

## COMMITTEE REPORT

**Date:** 12 May 2016  
**Team:** Major and Commercial Team  
**Ward:** Guildhall  
**Parish:** Guildhall Planning Panel

**Reference:** 15/02155/FULM  
**Application at:** Fire Station 18 Clifford Street York YO1 9RD  
**For:** Demolition of buildings in the conservation area and building works to create 7no. dwellings and restaurant (Class A3) with 7 flats above  
**By:** Mr David Chapman – DC Architecture  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 29 April 2016  
**Recommendation:** Approve subject conditions and completion of a section 106 agreement and referral to the Government Office (unless Historic England withdraw their objection)

### 1.0 PROPOSAL

#### APPLICATION SITE

1.1 The application relates to the former fire station site which extends the length of Peckitt Street, between Clifford Street and down to the esplanade. The fire station was established on the site in 1935. It incorporates the gable end elevation of the former Methodist Trinity Chapel which dates from 1856, its attached Sunday school and the 'lodge' building at the bottom of Peckitt Street. There are also two single storey buildings on site and the law courts have a right of access through the site. The buildings have been vacant since the fire service relocated to Kent Street in 2014.

1.2 A Franciscan Friary was founded on the site in around 1230, the South-West boundary wall of which remains at the end of Peckitt Street.

1.3 The site overlooks the river at the SW end and is between listed buildings; the Magistrates Law Court (including accommodation which overlooks the river) listed at grade II, and the C19 terrace along Peckitt Street/Tower Street also listed at grade II.

1.4 The site is within the Central Historic Core Conservation Area and the City Centre Area of Archaeological Importance. Clifford Street was constructed in the 1880's to relieve congestion on Castlegate. It is characterised by C19 red brick civic architecture.

## PROPOSALS

1.5 The application has been subject to revisions following two rounds of consultation. It is now proposed to retain the former chapel and school facades but the 'lodge' it is still proposed to demolish.

1.6 Behind the retained chapel facade there would be a replacement building of the same shape but of a larger scale. In-front of this building there would be a two-storey colonnade fronting Clifford Street. The building would accommodate a restaurant and 7 apartments.

1.7 Behind the school house facade would be a pair of dwellings. A third dwelling would be positioned to the side. The buildings would be 3-storey with accommodation in the pitched roof. The access into the law courts would remain. This would also provide access to the car parking for the apartments, some of which would be in a semi-basement, which can be accommodated as the houses need to be elevated so they are protected from flooding.

1.8 Fronting the river would be a row of 4 dwellings. These would be of traditional design and their height aligned with the terrace along South Esplanade.

1.9 The houses would all have 4 bedrooms; there would be 5 x 2-bed apartments and 2 3-bed apartments.

## 2.0 POLICY CONTEXT

### 2.1 Legislation and National Policy

#### Planning (Listed Buildings and Conservation Areas) Act 1990

- Section 66 Statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
- Section 72 Statutory duty that within a Conservation Area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

#### National Planning Policy Framework (NPPF)

The NPPF is the most up to date representation of key relevant policy issues and it is against this policy Framework that the proposal should principally be addressed:

- Chapter 1 Building a strong competitive economy
- Chapter 2 Ensuring the viability of town centres
- Chapter 4 Promoting sustainable transport
- Chapter 6 Delivering a wide choice of high quality homes
- Chapter 7 Requiring good design
- Chapter 12 Conserving and enhancing the historic environment

## 2.2 Draft 2005 Local Plan (4<sup>th</sup> set of changes) DCLP

This was approved for development management purposes in 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

## 2.3 Relevant Draft Local Plan 2005 Policies:

CYSP6	Location strategy
CYGP1	Design
CYGP3	Planning against crime
CYGP4A	Sustainability
CYGP4B	Air Quality
CYGP15	Protection from flooding
CYH4A	Housing Windfalls
CYHE2	Development in historic locations
CYHE10	Archaeology
CYHE3	Conservation Areas
CYED4	Developer contributions towards Educational facilities
CYL1C	Provision of New Open Space in Development

## 3.0 CONSULTATIONS

### INTERNAL

#### Environmental Management

#### Conservation

3.1 Comments from Conservation following revisions to the scheme will be reported at Committee.

#### Archaeology

#### Background

3.2 On 31<sup>st</sup> March Historic England wrote to City of York Council stating that “the report on the archaeological evaluation exercise provided by YAT falls short of establishing the character and condition of the archaeological deposits.” Historic England highlighted the lack of information about: the potential “halo” effect of below ground structures into waterlogged deposits; the design of the sub-surface car-park and the design of the foundations. Historic England concluded that the “creation of a below ground car park represents unjustified and substantial harm to nationally important heritage assets.” On this basis, Historic England objected to the proposal.

3.3 Historic England point to the release for consultation in 2015 of a draft guidance document “Preservation in situ, condition assessment and monitoring Historic England guidance”. The document suggests that for sites where waterlogged deposits are present, applications for development should include the following actions:

- Early consideration of preservation *in situ*;
- Staged condition assessment – more information at each stage;
- Staged assessment of water levels and availability;
- Continuous process of evaluation of development impacts;
- Decision to preserve in situ or not;
- Review of mitigation options including monitoring.

3.4 The applicants have provided a scheme of investigation (by York Archaeological Trust & dated 25.4.2016) to address the concerns raised by HE. Referred to in comments as the WSI

3.5 The WSI sets out the foundation design for the development and quantifies the direct impact the foundation design and sub-surface car-parking and water attenuation facilities on archaeological deposits.

3.6 The basement car park excavation will impact on 19th/20th century activity (including demolition and levelling material and foundation structures); post-medieval garden soils; and medieval build-up and land reclamation. Within these deposits may survive the following archaeological remains: structural elements of the 19th century Methodist chapel and associated structure; residual fragments of demolition material from the Franciscan Friary within the later garden soils; in-situ remains of Friary structure and associated deposits.

3.7 The potential waterlogged organic deposits identified in the evaluation lie below the formation depth of the basement car park and therefore none of these deposits will be removed by the car park excavation. The waterlogged deposits will be perforated by a total of 148 piles. 1.7% of the potentially waterlogged organic deposits will be directly affected by piling, and the potential waterlogged deposits lie well below the formation depth of the below-ground structures.

3.8 The WSI proposes a further borehole evaluation that will determine the extent, condition and character of the deposits identified in the archaeological evaluation as potentially containing waterlogged organic material and to undertake a programme of water-level monitoring to determine the impact of the development on these deposits.

3.9 The applicant has requested that the WSI and any further mitigation works be covered by a condition or conditions on any planning consent that is might be granted. Historic England have indicated by email to York’s City Archaeologist that

it will need to see the results of the water monitoring work, so until such time as the work is completed, HE maintain their current position on this application.

### *Assessment and Recommendation*

3.10 The development as described in the WSI meets the requirements of City of York Council's archaeology policy: development will normally be allowed where it destroys less than 5% of the archaeological deposits within the application site.

3.11 The inclusion of a basement car park means that far more than 5% of archaeological deposits on this site will be destroyed. However, the deposits that are directly affected by the basement car park are all of low archaeological significance. The loss of these deposits can be mitigated through selective archaeological excavation and monitoring of level reductions through an archaeological watching brief.

3.12 The direct impact by piles for the development on the nationally significant waterlogged deposits will be no more than 1.7%. This would be compliant with local planning policy and would therefore normally be acceptable.

3.13 However, City of York archaeological policy does not take regard of the emerging Historic England guidance on in-situ preservation. The emerging guidance has been through a process of public consultation but has not been released as formal Historic England guidance. Historic England's assessment and comments on this application reflect their emerging guidance document.

3.14 The WSI sets out a programme for assessing the condition of the waterlogged deposits and describes a programme that will monitor groundwater conditions. If this work is carried out to discharge a condition on a planning consent, additional provision will have to be made to allow mitigation work in the future if monitoring indicates that the deposits are in an accelerated state of decay as a consequence of development taking place on the site.

3.15 Historic England have indicated that it wishes to see the WSI implemented and the results of the condition survey and monitoring made available before this application is determined.

3.16 The archaeological position is therefore complicated. All parties agree that further archaeological information on the condition of the waterlogged deposits is required. Historic England state that this must be provided before a decision is made. The applicant will undertake the work but wants the work carried out post-determination.

3.17 Despite the objection by Historic England, officers are prepared to recommend to Development Management and Members that this application is approved subject to the following non-standard and standard conditions:

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- No development shall take place until the applicant has
  - (a) submitted letter of appointment/contract to the Assistant Director (Planning and Sustainable Development) evidencing the implementation of the WSI
  - (b) submitted a report to City of York Council and Historic England on the results of the scheme described in (a) above
  - (c) submitted details of mitigation measures that will be implemented if the report required by (b) above indicates nationally significant waterlogged deposits are in a very poor condition and that development will lead to an accelerated rate of decay of the deposits
  
- Standard conditions which require an Archaeological Excavation, Watching Brief and for the agreed foundation design to implemented.

### Education Services

3.18 Officers advise a contribution would be required towards one of the secondary schools in the catchment area. A contribution is requested towards the Kitchen & Dining expansion project at Fulford School. The contribution would be £15,946.12.

### Public Protection

#### Noise

3.19 Officers have assessed the noise assessment submitted. They advise that the attenuation required (up 35dB to achieve adequate average noise levels during the night time) would provide suitable internal noise levels and should be secured through a planning condition. Based upon the noise report there would be events where maximum noise levels would exceed the recommended 45dB max during the night-time. National standards (BS8233) explain the extent that such events are reasonable and with the mitigation proposed these standards would be met. Officers ask for a condition which requires that any plant and machinery introduced on site does not exceed current background noise levels.

#### Air Quality

3.20 The site is adjacent to City of York Council's existing Air Quality Management Area (AQMA). Recent monitoring by CYC has shown that concentrations of nitrogen dioxide have been below health based standards at this particular location on Clifford St for the last 4 years. As such sealed glazing would not be necessary for habitable rooms (bedrooms / living area) to the Clifford St facade. However, the developer may wish to consider a ventilation strategy for apartments with window openings to the Clifford Street facade to allow ventilation of the rooms without having to rely on opening windows.

3.21 To promote the use of low emission vehicles, as required by the National Planning Policy Framework, officers recommend that a planning condition requires the dwellings have electric vehicle charging facilities installed.

#### Odour

3.22 A planning condition is recommended to ensure cooking smells/odour from the restaurant do not have an adverse effect on amenity.

#### Contaminated land

3.23 Given the history of the site and its former uses it is possible that contamination of the site may have occurred. A planning condition is recommended which would require a site investigation and if necessary implementation of a scheme of remediation.

#### Construction

3.24 Officers ask for there to be a construction management plan agreed, in the interests of residential amenity.

#### Flood Risk Management Team

3.25 Comments pending

#### Highway Network Management

3.26 Manual for Streets promotes the improvement of public realm in order to make walking both enjoyable and practical. Officers would like to see a 3m wide footpath through the site with a kerb instated along Clifford Street. Preference would be for a high quality surfacing such as Yorkstone and for the footpath to be adopted (which would be undertaken through the Highways Act)'; the current adopted highway is approx 2.5m wide in front of the former fire station. The works would also provide an improved crossing over Peckitt Street. Any street trees and their root protection area should be within the application site and not on the footpath, to ensure adequate pedestrian space and to avoid future damage to the footpath.

3.27 Vehicular swept paths for the movements in and out of the Peckitt Street access (which is being narrowed) for prisoner vehicles was requested to assess any impact on the residents parking bays when accessing the narrower access way.

3.28 Contributions as follows were requested:

- Cycle voucher/ bus pass for first occupants (to the value of £160 per dwelling)
- City Car club contributions for first occupants (to the value of £160 per dwelling)
- £5k towards Traffic orders including removal of the proposed site from R11

Residents parking zone

## Lifelong Learning and Leisure

3.29 A contribution is requested to improve sports facilities in the catchment area – a project to improve access to Rowntree Park "tennis" pavilion for the benefit of the Tennis and Canoe Clubs. No off site contributions towards children's play or amenity open space payment are requested, as no projects have been identified in the catchment area where a Community Infrastructure Levy (CIL) Regulations compliant contribution could be sought.

## EXTERNAL

### Canal and Rivers Trust

3.30 The trust made comment on the elevation facing the river. With regards the design, they recommend that the roof form be in keeping with the traditional forms and materials characteristic with the conservation area. They thought that on the 1st revised set of plans there was too much glazing on the facade.

### Conservation Areas Advisory Panel

3.31 The Panel commented on the original scheme. They considered that the proposed building on this very important site was too high, would detract from the conservation area and would erode the character of Peckitt Street. The demolition of the remnants of the Chapel should be resisted whilst the retention of the forecourt area would maintain the important vistas of the Magistrates' Court.

### Environment Agency

3.32 The agency initially objected to the proposals on the grounds that part of the site is within a flood zone - 3a(i) where York's Strategic Flood Risk Assessment (SFRA) states that 'more vulnerable' development is not acceptable.

3.33 Because the council confirmed that there are material considerations which could justify a departure from the guidance within the SFRA and that the sequential test has been passed, the agency agreed to consider the scheme and assess the site specific flood risk assessment provided.

3.34 The agency no longer object to the proposals, subject to a condition that the development accords with the FRA, in particular that the compensatory flood storage is provided, that finished floor levels (to habitable rooms) be no lower than 11.2AOD, and the provision of floodgates.

3.35 In circumstances where warning and emergency response is fundamental to managing flood risk, the agency advise local planning authorities to formally



consider the emergency planning and rescue implications of new development in making their decisions.

## Guildhall Planning Panel

3.36 No comments have been received.

## Historic England

### *Archaeology*

3.37 HE currently object to the scheme and consider that a full investigation of the impact on waterlogged deposits should be concluded prior to determination.

3.38 HE had asked for more information, to enable an understanding of the impact on archaeology; waterlogged deposits (which implies a high degree of preservation) of national significance. Development affecting the deposits could have a halo effect which would dry out and damage and HE considered there was inadequate information to understand the impact of the proposed basement car parking and piling.

3.39 A written scheme of investigation was prepared and submitted to HE for comment. The scheme concludes that further investigation would be required to fully understand the impact on waterlogged deposits (which would inform mitigation). HE have advised the council's archaeologist that their position remains that they object to the scheme, as they consider this further investigation should be carried out prior to determination of the application.

### *Architecture*

3.40 HE commented on the revised scheme in March. They advised that they welcomed the retention of the former chapel and school facades and were content with proposals for the Clifford Street elevation.

3.41 HE noted that the riverside setting could be improved by replacement of the single storey building with something of more visual interest. They continued to question the loss of the 'lodge' and would prefer its retention. The detailing on the riverside elevation has been revised to address the HE preference that new development in this area complimented the domestic character of architecture on this side of the river.

## Police Architectural Liaison Officer

3.42 The proposed entrance to the apartments is in a secluded area at the side of the law courts. Officers recommend the entrance be gated, well-lit and covered by CCTV. They also recommend the basement car park has controlled access.

## Victorian Society

3.43 The society provided comment on the first revised set of plans. The society maintained their original objection to the scheme, which they consider would fail to preserve or enhance the character and appearance of the York Central Area Conservation Area.

3.44 The proposal to retain the vestiges of the former Trinity Chapel is welcomed; a sympathetic and successful redevelopment of the fire station site is impossible without the incorporation of this significant architectural fragment. However issues remain with the height, massing and architectural treatment of the new work.

- The new element is of a dominant scale and subsequently detracts from the importance and setting of the retained facade and obscures views of the Law Courts. The charm and interest of the group's historic roofscape would be substantially eroded by the increased scale and comparatively heavy massing this scheme would introduce behind the principal new building.
- A preference would be for reinstatement of the rose window on the chapel.
- Concerns remain over the architectural treatment of the proposed Clifford Street elevation. The design resembles a type of large scale generic commercial building which is not commensurate with the quality and craftsmanship of the historic fabric to which it would be attached.
- Object to the demolition of the 'lodge'. The lodge is an attractive building and makes a positive contribution to the special interest of the Conservation Area. Its loss would be detrimental to the significance of the conservation area and it would also harm the setting of adjacent listed buildings and structures. Despite the additional information that has been submitted in support of its proposed demolition the society remains unconvinced that the lodge could not relatively simply be retained.

## York Civic Trust

3.45 Comments on the 1st revised scheme were as follows -

- The trust welcomed retention of the former chapel facade but considered the new buildings would be too high in places; the massing of the new buildings is out of proportion to the site; and the quality of architecture shown is not considered to be of sufficient high quality to preserve or enhance the wider conservation area. It is considered the step up in scale immediately behind the former chapel facade is too drastic and dwarfs the scale of the retained structures.
- The design of the proposed buildings are deemed inferior when compared with the historic fabric around. The architectural and design quality of this area of the city has a character which is distinctively high quality Georgian and Victorian, and

the proposals are not distinctively high-quality 21st century. The trust feels that the quality of the Conservation Area would be diminished.

- There was a Franciscan monastery on or near this site: the planning decision should not be taken without a full consideration of the archaeological effects.

## Yorkshire Water

3.46 It is understood that a watercourse exists adjacent to the site. This option should be thoroughly investigated. Alternatively, on-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

## Publicity

3.47 The original scheme and the revised proposal dated 16.2.2016 (which reduced the scale of the proposed buildings and introduced the basement car park) were the subject of public consultation.

3.48 Some 32 letters of support for the re-development of the site and the scheme proposed have been received. The letters welcome regeneration of this area and support a development which is predominantly residential.

3.49 Consultation feedback on the 16.2.2016 scheme were as follows -

## Design / amenity

- Development along Peckitt Street would be over-bearing and lead to a loss of light to the buildings opposite. Neighbouring occupants have suggested a mansard roof would be more appropriate, to mitigate the impact.
- Preference for the restaurant entrance to be from Clifford Street, to avoid noise and disturbance along Peckitt Street.
- Preference for the colonnade to the restaurant to be clad in brick rather than stone.
- The riverside elevation should be more respectful of neighbouring houses on this side of the river.
- Preference for retention of the lodge and former school buildings; the heritage assessment concludes that both of these buildings are undesignated heritage assets that contribute to the character and appearance of the conservation area. The Sunday school building is externally virtually intact as a historic structure, the Lodge building entirely so externally, and retaining a very fine Victorian interior. At this time the proposals do not meet the required test within planning legislation as there would be harm to the conservation area.

## Objection from Save Britain's Heritage

- Revisions, including the retention of the Trinity Chapel facade are positive and welcomed. The revised proposal for the fire station building is also an

improvement on that which was originally submitted. However SAVE continue to have concerns about this part of the proposal, notably its massing and height.

- The existing fire station building, whilst having little architectural value in its own right, successfully defers to the neighbouring Grade II listed Magistrates Court. The current proposal by contrast seeks to be much more dominant in its environment, rising to a height which detracts from the setting of the Magistrates Court and draws focus away from it.
- Reinstatement of the original rose window in the southern gable wall of the former Trinity Chapel would be a positive addition.
- Object to the demolition of the riverside lodge, which is a handsome building with considerable townscape value. The issues relating to flooding are noted but Save believe that these can be alleviated without requiring the demolition of the lodge; flooding is a problem for all buildings along this stretch of the river, including numerous 18th and 19th century ones in close proximity to the lodge.

#### Flood risk

- Advice that neighbouring houses which have a similar finished floor level to the lodge have been able to incorporate adequate flood defences and secure insurance for their buildings. As such it should be possible to protect and retain the 'lodge' which is a building of merit.

#### Highway safety

- Desire for traffic calming to slow vehicles approaching Clifford Street from Tower Street.
- There should be at least 1 car parking space per unit. Concern there is already a lack of available car parking in the local respark area.

Objections to the original, now superseded scheme were as follows -

#### Residential amenity

- Loss of amenity to Peckitt Street terrace due to loss of sunlight, overlooking, loss of privacy

#### Architecture / design

#### Objection to the proposed buildings

- The scale of the building puts it in competition with the listed court house where as smaller building would not impose on it. If this is the scale for the building that is desired or required for this elevation then much greater ambition and elegance should be aspired to and some visual interaction on a human scale at street level is much needed.
- The octagonal features on either corner of the development seem to be a reference to similar shaped structures on the municipal building next to which this

development will stand (the court building). It seems strange that when designing what is largely a residential development the architect has looked to a large municipal building for architectural reference rather than the surrounding residential buildings. The "turrets" are an affectation which whilst they reflect, in plan, structures nearby they have none of the style or grace of those structures.

- The modern design with its monolithic turrets just isn't architecturally sympathetic to York and the existing period homes, buildings and surrounding conservation area. It smacks of commercial gain over preservation of the city's architectural heritage and image.
- The building lacks interest at street level, in particular along Clifford Street. It has no distinguishable entrance.
- The balustrade designs, are out of keeping with the other metalwork on the project (e.g. railings at street level on Peckitt st), they are over fussy, and look like an affected attempt at modernity which gives a disjointed look that will date badly.
- This site presents an opportunity to build something beautiful and interesting in a high quality and historic setting. It is clear that the plans for this building will offer nothing of any architectural excitement but instead the design is pastiche and dishonest. It is suggested new design should be honest and sympathetic to its setting. The Hiscox building at Hungate is cited as an example of such. This development is not.
- The row of houses proposed is of undue scale, designed to maximise the amount of development. It fails to relate to the topography and varied roofline of the setting and will over-shadow the street. The use of stone cladding for the entire first floor is not in keeping with other residential property in the immediate area and is out of place here.
- External roof terraces are out of keeping with the area, in particular Peckitt Street and will have an adverse effect on privacy

#### Loss of buildings of merit

- There is significant aesthetic and historic merit in the existing façade of the (former chapel) building facing Peckitt St and also, to a lesser degree, the lodge building. They both make a positive contribution to the visual amenity of the area and both are in keeping with their surroundings. The fact that these structures are not listed does not mean they are without merit. This is a conservation area and it must be satisfied replacement building would be appropriate.
- The statement that the 1930s fire station has no architectural merit, which is hugely subjective and many would argue it most certainly does. It is an

interesting and appropriate scale addition to the street scene which incorporates earlier architectural features in a way that the current developer and architect seem unable to consider.

- Clifford Street is a Victorian set-piece of civic architecture; buildings include the Magistrates' Court, Fire Station, Police Station and Technical Institute. Replacing early Victorian architecture with a large modern building would be detrimental to not only the development site, but the feel of the street, which is an important approach to the historic city centre. In particular, the chapel facade has a positive effect on the setting; it complements the listed neo-Gothic magistrates' court it sits beneath.
- An 'iconic' view of the city is from the River Ouse. The gothic-style 'lodge building' enhances its surroundings from this perspective, whereas a modern building would be to the detriment of the historic buildings around it (mostly Georgian and Victorian).

#### Impact on highways

- There is a lack of parking and therefore demand for on street parking (zone R11), which already has limited numbers. The houses only have one space, but are large houses and typically garages are used for storage. There are only 2 spaces for the 5 flats.
- It is asked how traffic will be managed, what works will be undertaken to improve the quality of the road surface and whether there could be traffic calming at the junction with Tower Street to reduce vehicle speeds.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- Development in principle
- Flood Risk
- Heritage Assets (conservation area / archaeology)
- Residential Amenity (noise / air quality)
- Highway Network Management
- Sustainable design and construction
- Planning Gain (open space / education)
- Designing out crime

### DEVELOPMENT IN PRINCIPLE

4.2 The application site is presently vacant. The fire station was relocated to Kent Street in 2014. The 'lodge' building at the end of Peckitt Street was absorbed into the fire station complex in the 1970's and was used as offices. The site is outside

the central shopping area, as defined in the 2005 Draft Local Plan, but within the defined city centre area.

4.3 Because the site is in a sustainable city centre location and is now regarded as 'previously developed land', the re-development proposed accords with the National Planning Policy Framework (NPPF), in particular paragraph 51 which advocates bringing back into residential use empty housing and buildings. The restaurant use is an appropriate city centre use based upon the advice in section 2 of the NPPF; Ensuring the vitality of town centres.

4.4 As such provided the development is regarded as being sustainable then it should be supported. In making such a judgement this requires assessment against policies within the NPPF, which states that permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted, in particular those relating to designated assets and locations at risk of flooding.

## FLOOD RISK

4.5 According to the Environment Agency maps, the former chapel building and the forecourt to the front are in Flood Zone 2 and the rest of the site zone 3. According to national policy the uses proposed can be allowed in flood zone 3 provided that, in respect of the houses, the sequential and the exception tests have been passed.

4.6 However the part of the site beyond the southwest side of the former school building is locally designated (in the York Strategic Flood Risk Assessment) as being within Flood Zone 3a(i), where there is an annual probability of flooding of up to 1 in 25-year (4%) or greater. The assessment advises against residential development in Flood Zone 3a(i).

4.7 Because the site is previously developed and sensitive regeneration would benefit heritage assets, provide needed housing and enhance the viability of the city centre officers have taken the view that provided it is satisfied that the sequential and exception tests can be passed then there would be material planning considerations to justify deviation from the York Strategic Flood Risk Assessment in this case.

### Sequential test

4.8 The aim of the sequential test is to keep development out of flood zones 2 and 3 where possible. National Planning Guidance gives the following relevant advice on the sequential test ;–

*“the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives”.*

In this case the site has historically been developed and accommodates a group of buildings and hard-standing. The site is vacant/previously developed and in a prominent city centre location, being viewed in its riverside setting, along a main route through the city centre and from Clifford’s Tower. Re-development, bringing homes which the city needs, is desirable; to leave the site vacant would harm the appearance of the conservation area. York does not at this time have an NPPF compliant demonstrable housing land supply. It is on all these grounds that, considering the aforementioned national guidance, the sequential test is considered to be passed.

#### Exception test

4.9 For the Exception Test to be passed: it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

4.10 A sensitive re-development of the site, which is not harmful to designated heritage assets, provides much needed housing and does not have an undue impact on residential amenity and highway safety would amount to a wider sustainability benefit.

4.11 The site specific FRA demonstrates the site would be safe from flood risk for its lifetime and would not increase flood risk elsewhere

- There would be no increase in flood risk elsewhere as there would be an increase in on site flood water storage. Modelling shows that currently there is 206m sq floodwater storage where there is hard-standing. The amount on site would be increased, and this would primarily be accommodated below the buildings which are proposed to front onto the river.
- The development would be safe for its lifetime. It would have flood resilient construction and main living accommodation would be set above the 1 in 100 year flood event, as recommended by the Environment Agency; the finished



ground floor level for the restaurant and houses along Peckitt Street would be at 11.2AOD, some 800mm higher than the December flood levels, the ground floor of the riverside block would be lower at 10.00AOD but the lower level would be used for car parking/storage only. The scheme would have flood gates, which would enable access and egress, via Clifford Street (where ground levels are higher than 11 AOD) during a flood event.

4.12 There is adequate evidence that the sequential and exception tests can be passed. The measures within the FRA would be secured through a planning condition, as recommended by the Environment Agency.

## IMPACT ON HERITAGE ASSETS

### Policy background

4.13 The buildings are within the Central Historic Core Conservation Area and there are listed buildings within the immediate setting; the law courts and the buildings along Peckitt Street. Clifford's Tower is a Scheduled Monument.

4.14 Of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) the following sections set out the statutory tests that must be applied when considering this planning application:

- Section 66 requires the Local Planning Authority when determining planning applications for development that affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Section 72 requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

4.15 Case law has made clear that when deciding whether harm to a designated heritage asset is outweighed by the advantages of a proposed development, the decision-maker must give considerable weight to any harm. There is a 'strong presumption' against the grant of planning permission in such cases.

4.16 The NPPG states planning decisions should deliver development which will function well and add to the overall quality of the area. National Planning Policy Guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials. Paragraph 020 is pertinent to the proposed development. It advises that 'a well designed space has a distinctive character. Distinctiveness is what often makes a place special and valued. It relies on physical aspects such as:

- the local pattern of street blocks and plots;
- building forms;
- details and materials;
- style and vernacular;
- landform

4.17 Distinctiveness is not solely about the built environment, it also reflects an area's function, history, culture and its potential need for change'.

## Assessment

### Clifford Street elevation

4.18 The relevant plans are now revision P09. The corner turret feature, which was on the original plans have now been omitted. Objections to the original scheme were primarily that it was a pastiche; a poor imitation of the law courts and civic architecture, which would harm the setting and not sync with the uses proposed for the building.

4.19 The frontage building would accommodate a restaurant and apartments above. It would extend beyond and above the retained gable end of the former chapel. Its scale would be moderated by a 2-storey colonnade which steps forward and makes the transition in building lines between listed buildings to each side, the law courts and the terrace on Peckitt Street which curves into Tower Street. A forecourt would remain, where the existing setts would be re-used and street trees added.

4.20 The taller part of the building would be set back from the street, behind the main facade of the law courts. It would be of similar scale. The form proposed means that the building would respect the Clifford Street scene and not be too dominant or compete for attention with the law courts. The building would form a back-drop to the law courts in views from Clifford Street. From Tower Street and Clifford's Tower the building would only obscure views of the side elevation of the law court. The main facade and the impressive roofscape of the courts would remain dominant in views.

4.21 The materials would be brick and slate as found in the street, and polished stone, a high quality material used in the detailing.

4.22 The facade of the fire station facing Clifford Street was functional and of its time. It is not in keeping with the vernacular of Clifford Street and nor is it of high architectural interest.

4.23 The colonnade proposed, with a restaurant behind, would give an appropriate scale, building line and vitality to the street. Materials will be appropriate to the setting and street trees would bring relief to the environment which is currently dominated by high density buildings and traffic. The proposed development in this

area of the site would respect the setting. There would be no harm to the setting of listed buildings or the character and appearance of the conservation area. This element of the scheme is compliant with national policies relevant to design and heritage assets..

## Peckitt Street

4.24 The former chapel and Sunday school building facades are in the European Gothic style and date from the mid C19. Both have been regarded by Historic England, the Victorian Society and the applicant's heritage statement as making a positive contribution to the conservation area. There is new brickwork evident on both buildings where alterations have had an adverse effect on the facade. Beyond these are a single storey building and the wide access towards the law courts, also used for car parking.

4.25 The terrace opposite comprises of 3 storey buildings, which step up in scale at the corner with tower Street. Otherwise the buildings have a lower eaves level and are setback behind forecourts which are around 2m deep.

4.26 The street scene is weakened by the gap in the street between the school building and the lodge, which exposes the service yard and rear elevations and additions of low quality. The single storey flat roof building at the side of the lodge also detracts from the conservation area setting due to its prominence and lack of interest. The re-development proposed would narrow the access through the site by 2m and the single storey building would be replaced.

4.27 In comparison to the original scheme it is now proposed to retain the facades which make a positive contribution to the appearance of the street and re-develop behind. The houses proposed would now be around 1-storey lower. The new development would now be setback around 2.5m from the main facade and would step down in height as it travelled towards the river.

4.28 The approach allows the retained facades to remain dominant in the street. By virtue of its setback and scale the new development respects the street and would not appear over dominant.

4.29 The new elements would be of consistent detailing and materials with the frontage building that would face Clifford Street. Neighbours had suggested a mansard roof form but a traditional pitched roof is proposed. The proposed form is characteristic of the skyline in the conservation area and (with regards to neighbours' amenity) to use a mansard would not have a material effect on the apparent scale of the building or levels of light within the street and over the houses opposite.

## Riverside

4.30 The 'lodge' building was constructed around 1860 as a private house. The building is not listed but it is regarded to be of architectural interest due to its form and brick detailing. It is in a prominent location; it is evident in views from the opposite side of the river and Skeldergate Bridge, although not visually dominant in such views, and it makes a positive contribution to the character and appearance of the conservation area.

4.31 The Officers' initial position was that any re-development of the site should retain the building. However demolition would accord with planning policy if either the replacement development lead to no harm overall to the conservation area, or if there were harm, there would be adequate public benefit to justify the identified harm.

4.32 The applicants have investigated retention of the lodge (as explained in their Heritage Assessment dated Feb 2016) however this has been discounted and not only on viability grounds.

- The ground floor area would needed to be tanked, however it could only be made flood resilient and not resistant. It could only be used as storage. Only the first floor and the limited space within the roof could be used as living accommodation.
- The building was originally constructed as a house and this would be its most appropriate use. However the applicants have a reasonable concern that it would not be possible to secure insurance for a new house at such a high level of flood risk.

4.33 To the side of the lodge is a single storey flat roof building of no merit. A row of 4 houses are proposed to face the river in replacement of the buildings proposed for demolition.

4.34 Historic England raised concerns about the commercial nature of this aspect of the scheme in earlier iterations, because of the domestic setting. As proposed the building would be of traditional materials, form and materials. In views from the river it would be of matching scale and height to the buildings to each side - the houses along South Esplanade.

4.35 The demolition of the lodge in isolation is regarded to be less than substantial harm to the appearance of the conservation area. However overall the scheme has a number of public benefits and there are material considerations that outweigh the impact of its loss even when giving considerable importance and weight to the less than substantial harm to the conservation area -

- The site has been vacant for 2 years. It is a prominent and well-known site in the city centre. The re-development proposed would enhance the vitality and condition of both Clifford Street and Peckitt Street. In this respect the scheme accords with core principles in the NPPF - to re-use previously developed land and directing growth to sustainable locations and contribute to local distinctiveness, in accordance with national design guidelines.
- Other buildings of merit - the facades of the former chapel and school buildings are retained and put to a viable use consistent with their conservation, as recommended in the NPPF.
- Buildings which have either a neutral or negative impact are replaced with buildings of appropriate design for their setting.
- There is acknowledged difficulty in finding a viable use for the lodge. This is a material planning consideration which can justify less than substantial harm, as explained in paragraph 133 of the NPPF.

## Archaeology

4.36 York is one of five cities that have been designated as an 'Area of Archaeological Importance' (AAI) under Part 2 of the 1979 Ancient Monuments and Archaeological Areas Act. The application site is within the designated area. The archaeology is regarded as a heritage asset. As such the following text in the NPPF is applicable -

- Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
- When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

4.37 In line with the NPPF policy Draft Local Plan 2005 policy HE10: Archaeology explains the local approach to mitigation where archaeology would be affected. HE10 states that planning applications for development that involves disturbance of existing ground levels on sites within York City Centre Area of Archaeological Importance will be granted provided the extent and importance of any

archaeological remains are evaluated and that the applicant can demonstrate that less than 5% of any archaeological deposits will be disturbed or destroyed.

4.38 The applicant has provided full details of the below ground works. The archaeology that would be affected as a consequence of the basement car park dates from the C19 and C20 and is of low significance. Under 2% of the potential waterlogged organic deposits would be affected as a consequence of the foundation design.

4.39 The impact on archaeology would therefore usually be controlled via planning conditions, which would ensure compliance with local plan policy HE10: Archaeology. However Historic England maintain their objection to the scheme, until the impact on the waterlogged deposits is fully understood.

4.40 The applicant's proposals are to fit the piles within sleeves and they expect their design will prevent a 'halo' effect on the deposits; however further testing is required to understand whether their approach will be successful in this respect.

4.41 Because it would be possible to ensure adequate mitigation regardless of the impact, officers consider that this matter could be dealt with by the use of appropriate planning conditions.

## RESIDENTIAL AMENITY

4.42 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Draft Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

### Impact on buildings along Peckitt Street

4.43 The additional development proposed behind the retained facades of the former chapel and school house add an extra floor and accommodation is proposed also within the roof. The additional building height would be setback 2.5m. Behind the chapel facade the extra volume would be to the sides, extending around 2.7m and the ridge would be 3m higher than the existing parapet. The scale of buildings would step down towards the river.

4.44 Because the extra massing beyond the chapel would be setback 2.5m, and as the extension to the front would be where the street widens and the buildings opposite curb round onto Tower Street, the extra development would not be over-bearing or over-dominant.

4.45 The addition above the former school building would replace the current gable roof. To eaves level the facade would be 1m higher than the existing building, and setback 2.5m. The new build house to the side would be lower and 3-storey, comparable with the terrace opposite. These buildings would be an appropriate scale for the street, this is demonstrated on elevation 04 which shows the proposed comparable building heights and separation between buildings along Peckitt Street.

4.46 The application site is on the north-western side of the street. Because of the orientation of the sun, the new development would not lead to an undue loss of light to the existing buildings on the south-east side of the street.

4.47 The building proposed to front the river would be of comparable scale to the existing buildings it would be seen alongside. The side elevation onto Peckitt Street would be similar in scale to the existing 'lodge' building it is proposed to demolish. This block would not have an adverse effect on neighbours amenity.

#### Future resident's amenity

##### Noise

4.48 A noise assessment has been provided which explains how noise levels within the proposed dwellings would achieve the recommendations established in British Standards (BS8233:2014) and by the World Health Organisation. The assessment recommends a glazing specification which can be required through a planning condition.

4.49 Clifford Street is within the Air Quality Management Area however the proposed dwellings would be setback at least 9m from the road and at upper levels. Local air quality monitoring undertaken by the council records that concentrations of nitrogen dioxide have been below health based standards at this particular location on Clifford St for the last 4 years. As such air quality for future residents would not be unreasonable.

##### Standard of the proposed dwellings

4.50 The apartments would have internal bin and cycle storage at ground level. The cycle storage would be covered and secure in accordance with local requirements and there would be 8 spaces for the 7 apartments, again this is compliant with local standards. The houses each have adequate dedicated space for storage, which would be secure and would not compromise visual amenity.

4.51 It is intended the extract for the restaurant exits the building at roof level, on the rear roofslope. Such a high level discharge is recommended in DEFRA guidance to avoid cooking smells/odours affecting amenity.

## HIGHWAY NETWORK MANAGEMENT

4.52 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.53 The law courts have a right of access through the application site and this dictates the position and width of the proposed access from Peckitt Street. The access retains its current position but has been narrowed. Swept paths have been provided which illustrate the law court vehicles could continue to access the site without intruding on the parking bays on the south side of the street. Each dwelling would have a car parking space which would use the same access.

4.54 That there is regarded by residents to be issues with vehicle speeds along Tower Street, as vehicles approach Peckitt Street, and residents desire for the law courts access to continue to serve as a turning point are not material to consideration of this application. However it would still be possible to use the access for vehicle turning.

4.55 For the restaurant there would be covered and secure cycle parking (x10) within the building. The customer access would be from Clifford Street (to reduce noise from comings and goings along Peckitt Street where there are residents and noise levels will be lower away from the Clifford Street).

4.56 A 3m wide public footpath would be instated along Clifford Street, which would be free from obstruction. A 3m wide footpath would be appropriate for the setting, considering guidance within Manual for Streets.

4.57 The site is within a sustainable location from where amenities can be accessed without the need for use of the private car. Travel plans for both uses can be secured through a planning condition, as can the provision of electric vehicle charging points to car parking spaces.

## SUSTAINABLE DESIGN AND CONSTRUCTION

4.58 Due to the scale of the development; as more than 10 dwellings are proposed based on the council's supplementary planning document on sustainable design and construction a BREEAM rating of very good is required. This can be secured through a planning condition.



## PLANNING GAIN

4.59 Any planning gain sought must meet numerous statutory tests. In particular it must be directly related to the development proposed, necessary in order to make the development acceptable and reasonable in scale and kind. The regulations also impose a limit on the number of pooled contributions that may be funded by 106 obligations.

### Open space

4.60 The National Planning Policy Framework states access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Local requirements for open space are established in Local Plan policy L1c and the SPG note -Open Space Advice Note: Commuted Sum Payments in New Developments. The latter establishes the amount of open space which is required in new developments.

4.61 Based upon local policy contributions towards amenity space, play space and sports are potentially required due to the scale of development proposed. However these can only be requested if they meet the tests within the national regulations.

4.62 As such a contribution towards sports facilities in the locality has been requested only. This would go towards a project at Rowntree Park to improve facilities at the tennis pavilion. The contribution would be compliant with the regulations because there is identified need, backed by the council's evidence base, the contribution is reasonable in scale and the project has not had more than 5 contributions towards it.

### Education

4.63 According to the NPPF the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive approach to meeting this requirement, and they should give great weight to the need to create, expand or alter schools.

4.64 Due to the amount and size of dwellings proposed an education contribution is applicable based upon York's Supplementary Planning Document on education if the schools in the catchment area are at capacity. As such a contribution is sought towards improvement works (dining facilities) at Fulford secondary school.

### Highway network management

4.65 The apartments would have their own car parking spaces. The site is within an area where residents apply for parking permits and there are limited spaces. The

applicants will be asked that future occupants of the proposed houses are not eligible to apply for parking permits. This can be secured as part of the legal agreement.

## Sustainable travel

4.66 A planning condition requiring a travel plan can be used to promote sustainable travel, such as use of buses and car club, in this case. Due to the location, scale and type of housing proposed to require a financial contrition would not be necessary to make the development acceptable in planning terms.

## DESIGNING OUT CRIME

4.67 Advice from the police will be accommodated within the design. The entrance to the apartments (at the side of the law courts) will be gated and lit and there will be restricted access into the car parking area at lower level.

## 5.0 CONCLUSION

5.1 The scheme is recommended for approval as it would deliver acceptable re-development of a significant previously developed site in the city centre. There would be a low level of harm (certainly less than substantial harm) to designated heritage assets (i.e. to the conservation area due to the loss of the lodge, and to the area of archaeological importance). The scheme would be safe from flood risk. Even when attaching great weight to this harm, the public benefits of the scheme as described above are considered in the planning balance to justify the identified harm, and to allow residential development in flood zone 3. Conditions are necessary to agree the detailed design and ensure the proposed mitigation against flood risk.

5.2 Subject to the adherence to the planning conditions proposed there would be no adverse impact on residential amenity and highway safety.

5.3 Approval is recommended subject to completion of a planning obligation to secure the following –

- Education  
£15946.12 to go toward improved dining facilities at Fulford Secondary School
- Open space  
£7,242 to go towards improvements to Rowntree Park "tennis" pavilion
- Highways  
£5,000 towards traffic orders including removal of the site from R11 Residents parking zone

5.4 Should Historic England not withdraw their objection, the application would need to be referred to the Government Office if members were to vote to approve.

## **COMMITTEE TO VISIT**

6.0 RECOMMENDATION: Approve subject to completion of a section 106 agreement and referral to the Secretary of State (unless Historic England withdraws its objection)

S106 legal agreement to secure :

- Education  
£15946.12 to go toward improved dining facilities at Fulford Secondary School
- Open space  
£7,242 to go towards improvements to Rowntree Park "tennis" pavilion
- Highways  
£5,000 towards traffic orders including removal of the site from R11 Residents parking zone

Recommended conditions:

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

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

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

DC architects drawings 1429-160428

Proposed floor plans

109 P04, 110 P09, 111 P08, 112 P07, 113 P07, 114 P06, 120 P05

Proposed elevations

130 P10, 131 P09, 132 P06, 141, 150 P08, 151 P06, 170 P04, 171 P03

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

### 3 Archaeology

No development shall take place until the applicant has

- (a) submitted a confirmation letter of appointment/contract to the Local Planning Authority evidencing the implementation of the WSI : YAT reference 2016/34
- (b) submitted a report to City of York Council (and Historic England) on the results of the scheme described in (a) above
- (c) submitted details of mitigation measures that will be implemented if the report required by (b) above indicates nationally significant waterlogged deposits are in a very poor condition and that development will lead to an accelerated rate of decay of the deposits

Any mitigation under part c of the condition shall be approved in writing by the Local Planning Authority and carried out in accordance with the approved details.

REASON: In accordance with section 12 of the National Planning Policy Framework as the site contains undesignated heritage assets of national significance and these deposits may be destroyed by the approved development.

### 4 ARCH 1 Programme of archaeological work

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.

### 5 ARCH 2 Watching Brief required

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.

## 6 Foundation Design

The foundation design shall be carried out as shown in the WSI undertaken by the York Archaeological Trust, reference YAT 2016/34.

REASON: In accordance with section 12 of the National Planning Policy Framework as the site contains undesignated heritage assets of national significance and these deposits may be destroyed by the approved development.

## 7 Land contamination

a) Prior to commencement of development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b) A detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 8 Drainage

Wording of condition to be provided at meeting

## 9 Materials

The materials to be used shall be as annotated on the approved plans. 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 of the new buildings. A sample panel of the brickwork to be used on the buildings hereby approved 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 construction of the building envelopes. 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: In the interests of the setting or heritage assets.

## 10 Large scale details

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

- Typical section drawings at a scale of 1:10 or 1:20 through the elevations of each of the new buildings. To include notes on materials
- Windows and their surrounds
- Alterations to openings within the former school building
- Details of the interface between the retained facades (former chapel and school) and the new building work
- Side access to apartments (by law courts) to include location and design of the access gate, details of canopy and external lighting.
- Gated access to basement parking (shown in context)

Reason: In the interests of the setting or heritage assets and visual amenity.

## 11 Land contamination (Verification of Remedial Works)

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

## 12 Reporting of Previously Unidentified Contamination

In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 13 Flood Risk Management

The development hereby permitted shall only be carried out in accordance with the approved flood risk assessment (by Dudley, dated 10 February 2016, ref 15282 revision A), the approved drawings/plans and the following mitigation measures detailed within the flood risk assessment:

- Compensatory flood storage shall be provided as detailed within the FRA. This compensatory storage shall be a minimum of 206m<sup>3</sup>, and shall be carried out in accordance with drawing no.15282-sk02 rev P2. A detailed management and maintenance plan for the compensatory storage area to ensure that the full volume remains available and it does not become blocked by silt shall be submitted to and approved by the local planning authority prior to first occupation and adhered to at all times.
- Finished floor levels shall be set no lower than 11.2m above Ordnance Datum (AOD). Any areas below this level are to be used only as sacrificial storage space as detailed in City of York council's letter dated 29 March 2016 and the revised drawings submitted.
- The development is to be protected by floodgates which will be closed when a

flood warning is issued.

These measures shall be fully implemented prior to occupation, and according to the scheme's phasing arrangements (or with any other period, as agreed in writing, by the local planning authority).

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

#### 14 Electric vehicle charging facilities

Prior to occupation of the dwellings hereby approved each of the car parking spaces shown on the approved plans shall be fitted with an electrical charging point.

REASON: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: The points shall comprise of a three pin 13 amp electrical socket which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable. Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

#### 15 BREEAM

The development hereby approved shall be constructed to a BREEAM standard of 'very good'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 12 months of first occupation (unless otherwise agreed). Should the development fail to achieve a 'very good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'very good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

#### 16 Landscaping

The hard and soft landscaping scheme, as shown on the approved site plan, shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless



alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site, in the interests of visual amenity and the setting of heritage assets.

#### 17 Travel plan and future cycle parking provision

Within 6 months of occupation/first use of the relevant part of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

The Travel Plan shall provide details of how cycle parking will be monitored and improved if required, and how sustainable travel, including the use of car club, will be promoted

Reason: To promote sustainable travel in accordance with section 3 of the NPPF and Local Plan policy T4.

18 The area shown as cycle and bin storage on the approved ground floor plan shall be provided prior to first use of the relevant part of the development hereby permitted and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for storage and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National Planning Policy Framework.

#### 19 Residential amenity: noise

The glazing to bedrooms and living rooms within the dwellings hereby approved shall at least achieve the sound reduction recommended in section 5 of the Dragonfly Noise Assessment DC1936-R1 dated February 2016.

Reason: To protect the amenity of future occupants from externally generated noise and in accordance with the National Planning Policy Framework.

INFORMATIVE: For the avoidance of doubt the recommended measures demonstrate that noise levels within dwellings would achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and at night (23:00 to 07:00) 30 dB LAeq (8 hour) and regular maximum noise levels would not exceed 45 dB LAFMax.

Noise levels should be observed with all windows shut in the habitable room and other means of ventilation provided.

## 20 Odour/smells from commercial restaurant

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

Reason: To protect the amenity of future residents and nearby properties.

INFORMATIVE: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

## 21 Plant and machinery

The combined rating level of any fixed plant or equipment installed at the site shall not exceed 35dB(A) at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of future residents from externally generated noise and in accordance with the National Planning Policy Framework.

## **7.0 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:

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

## 2. LEGAL AGREEMENT

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

## 3. INFORMATIVE:

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

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

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

In considering the application, the Local Planning Authority has implemented the  
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requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: pre application advice and sought revised plans (on all aspects of the scheme) and further information in order to allow a positive outcome.

5. The applicant is asked to note that the development is not considered eligible for inclusion within the Residents Parking Zone, and it will be removed from such under the Traffic Regulations 1984.

**Contact details:**

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**Tel No:** 01904 551323