failure looming and increasingly poor conditions for customers. We will now have to address the needs of Edmund Wilson before the other pools are sorted. This may mean going down to one pool for a time.

d) The University:

39. Officers have met with representatives of the University. The University has ambitions to build an 8-lane, 25 metre pool suitable for county standard competition as soon as is feasible. Although the University has not yet made a decision to proceed they are currently developing business plans and cost estimates to determine how such a project could be taken forward. They have looked at a number of models including a particularly successful one working well in Norwich at the University of East Anglia. Whilst they have not yet determined how they will fund the cost of the project, currently estimated to be in the region of £10m, they anticipate being able to fund half the required capital from their own resources and are looking for support in raising the shortfall. The facilities are likely to include a range of integrated sport and fitness provision producing potentially a sports complex of a very high standard. The University are interested in exploring a partnership with the Council and have indicated that CYC's involvement would:
- a) Potentially bring forward the start date of the project (subject to planning)
 - b) Secure guaranteed public access to the new facility
 - c) Help create a package that operationally should be self-sustaining and revenue neutral to CYC and the University
 - d) Help bridge the present funding gap
40. Clearly, there is no option for the Council to ignore this potential development. An 8 x 25m pool on the university campus would take significant business away from both Kent Street and Edmund Wilson rendering the current projected business plans invalid. Our own strategy must take account of the emergence of such a significant facility.

e) City Sports Strategy:

41. The city's recently updated sports strategy identifies that with only Edmund Wilson, Yearsley and the training pool at Waterworld providing open public access the city has a shortfall of at least 12, 25 metre lanes of pool space. The strategy specifically identifies the need for some of this provision to be in the form of an 8 x 25m pool in the city capable of serving swimming development needs as well as general use.
42. In response to this strategy our facilities should be seen in the broad context of city provision rather than in isolation. We should seek to provide facilities offering a logical geographical and product fit, complementing rather than competing with those proposed at the University or provided by other sectors. The Council must work with other providers and partners to find a cost effective and sustainable solution to the future of swimming in the city. This is likely to involve replacing some existing facilities, investing capital in facilities proposed by others, assisting with the operation of some sites on behalf of the community and providing incentives to other providers to cater for public users.

The Vision

43. The following broad vision for our swimming facilities was set out in 2000 and remains appropriate:

- We should have facilities that encourage all York citizens to swim
- Sufficient sports facilities should be available for casual (pay as you go) use
- Swimming should include opportunities for:
 - fun activities, especially for children and families
 - open swimming for casual users
 - courses and lessons
 - clubs
 - time for regular fitness and competitive swimmers
- There should be a good quality environment for sports activities (wet and dry), which is bright, safe and clean
- All school children should be able to achieve the National Curriculum requirements for swimming
- Facilities should be accessible to all

44. The City's pools between them need to cover the full range of requirements: Facilities for local competitions, schools use, club development, teaching, fitness swimming, and family swimming.

Options

45. The main options for the respective sites are as follows:

46. **Kent Street:**

| Option | Financial Implication | Comment |
|------------------------------------|---|---|
| a) Full Scheme | £6m | The procurement arrangements are in place and ready to go as soon as the capital is available though the specification would need to be reviewed in light of the capped budget. It is not recommended that the spec. be further reduced as this would lead to the facility performing poorly in revenue terms. |
| b) No pool | Additional receipt from sale of the coach park site (subject to planning) | Public access to the hotel pool and fitness facilities will be negotiated. A community centre with associated children's play facilities capable of operating without additional revenue funding. |
| d) Partnership with the University | To be negotiated | The University will require around £5m of additional contributions to finance the building of the new facility. The Council by going in to partnership with them could assist in a number of ways for example through its access to prudential borrowing. A capital contribution would also be required. |

47. Edmund Wilson:

| Option | Financial Implication | Comment |
|--------------------------|------------------------|---|
| a) Full repairing scheme | £3.5m | Based on previously identified minimum refurbishment / DDA compliance scheme i.e. no new facilities provided |
| b) Close | £400k demolition costs | |
| c) New build at Oaklands | Approx. £4.0m | Cost of pool only (assumes fitness facilities available within the site) Provides modern building with full DDA access and complements the new sports facilities currently under construction on the site |

48. Yearsley:

| Option | Financial Implication | Comment |
|------------------------------|---|--|
| a) Minimum refurbish. scheme | £2.7m | Minimum repairing scheme as set out by Wm Saunders feasibility study. Creates DDA compliance but does not provide modern customer standards. |
| b) Close | Receipt for site approx. £1m | |
| c) Continue as at present | £100k p.a. for immediate DDA and plant related work | <p>It would be possible to continue to operate the pool for the foreseeable future provided that::</p> <ul style="list-style-type: none"> • There is no challenge under DDA • There is no failure of any major component, especially relating to the roof, tank, or plant <p>If either of these things occur the pool would then have to close or the full scheme commence as it is not feasible to address part of the issues at Yearsley</p> |

The Way Forward

49. The recommended strategy is:

The University:

50. Enter into a partnership with the University to explore building an 8 x 25m pool and ancillary fitness facilities at the University. Detailed discussion would take place with the University to establish the capital and revenue structure of any partnership as well as the model under which the pool would run. This exploratory work is needed before both sides can commit to the project.

51. **Pros:** This would be a high specification facility providing the water capacity that the city requires according to the planning model to meet its general swimming, swimming development, and competition needs. The scheme would fit well with the needs identified within the city's sport and active leisure strategy creating a major sports complex in the south east of the city representing an asset for the sub-region.
52. It would provide a much higher specification than the proposed community pool on the Kent Street site with facilities that could include a floating floor giving greater flexibility in its use, including use by disabled people – the University has access for all as one of its core principles for the proposed facility. As well as swimming it is planned that there would also be a wide range of facilities on hand for fitness, dance, aerobics, martial arts, and a café. In the long term the University has aspirations to provide additional sporting facilities including sports halls and additional indoor tennis courts.
53. Key principles for the new centre would be that it should:
 - Be accessible to all York citizens and members of the University, including club use
 - Encourage participation by promoting the benefits of a healthy active lifestyle
 - Provide facilities for a range of abilities and actively encourage participation by all members of the communities
 - Promote use by people with disabilities
 - Be designed and maintained as a high quality environment
 - Have a flexible charging and admissions policy that promotes the maximum use of the facilities during the day and encourages widening participation
 - Be financially self-sufficient including an allowance for sufficient ongoing maintenance and renewal
 - Have an independent identity
54. It would provide a comprehensive publicly accessible programme covering clubs, general swimming, schools, classes, family sessions, targeted sessions, galas, etc. in state-of-the-art accommodation. The development would be not far from the Barbican and linked to it, and beyond, by the new high frequency ftr public transport Streetcar route.
55. We would envisage a financial model for running the new pool that would reduce the financial risk to the Council and which should not require on-going subsidy. It would also provide for ongoing capital maintenance and renewal. Very importantly we would avoid operating the Kent Street pool with a far less attractive business plan (with a significant operating loss) than the one we produced before the University pool came into view (which predicted a small surplus).
56. We would save the bulk of the £6m allocated for the Kent Street Leisure Centre and would potentially raise an additional £1m from the sale of the Kent Street site.

57. On the Barbican site we would provide a multi-purpose community facility for local people including play facilities for younger children in addition to the hotel leisure facilities which would be available for the public to use.

58. **Constraints:**

- The University pool is subject to planning. At best it could not be completed until 2009
- The University have yet to commit to proceed with the swimming pool and to confirm their part of the funding for the development
- The partnership will need to identify additional funding to meet the cost of building the facilities before it can proceed
- Access and location on the campus need to be carefully considered

Edmund Wilson:

59. This pool maintains a high usage level and all previous research indicates that more than 70% of the users come from the west side of the city with 50% or more arriving by foot, bicycle or bus. This strongly supports the need to maintain a significantly sized pool, offering a mix of teaching space, open access and deep water within the local area.

60. It is recommended that at the earliest possible opportunity work be undertaken to design and cost a 5-lane community pool incorporating a separate "learners" pool, on the Oaklands site to determine if this could be delivered at a cost similar to the proposed refurbishment of the current facility. If so, the existing facility could then be demolished. It is not expected that the current site will have a commercial value though it may be possible to use it for an alternative public sector use such as a replacement doctors' surgery.

61. **Pros:** This would create a brand new facility linked to the new, integrated sport and fitness facilities currently being constructed. It would provide a complete customer experience bringing an exciting range of services under one roof. It would represent much better value for money in capital terms providing an excellent new building that will offer a high quality customer experience for at least 25 years. This contrasts with spending further sums on a building that although superficially appearing quite modern is in fact highly problematic. It would remove duplication in provision, greatly reduce staffing costs, offer far greater energy efficiency, and have lower maintenance costs.

62. Linked to a new school building and new sports facilities it would complete the transformation from school sports centre to state of the art community facility with much greater customer appeal and capacity to grow new business. It would be fully publicly accessible with long opening hours.

63. The aim would be to build the new pool before the old one had to close although this would be subject to further investigation.

64. **Constraints:**

- The 5 lane community pool would not be designed for competition purposes (lacking the width and depth and the site space for ancillary

facilities) and the scheme would therefore rely on the University building a county standard pool which could accommodate current swimming club development and competition activities

- It would depend on the Priory Medical Group vacating their site (possibly in a land swap with the current Edmund Wilson site) in order to provide essential car parking space. This in turn is dependent on the PCT being willing to proceed in an acceptable time frame and able to finance their scheme. This is currently being pursued with the PCT

65. If it does not prove possible to proceed with the Oaklands site, for example because the additional land cannot be obtained, then it is recommended that the previously drawn up scheme for Edmund Wilson is taken forward instead.

Yearsley:

66. Maintain Yearsley as is at least until 2012. A significant annual maintenance budget would be needed, averaging £100k p.a. and with some front loading, in order to cope with plant failure (e.g. filters now need replacing) and to improve DDA compliance. The need for a more comprehensive scheme would then be reviewed at that time.

67. **Pros:** This strategy would maintain the current pool in line with the wishes of users.

68. **Constraints:**

- We could still face a challenge under the DDA
- A more major failure, e.g. of the roof could cause the pool to close
- Considerable pressure would be placed on the facility if for a period it has to be the only pool, together with Waterworld, in operation

Summary

69. The actions of the "Save our Barbican" group have prevented a deal going ahead on the Barbican site which would have delivered £10.33m of investment into the city's swimming pools. That deal cannot now be revived and as a result the original refurbishment strategy is no longer viable. It is now essential that we *move forward with this new offer which will deliver a range of significant benefits to the city:*

- A state of the art 8 x 25m pool for the city
- A definite commitment to move ahead with Edmund Wilson, potentially in the form of a brand new pool linked to new sports facilities
- Yearsley pool maintained to an improved standard and retaining its current format
- £2.5m investment in the Barbican auditorium
- A better quality hotel on the Barbican site incorporating publicly accessible leisure facilities
- A high quality care home incorporating specialist provision for dementia sufferers

- Two apartment buildings with 29 affordable units
- Refurbishment of Kent Street with the existing 390 spaces for public car parking
- A multi-purpose community building with covered play area

Investment Summary

70. The first phase of investment outlined above would require available capital up to 2012 to be deployed as follows:

| | Indicative £m |
|-------------------------------------|-------------------|
| New Edmund Wilson at Oaklands | 4.00 |
| Contribution to the University Pool | up to 2.00 |
| Yearsley | 0.50 over 5 years |
| Procurement, etc. | 0.33 |
| TOTAL | 6.83 |

The profiling of this spend will be dependent on the speed at which the individual schemes can be brought forward.

71. This total requirement of approximately £7m for the first phase of development represents a realistic target for the capital receipt for the Barbican site.
72. A second phase would then be required from 2012 that would deal with Yearsley and taking account of WaterWorld, the lease for which expires in 2012.

Next Steps

73. Next steps would be:
- Start on site at the Barbican with main development
 - Development of a memorandum of understanding with the University leading to the setting up of a project board
 - Start of Barbican Centre refurbishment by ALL (subject to licensing)
 - A full feasibility study to be undertaken on the Edmund Wilson at Oaklands scheme
 - BV to submit a planning application in respect of the Coach Park site
74. It is proposed that residents' views on these proposals are invited through "Your City", through information to be sited at the Council's leisure facilities and at the Library, and through the Council's web site.

Recommendations

75. Members are recommended to:
- Approve the revised offer submitted by Barbican Venture (York) Limited
 - Pursue a partnership approach with the University to provide an 8 x 25m pool
 - Approve the 5 year strategy for Edmund Wilson and Yearsley pools

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Background Papers:

Replacement and Refurbishment of the Council's Leisure Facilities: Report to the Executive, 9 November 2004

Barbican Development: Report to the Executive, 18 May 2004

Barbican Development: Report to the Executive, 3 February 2004

Barbican Development: Report to the Executive, 16 December 2003

Barbican Development - Consultation Results: Report to the Executive, 16 September 2003

Leisure Facilities Strategy: Report to the Executive, 7 February 2003

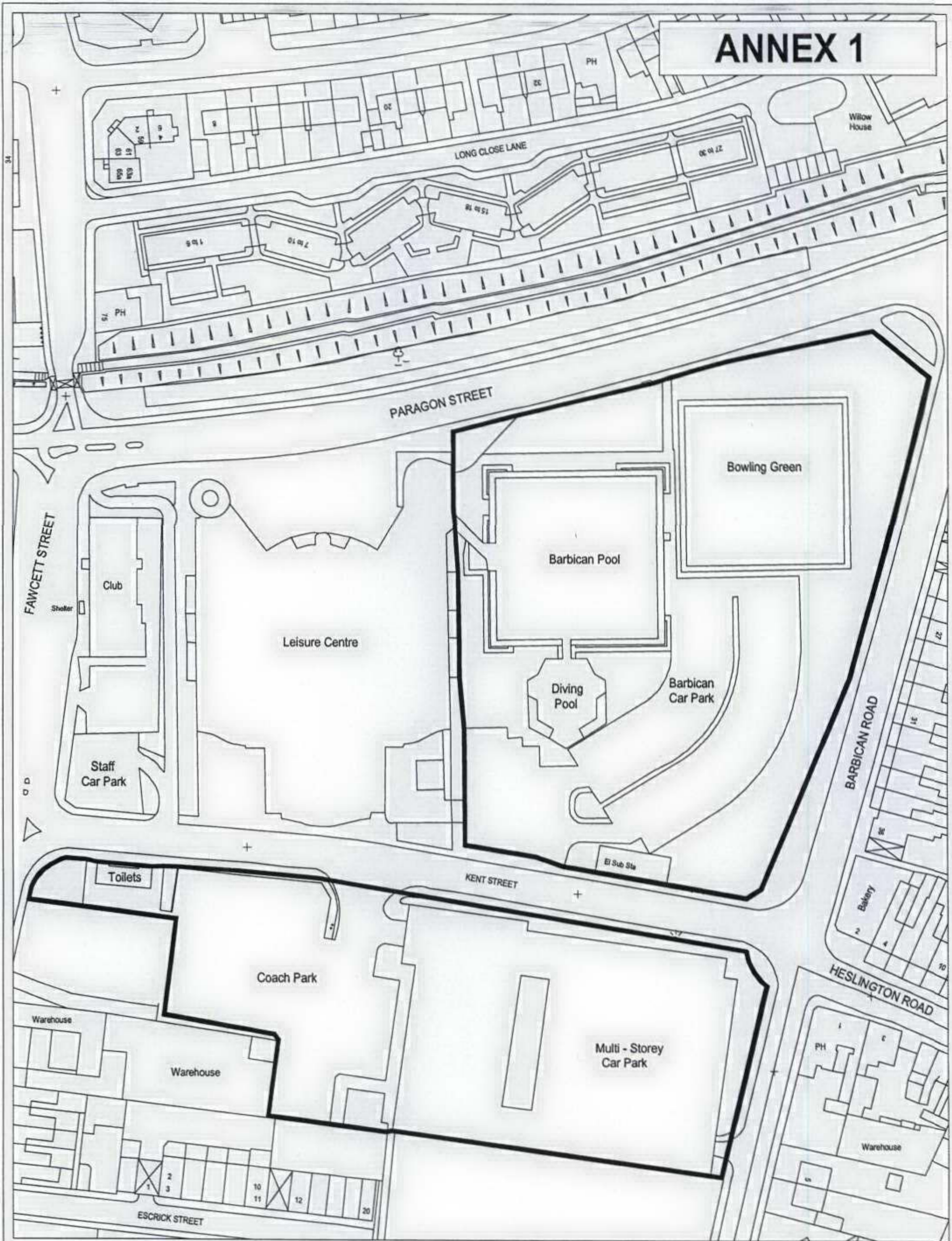
Refurbishment of Edmund Wilson Swimming Pool: Report to the Executive Member of Leisure and Heritage on 22 May 2001

Edmund Wilson Capital Project: Report to the Executive on 8 February, 2002

Future Options For Leisure Best Value Review: Sport And Fitness, Next Steps: Report to Leisure Services Committee on 8 May, 2000

Annex 1: An extract from the Ordinance Survey showing the land to be sold.

Annex 2: A plan showing the proposed development on the Barbican Land.



York Consultancy
Consultants of first Choice

9, St. Leonards Place, York, YO1 2ET
 Telephone: 01904 613161

SCALE Not to Scale

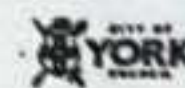
Originating Group

DRAWN BY CC

DATE 24/01/2006

Drawing No.
YC/A4/106706

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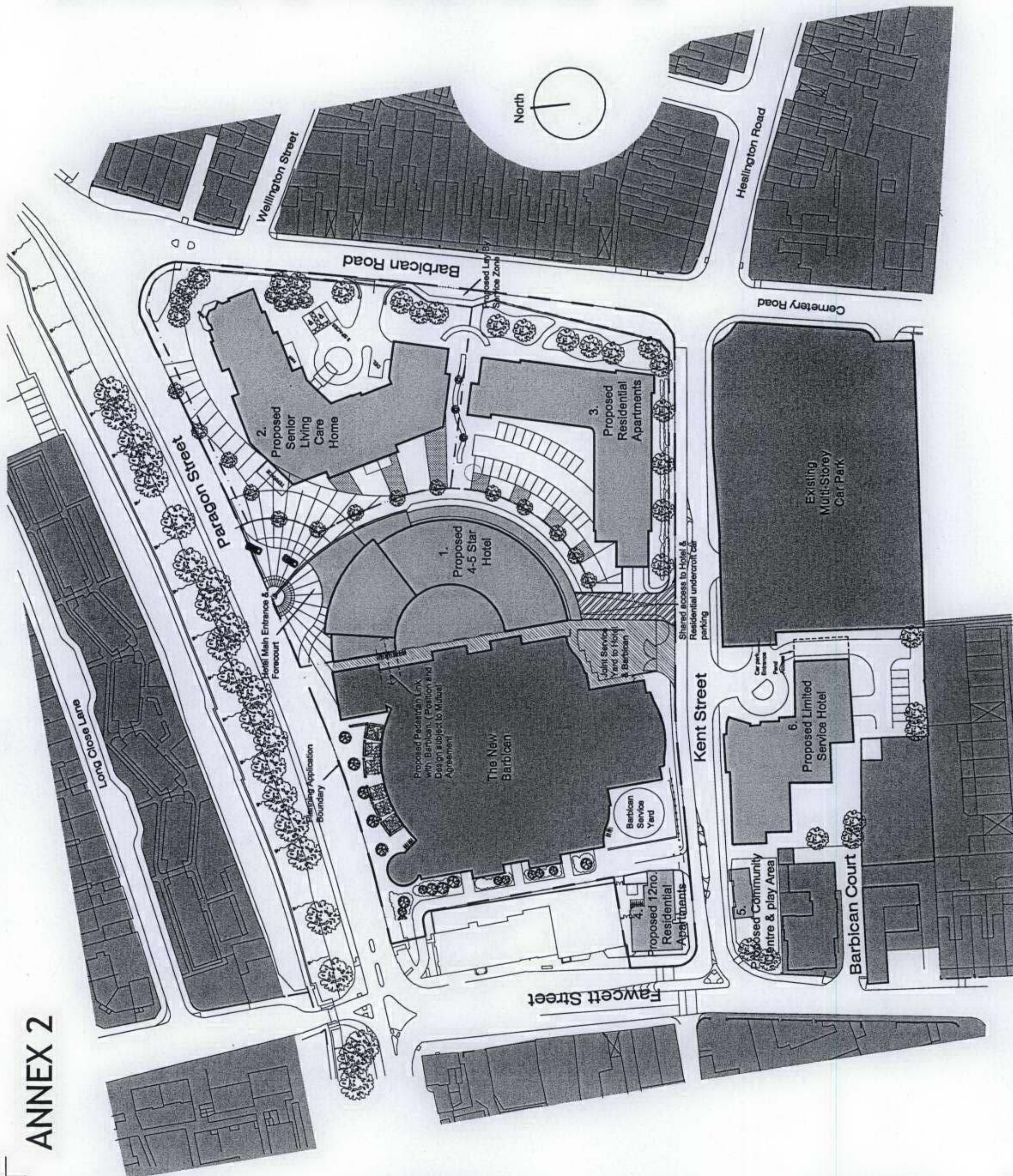
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ANNEX 2

Do not scale from this drawing. It is intended for use as a guide only. Any dimensions shown are approximate and should be used as a guide only.

1. Proposed 4-5 Star Hotel
165 Beds + circa. 40 undercroft Car Parking.
Semi-basement + 6 storeys. (5 Storey Bedroom accommodation)
Massing as previously approved scheme.
Plant only, will encroach above 22.5m threshold.
2. Proposed Senior Living Care Home.
5 Storeys with 81 apartments and 23 car spaces.
3. Proposed Residential Apartments.
5 storeys (Ground Floor level / Undercroft Car Parking) with 96 Apartments and circa. 82 car spaces.
4. Proposed 12no. Residential Apartments
3 Storeys
5. Proposed Community Centre & Play Area
Existing Public Toilet to be Converted and Extended to provide Local Community Centre & Play Area.
6. Proposed Limited Service Hotel
4 Storeys with 96 Bedrooms and 7 car spaces.

 Joint Service Yard & Right of access (Servicing & Escape) to Barbican Centre and Proposed Hotel.
 Access Road - To be owned by Hotel. Right of access provision to Residential Car parking.



A. No. Layout updated: 18
 Date: 27.01.16

young and gault
 Chartered Architects
 Project Managers
 Development Consultants

Project Title:
 Proposed Crown Plaza Hotel
 The Barbican Venture
 for
 BGL Hotels Ltd.

| Drawing Title | |
|--------------------|---------------|
| Proposed Site Plan | A1 |
| Scale | 1:1000 |
| Date | 12.06.15 |
| For Comment | 12.06.15 |
| Drawn by | YAG |
| Checked by | YAG |
| Drawn No. | 504_163/200_A |

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“Excellent facilities” - Our Development Plan

What analysis have we done?

In 2005 Active York commissioned research to establish the local demand for some major facilities and analysis of how supply compares to this. This process has provided the city with a flexible planning tool which can be used to assess the impact of planned and theoretical facilities on the city.

This tool is available to be used by anyone planning new facilities, planning residential developments, raising funding for facilities or just interested in sports provision in the city. Queries on the current situation in terms of facility and pitch provision can be made to the council, who will also be able to use the tool to assess the impact of various facility development scenarios.

The following information is based on the levels of provision and the population projections in May 2006. An updated version of this chapter will be available on an annual basis.

Swimming

We now know that there is an under supply of pool space in the city of 669 square meters (this equates to approximately 12, 25m lanes of pool space) which will only increase as the City's population continues to grow. The city also has no facilities that meet modern competitive requirements or dedicated training facilities. This need coupled with the need for public swimming facilities can logically be met by the provision of a publicly accessible county standard pool (25m 8 lane pool with training / teaching pool). To best address the primary areas of under supply a facility of this type should be provided in the East or South of the city.

The development of a county standard pool would create a logical home for the city's competitive swimming club and would allow the existing and new community pools to cater predominantly for community and fitness users.

The supply analysis only includes facilities that are available for casual community use, and does not reflect the relatively high level of fitness gym (often with pools) membership that exists in York. Even with the provision of a county standard pool, such as that proposed at the University, the City will continue to be considered to have an under supply of pool space. As with other types of facilities, Active York aim to open up and improve existing facilities wherever possible, in the case of swimming this will mean negotiating public access to school, hotel, gym and club facilities as appropriate.

What will we do to improve swimming facilities in York?

- ⇒ Offer support and assistance to a scheme to create an 8 lane 25m pool with teaching/ training pool suitable of hosting county level competition.

- ⇒ Work with and represent local residents in negotiations with other pool providers to allow and encourage public access to a new range of facilities. This may also require seeking funding for facility improvements, staffing or other supporting costs.
- ⇒ Work with the council to ensure that any reprovision/ replacement of community pools involves the increase in overall provision & provides high quality facilities that fill an identified gap in provision.
- ⇒ Assist and advise on other schemes that offer the opportunity to increase pool facilities in the city; and support those that offer accessible, sustainable and affordable provision.
- ⇒ Ensure that the aquatics development plan reflect the status of facility provision and uses all pool space in the most appropriate way.

Astroturf / Synthetic Pitches

Statistical analysis based on national participation rates indicates that the current supply of Astroturf pitches meets demand. Sport England currently recommend one pitch per 60,000 people in the population. However Active York's consultation, the zone development plans and local research has identified that hockey participation rates in York are higher than the national average, and that York hockey club are keen and able to grow and compete at a regional level and beyond.

However for the development of hockey in the city there is a need for at least one water-based synthetic pitch. This should on the same site as a sand based facility to provide for all levels of competition and training. For this to be sustainable this must become the home of competitive hockey and hockey development in the city and must have the backing of England Hockey.

Some discussions and longer term planning for a water-based pitch have taken place, however none of these have concrete funding plans. A location to accommodate club, casual and school usage needs to be found. Such a facility must have supporting ancillary and social facilities, and needs to have access to good road transport links.

What will we do to improve synthetic turf pitches in York?

- ⇒ Offer support and assistance to a scheme to create a hockey complex comprising of at least one water based pitch, with at least one other synthetic pitch either sand or water based, teaching & training facilities, fully accessible changing facilities and social amenities.
- ⇒ Make representation to planning bodies in support of those developing the complex, stressing the essential nature of floodlighting, teaching and social facilities for the sustainable future of hockey development.

Sports Halls.

Statistical analysis has shown that there is currently an under supply of 24 publicly accessible badminton courts in the city. The under provision is spread almost evenly across the city and is therefore an issue faced by each of the zones.

The supply analysis only includes facilities that are considered to be sports halls and have at least 2 badminton courts, single court and community halls have not been included as they are not considered by Sport England to have a significant impact on sports development or participation rates.

Some of the shortfall can be met through community use agreements to offer public, casual access at existing sites. However, some new facilities are essential. A regional standard badminton facility with provision for spectators is needed to cater for the current demand, provide a modern replacement for the competition facilities that are aged and may be at risk as part of the York Central development at the RI in Queen St. There is also a significant demand for indoor basketball, roller hockey, judo and netball competition facilities in the city.

The University of York's expansion plans include proposals for sports halls that would accommodate an additional 12 badminton courts with community access. Stand alone sports halls, or sports centres often require extensive subsidy to cover operating, marketing and facility costs. Sports halls are often included as supporting facilities at schools and colleges, it is important that the city takes the opportunity to get community access to as many facilities as possible. York College will be opening a new sports hall late in 2006 which will allow community access via a community use agreement. The City also currently has 3 secondary schools without full size sports halls. These could make good locations for community sports halls, and would benefit both the school and geographical community.

What will we do to improve sports hall provision in York?

- ⇒ Support the University of York to develop further sports hall facilities to accommodate 12 new badminton courts. Active York will also work with the University to ensure that the design and programming of these facilities best serve the sporting and broader community in the city.
- ⇒ Where strong schemes are developed to create new sports hall facilities on school sites (that currently have no sports hall), that have clear community benefits and sports development outcomes, Active York will support these schemes and where possible assist with funding and planning processes.
- ⇒ Active York will work with York college to raise awareness of the new facilities and the level of community access available, to encourage usage and to help the college and its students realise the benefits of community use.
- ⇒ Work with and represent local residents in negotiations with other sports hall providers to allow and encourage public access to a new range of facilities.

This may also require seeking funding for facility improvements, staffing or other supporting costs.

Health & Fitness

Statistical analysis has shown that there is no un-met demand for health & fitness facilities in the city. This is again based on national participation and membership rates, however York has higher than average membership rates for fitness gyms.

There is currently only one fitness facility created and designed to be fully accessible for disabled users. With the increasingly aged and obese population it is important that more facilities are made accessible or that new purpose built facilities are created which can cater for new, less able and mobile users.

Competitive venues in most sports require training facilities, York currently has a number of community sports clubs with small supporting fitness gyms. To be able to develop sporting excellence in the city, fitness training facilities designed around improvement in performance in specific sports are needed.

What will we do about Health & Fitness provision in York?

- ⇒ Active York will only offer support to schemes that create new fitness facilities if they fill an identified gap in the fitness market, either catering for a target community or improving performance in specific sports.

Professional Sports Stadium

Both York City and York Knights urgently need a modern professional stadium that meets league and safety standards and can attract investors, players and spectators. This facility must cater for the full sports development continuum. It must be accessible by the community as a training and participation venue and as the route to excellence. This venue must be viewed by the professional clubs and the community at large as a Citywide, multi sport facility.

What will we do to support the provision of a professional stadium in York?

- ⇒ Active York will work with the clubs to identify an appropriate site.
- ⇒ We will make representation to developers and the council to ensure that the need for a stadium is identified in planning documents.
- ⇒ We will work with the clubs and developers to engage the community in design and usage plans to ensure the long term sustainability of the facility.

Athletics

The need to maintain a county athletics facility in the city remains. The current facility at Huntington stadium is adequate but it is unlikely to meet competition standards for much longer. The need to reconfigure the facilities must be addressed. If York Knights are relocated there may be scope to modernise the athletics facilities at Huntington, or to relocate the athletics facilities to a new stadium.

Sports development through sports science and education

We need to support coaches and coach development to enhance the voluntary sector and individual sporting performance. Our coaches should be given access to excellent training facilities and opportunities to develop using new technology and the latest techniques. A facility in the city for developing our coaches and sports leaders is required.

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