

COMMITTEE REPORT

Date: 3 February 2022 **Ward:** Fishergate
Team: East Area **Parish:** Fishergate Planning
Panel

Reference: 21/01605/FULM
Application at: Mecca Bingo 68 Fishergate York YO10 4AR
For: Demolition of existing buildings and redevelopment of the site to form 275no. room purpose built student accommodation with associated car parking, landscaping and facilities
By: Petrina Ltd And Grantside (North Star West) Ltd
Application Type: Major Full Application
Target Date: 5 January 2022
Recommendation: Approve subject to Section 106 Agreement

1.0 INTRODUCTION

1.1 This application was deferred at Planning Committee 2 December 2021 as members requested further information regarding –

- Justification for the loss of the former bingo premises, whether there is a loss of a community facility and whether this is justified.
- Practicality of the servicing access (for deliveries) and associated safety issues
- Accessibility
- Sub-station (visual impact and noise)
- Cycle storage

1.2 In response to the issues raised, further information and policy context regarding the loss of the existing facility is detailed at 5.2 onwards. Changes to the scheme in respect of servicing and accessibility are detailed in paragraph 5.22 onwards. The building layout has been revised so the entrance and reception are now off Blue Bridge Lane. A noise assessment has been issued that confirms noise output from the sub-station would be acceptable, taking into account relevant British Standards and World Health Organisation guidelines.

1.3 The amendments have been subject to public re-consultation. There have been comments from, or on behalf of fourteen objectors and these are summarised in 4.1.

Application site

1.4 The application site currently accommodates a bingo hall with car parking (approx.. 128 spaces), constructed 2002. The building covers the south section of the site. There is an open car park on the north side. Vehicle access is from William Court.

1.5 To the north of the site is the car park associated with the Novotel. William Court to the west is a cul-de-sac of 3-storey houses. Fishergate House, a residential development set within landscaping and car parking is to the south. The 1837 house, which is setback from Fishergate, is Grade II listed. Buildings on the opposite side of Fishergate are 2-storey and 3-storey in height. Directly opposite is Fishergate School, Grade II listed.

1.6 The site is immediately south of the city centre, as defined on the 2018 Draft Local Plan proposals map. The Central Historic Core Conservation Area lies to the east. The Conservation Area was extended south, to include the Fishergate area, following recommendations in the Central Historic Core Conservation Area Appraisal by Alan Baxter Associates 2011. The application site, the Novotel development and contemporary houses were redeveloped in the late 20th century (replacing the glassworks which historically occupied the site), and are excluded from the conservation area.

1.7 The site is within the City Centre Area of Archaeological Importance. It is not in Flood Zone 2 or Flood Zone 3.

Proposals

1.8 The application is to redevelop the site for purpose built student accommodation. The development would provide 275 student rooms; a mix of cluster flats and studios. There would be ground floor communal facilities in the wing fronting Fishergate. There are 5 car parking spaces (including a car club space and accessible spaces) and service access on the William Court side of the site. The layout provides two landscaped courtyard areas, which will be evident from Fishergate and Blue Bridge Lane. The scheme is 4-storey but designed to appear as 3-storey with the top floor concealed behind pitched roofs and projecting front gables.

2.0 POLICY CONTEXT

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

2.2 The National Planning Policy Framework ('NPPF') is a material consideration in the determination of this planning application. Key policies / sections of the NPPF are as follows –

- 5 Delivering a sufficient supply of homes
- 8 Promoting healthy and safe communities
- 9 Promoting sustainable travel
- 11 Making effective use of land
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 16 Conserving and enhancing the historic environment

2.3 The Publication Draft City of York Local Plan 2018 ('2018 eLP') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF its policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

2.4 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

- DP3 Sustainable Communities
 - D1 Place-making
 - D3 Cultural Provision
 - D6 Archaeology
- CC1 Renewable and Low Carbon Energy Generation and Storage
- CC2 Sustainable Design and Construction of New Development
- ENV1 Air Quality
- ENV5 Sustainable Drainage
- H7 Student Housing
- HW1 Protecting Existing Facilities
- T1 Sustainable Access

3.0 CONSULTATIONS

3.1 Since the previous committee meeting updated consultation comments have been received from Public Protection and Fishergate Planning Panel.

Design, Conservation and Sustainable Development - Archaeology

3.2 Officers have recommended a condition requiring a programme of mitigation, to involve excavation and public engagement.

3.3 The site is within the Central Area of Archaeological Importance and known to contain significant archaeological features and deposits from all periods despite being developed since the 19th century. The site was evaluated in 1994 (by YAT) with further evaluation and excavation (by FAS) in the early 21st century ahead of the construction of the bingo hall. These investigations were limited in the northern half of the site due to the extant Rialto Cinema at the time.

3.4 The layout of the proposed building has been driven by above-ground constraints and design guidance. Unfortunately, the design does not utilise the areas previously excavated as much as it might have done if archaeologically led. The proposed foundation design / pile caps will impact upon the remains of the cinema, medieval and potentially earlier pockets of archaeology within the northern half of the site. In the southern half the pile caps will impact upon significant archaeological deposits preserved as part of the Mecca Bingo construction.

3.5 The impact will include areas identified during previous investigations as potentially containing archaeology dating to the Anglian period. The archaeology relating to the Anglian period has been identified as of national significance, the resource relating to other periods across the site has not. However the known Anglian archaeology on the Mecca Bingo site is also not of the same quality or quantity as the excavated glassworks site immediately to the north of this site in the mid-1980s.

3.6 Implementation of the scheme will further divide and penetrate the remaining archaeology, particularly in the southern part of the site. Any legibility of deposits preserved in-situ will be compromised and the resource is likely to be no further understood. Furthermore, there are large obstructions in the northern half of the site which will potentially require pile probing which will also have a detrimental impact on any remaining pockets of in-situ archaeology.

3.7 In this case the public benefit of fully excavating the remaining elements of archaeology on-site is therefore the preferable approach. The information derived would complete the archaeological picture of the area running from the glassworks site to the north to Blue Bridge Lane to the south. By stripping the site, a final decision can be made as to whether it is possible to preserve any reasonably sized areas of

archaeology in-situ. This approach will allow the most control over the archaeological deposits to be exerted. However, it is anticipated, given the amount of interventions past, present and proposed, that a full excavation is likely to be required in order to maximise public benefit from the site.

3.8 An archaeological remains management plan is required. This will set out the details for the initial strip, any monitoring during further site investigation and be updated when the final archaeological mitigation scheme is known. The plan should also set out a program of public engagement relating to the excavation. It may be possible to use the remaining structural elements of the Rialto Cinema as a public engagement tool. Publication of the findings, in particular how these relate to the excavations which have taken place on surrounding sites over the past 40 years, will then occur.

Design, Conservation and Sustainable Development - Architect

3.9 Previous recommendations by officers have been incorporated in the scheme as follows –

- Required a setback between the north wing and Fishergate to allow for landscape. A setback of 3.5m to 4m is proposed which is satisfactory.
- Roof – preference was for the section of roof between pairs of gables to be pitched reasonably, so the design is authentic and the gables are the prominent feature. The scheme has been amended on the elevation facing William Court (elevation 03) where the issue was most significant, due to the lack of staggered building line and intervening chimney between the gables.
- Officers maintain the amenity of residents on William Court could be affected by the development, due to it being over-bearing and causing over-looking.

Design, Conservation and Sustainable Development – Landscape

3.10 The scheme has been amended to address the following recommendations –

- The north side of the site accommodates planting, to benefit outlook and encourage wildlife. The existing hedge and Alder trees are retained with a grass margin by the building.
- Fishergate elevation - the northeast gable is setback from Fishergate to create a stronger and more prestigious entrance and setting, and to better key the building into its landscape/streetscape context.
- By the south site boundary the railings have been pushed back from the footpath to increase the dominance of the planting.

Design, Conservation and Sustainable Development - Ecology

3.11 To provide appropriate biodiversity benefits ask for a condition to secure 4 integrated features for bat roosts and 4 for nesting birds.

Highway Network Management

3.12 Raised concern over the main entrance location on Fishergate because of the likelihood there will be drop-off and deliveries adjacent the entrance (despite current waiting restrictions). Such practice would raise safety concerns, in particular due to the proximity to the zebra crossing and proximity with the junction to the gyratory. It was asked for the access to be relocated.

3.13 The initial cycle parking provision (around 65%) is reasonable and compares to similar student accommodation schemes.

3.14 Contributions requested for a traffic regulation order – to enforce no stopping at any time on Fishergate. Contribution sought for the Council to assist with the Travel Plan and ensure it is appropriate in terms of securing targeted sustainable travel measures. A student management plan, to deal with the possible issue of students parking locally to the detriment of highway safety, requested. A similar approach to the student accommodation scheme at Frederick House recommended.

Public Protection

Noise

3.15 Ask for conditions to require adequate noise levels within the proposed accommodation, and to approve details and noise levels of machinery, plant and equipment. In respect of the assessment pertaining to the sub-station officers advise that the *“mitigation measures for the substation have been provided in relation to the louvers and should be implemented”*. The submitted construction management plan is acceptable in terms of measures regarding construction noise (& dust).

Land contamination

3.16 Past site activities could have given rise to land contamination and potential contaminants. The site appraisal report recommends that an intrusive ground contamination assessment be carried out to find out whether contamination is present. Officers recommend conditions for a remediation scheme and implementation.

Air quality

3.17 Construction - through good site practice and the implementation of suitable mitigation measures, the effect of dust and particulate matter releases would be minimised and the residual effects are not anticipated to be significant. Operational impacts – no objection or mitigation requested.

Electric vehicle charging facilities

3.18 Officers request 1 electric vehicle charging point, with passive provision for a further space.

External

Designing out crime office (North Yorkshire Police)

3.19 The most significant crime issues that could affect this development are burglary, cycle theft and criminal damage. Recommendations –

- Communal entrance doors fitted with a self-closing mechanism with a lock which engages automatically. Opening restrictors to windows.
- CCTV coverage to cycle storage.
- Access to cores be restricted.

Fishergate Planning Panel

3.20 Object on the following grounds

- The scale of the development is such that it has led to the problems around access. The site should provide for on-site access and turning for delivery vehicles. This will help to avoid the dangers to Fishergate school children and others. The risk is that Blue Bridge Lane will become a dangerous and inadequate turning circle for delivery vehicles, as well as having multiple student drop-offs and pick-ups.
- The substation is clearly in the wrong place and should be re-sited away from the neighbouring residential properties.

York Civic Trust

3.21 The Trust is generally supportive of the design concept and form. The pitched roofs with gable ends are a positive design choice and a welcome contrast to the flat-roofed square-forms of other similar contemporary developments. Recommendations

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- A 4m setback to allow for more planting between the north wing and Fishergate.
- More prominent entrance to the scheme recommended, to define the buildings function and to provide architectural interest.
- Cycle parking facilities more evenly distributed throughout the site so less visually prominent.
- Accessibility to the communal areas queried as all provided within the south block.

Yorkshire Water

3.22 The drainage strategy is agreed to. Recommend conditions in respect of systems for foul and surface water and implementation of the drainage strategy. A

condition is requested to agree measures during construction to protect the public sewer adjacent the site.

4.0 REPRESENTATIONS

4.1 Since the scheme was last presented to members the amendments have been re-consulted on. Comments received raising further issues are as follows -

- Site not allocated in the 2018 eLP.
- Sub-station – noise – question the appropriateness of the revised report. It refers to background noise levels close to Fishergate (which the Council's Public Protection Team advised would not be reflective of noise levels at William Court); the report does not refer to noise from all plant that would be installed at the site; it states the sub-station brick enclosure will attenuate significantly better than the louvres, but the louvres are on the elevation facing the boundary. Magnetic fields would be detrimental to health.
- The bingo hall was a community facility; loss of community & leisure facility. The site should continue to be used for leisure as it has historically. There are a lack of community facilities nearby.
- Lack of Medical facilities locally
- North Yorks. Police – no further comment
- Now the entrance is proposed off Blue Bridge Lane concerns that noise will have an adverse effect on Fishergate House residents.

Highway Network issues

- Significant increase in traffic.
- Access – preference for single entrance, from Fishergate – better for security and avoiding noise disturbance.
- There will be considerably more traffic on Blue Bridge Lane. The street is unable to safely accommodate such. It is too narrow and suffers from congestion. Vehicles turning on this street would pose a hazard. When cars are parked there is only space for a single lane of traffic. At Fishergate House currently, residents have enormous difficulty gaining ingress and egress from the private carpark when parents drop off and pick up from Fishergate school, the same occurred at key times when the Mecca was in use (when the car parking spaces on the road are in use).
- There should be a lay-by on Fishergate, or a turning head provided on-site.
- If the school cannot use the Mecca car park there will be "chaos".
- Proposed cycle access via William Court would be very unsafe.

4.2 There were previously 46 contributors on the application. One in support. The comments were as follows –

Adverse effect on neighbours' amenity

- Over-bearing and overlooking due to the scale of the building and its proximity to neighbouring houses and gardens. Adverse effects to William Court and Fishergate House.
- Noise due to comings and goings of residents and deliveries.
- Noise from sub-station / servicing / plant and equipment of the development. All these items are towards the rear by William Court.
- Odour from waste storage
- There should be no access from William Court
- The transient nature of students will detract from the local community.
- No on-site management 24 hr to control behaviour.
- Outdoor spaces could cause noise disturbance.

Highway safety

- Could result in excessive pedestrian traffic at the crossing before/after school.
- Increase in traffic due to deliveries and servicing and residents
- Student arrivals and departures plan is unrealistic.
- Lack of parking will mean cars parked locally. Local parking zones already congested due to the number of cars associated with HMO's.
- Lack of drop-off / servicing bay on Fishergate
- There should be 1 cycle space per unit and storage should be covered.
- The scheme should provide funding to improve cycling on the highway network.
- Traffic management plan and travel plan not fit for purpose
- William Court not of adequate dimensions to be able to accommodate the servicing requirements associated with the development.

Visual impact

- Building looks stark and out of context.
- Over-development of the site, the site is of a similar size to William Court but would accommodate far more residents.
- Building unduly high; should reflect the 3-storey development at William Court.
- Missed opportunity to create a landmark building at this prominent location.
- Contrasting brickwork to William Court

Air Quality

- Detrimental impact on air quality. Due to delays to traffic caused by more people using the zebra crossings and as a consequence of increased traffic.

The type of development proposed

- Lack of evidenced need for student accommodation; higher need for market housing. Other student accommodation schemes have not achieved 100% occupancy rates. Any further student housing should be on campus.
- Loss of leisure / community facility and lack of evidence to show no demand for previous use.

- The scheme will be great for surrounding business.
- Student accommodation unsuitable for a site so close to the river.
- A communal / commercial facility within the building with wider public access would be welcome.
- Poor quality of amenity for future residents due to room sizes.
- Access arrangements in case of fire?
- Pressure on surrounding infrastructure.
- Inadequate percentage of the rooms are accessible (only 4).
- Gas fired boilers unacceptable on sustainability grounds.

Councillor D Taylor

- Concerned that there may be too much student accommodation built in Fishergate Ward and this development might not be viable.
- More needs to be done to reduce overlooking of neighbours and their gardens. Little regard given to the overlooking of residents of Fewster Way.
- The corner of Blue Bridge Lane and Fishergate is a prominent gateway into the city. How the building addresses the corner could be improved. Scheme acknowledged as an improvement to the existing situation. The building where it fronts Fishergate lacks interest. A further setback from the street recommended as a possible solution in this respect.
- Positive about the garden area on Blue Bridge Lane as this breaks-up the monotonous blank wall of the Mecca Bingo currently in situ. Approve of the two colours of red brick, which adds colour and variation to the massing of a large building.
- Concern there is no lay-by immediately by the entrance. Delivery / serving vehicles stopping up and blocking the highway/pavement in this area could affect highway safety.
- Traffic on A19 delayed by persons using the zebra crossing. This could have an adverse effect on air quality.
- Construction traffic – delivery times should avoid peak hours and school opening / closing times
- Operational concerns – should be staff on site always to deal with any concerns regarding noise and management measures to prevent students parking in the surrounding area.

5.0 APPRAISAL

Key issues

5.1 The key issues in assessment of this scheme are -

- Principle of the proposed development

- Heritage Assets / Archaeology
- Design of the proposed building
- Neighbours amenity
- Highway safety and sustainable travel
- Public protection
- Drainage

Principle of the proposed development

Loss of the former use

5.2 At the previous committee meeting members raised issue over the loss of the former use. In this respect NPPF paragraph 93 states that *“to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs”*. The officer recommendation is that there is no significant conflict with paragraph 93. The unnecessary loss of a valued facility would not occur and the ability of the community to need its day-to-day needs is not compromised.

5.3 The relevant policies of the Publication Draft Local Plan 2018 (2018 eLP) referred to by members at the previous committee were D3 and HW1.

Policy D3: Cultural Provision

5.4 D3 states *“Development proposals will be supported where they:*

- *enable and promote the delivery of new cultural facilities and/or activities and services such as permanent and temporary public arts;*
- *provide facilities, opportunities, and/or resources for cultural programmes and activities, during an/or after the development period;*
- *do not cause the loss of cultural facilities, activities, or services; and*
- *do not cause the loss of venues or spaces, including in the public realm, that deliver cultural opportunities, activities, or services”*.

5.5 Policy D3 does not explain how to consider a scheme if facilities would be lost i.e. a framework for grounds to refuse an application. The policy is related to new developments. However the supporting text advises that –

“Arts and Cultural facilities add value and support to community participation, wellbeing and development. The City of York’s residents demonstrate pride in their cultural diversity. The City of York is keen to protect these capacities to engender community cohesion and civic pride. As part of good place-making, cultural quality,

assets, and opportunities can also add to the attractiveness and value of development schemes”.

5.6 Officer advice is that it is for the decision maker to determine whether, and if so, to what extent, the scheme would lead to a loss of a cultural facility, considering the impact this would have on the social and cultural well-being of the city and community cohesion. If there is considered to be a harmful effect, then this can be taken into account when undertaking the planning balance in decision-making.

5.7 In consideration of the impacts –

- The city would retain a bingo facility; Clifton bingo. This is on the north-west side of the city but is on a bus route and therefore accessible.
- The former operator of Mecca bingo has closed multiple venues nationally over the last five years. Closure is due to a decreased revenue from venues and the increase in digital (on-line) revenue. Visitor numbers to venues has decreased by some 45%.
- Mecca bingo closed in 2020, determined the site was unviable, and declined to renew their lease which expired in 2021.

Policy HW1: Protecting Existing Facilities.

5.8 Policy HW1 defines community facilities as *“buildings, facilities, and services that meet the day-to-day-needs of communities. This may include libraries, post offices, and community meeting places, such as youth groups, places of worship, and parish and village halls”*. HW1 states the loss of community facilities will be not be supported, unless it can be demonstrated –

- The scheme provides alternative facilities;
- the facilities no longer serve a community function and demonstrably cannot be adapted to meet other community needs;
- in the case of commercial facilities, evidence is provided that demonstrates the facilities are no longer financially viable.

5.9 A bingo hall is a Sui Generis (class of its own) in the use classes order. It is not regarded as a community facility in the 2021 iteration of the use classes order. A community facility would fall under class F2 (local community uses) or possibly F1 (learning & non-residential institutions which includes, for example, public halls and libraries). If the former use; bingo hall and car park, were considered facilities essential for the day to day needs of the community, in application of HW1 the third bullet point would apply. As set out in 5.7 above the former site operator declined to renew their lease because the venue was deemed unviable. The operator has closed multiple sites across the country on this basis due to a fall in attendance at venues (and associated revenue) and an increase in online demand.

Proposed use

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5.10 Fundamentally paragraph 11d of the NPPF applies. There is a presumption in favour of sustainable development. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when applying the policies within the NPPF. Other key sections in the NPPF, which determine the proposed development would be acceptable in principle, are Section 5. Delivering a sufficient supply of homes, 8. Promoting healthy and safe communities and 11. Making effective use of land. NPPF paragraph 38 states “decision-makers at every level should seek to approve applications for sustainable development where possible”.

5.11 NPPF Section 5 states that “to support the Government’s objective of significantly boosting the supply of homes (which includes student housing), it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.

5.12 The site is previously developed and in a sustainable urban location. The proposed re-use of the site in principle conforms with NPPF section 11, which requires planning decisions should:-

- Promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 119).
- Give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs (120).
- Local Planning Authority’s should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs (121).
- Take a positive approach to applications for alternative uses of land, where it is developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. (123).

5.13 Policy H7 Student Housing within the 2018 eLP carries limited weight in decision-making at this stage as the emerging plan is not adopted and the policy is subject to objections. The first point is also not currently consistent with the NPPF because the presumption in favour of sustainable development is engaged in York. It is against the NPPF policies that this proposal should principally be assessed. H7 states proposals for new student accommodation will be supported where:

- there is a proven need for student housing; and
- it is in an appropriate location for education institutions and accessible by sustainable transport modes; and
- development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area.

5.14 The amount of purpose built student accommodation (PBSA), operated by the university and other operators, including permissions yet to be implemented, would accommodate under 50% of students (in full time education). The data evidences need for PBSA. Taking into account NPPF policy on decision making (in paragraphs 11 and 38), the latter states Local planning authorities should approach decisions on proposed development in a positive and creative way and decision-makers at every level should seek to approve applications for sustainable development where possible, the application could not be resisted in principle on the basis of need.

5.15 Schemes for PBSA at Fawcett Street (21/01570/FULM) and Fulford Road (19/00603/FULM), within close proximity to this site, have recently been considered, with no objection on location grounds. The location is suitable for student accommodation, given the proximity to the city centre and York University. The site is in a sustainable location, literally just outside of the city centre, as shown in the 2018 eLP proposals maps.

5.16 The impact on nearby residents and the local area is appraised in the following sections regarding design and amenity.

Heritage Assets / Archaeology

Character and appearance of the conservation area

5.17 The site is outside of, but adjacent to, the Central Historic Core Conservation Area. The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character or appearance of designated Conservation Areas. Where there is found to be harm to the character or appearance of the Conservation Area, the statutory duty means that such harm should be afforded considerable importance and weight when carrying out the balancing exercise. The approach to determining planning applications, in terms of assessment on Heritage Assets, is set out in Section 16 of the NPPF.

5.18 The site is just outside of the Fishergate character area of the Central Historic Core Conservation Area. The conservation area was extended as part of the most recent appraisal, to include Fawcett Street and Fishergate. The character area appraisal overview states “the historic character of the area is fragmented by modern development and its ambience is compromised by high volumes of fast moving cars – it essentially operates as a traffic island. Despite these issues, the area should be incorporated within the Conservation Area as it forms an important entry point to the city and provides a setting for the city walls”. The ‘opportunities’ recommended for the area include more pedestrian crossing points on Fishergate.

5.19 The site as existing differs from the prevalent conservation area character along Fishergate, taking into account urban grain / townscape, building materials and local

vernacular. The proposed scheme will better address the street considering the form, proportion and materiality of the proposed buildings, which are of a comparable scale to neighbouring buildings, reference local vernacular in their use of front gables and use of red brick (two tones of red-multi brickwork is proposed). The layout will provide views into the two landscaped courtyards, reflecting the character of Fishergate House to the south. Consultation responses have referred to the front gable of the north wing and its undue close proximity to Fishergate. This concern has been addressed in the revised scheme (now proposed) and the front gable has been pushed back between 3.5m to 4m from the footpath. This allows for soft landscaping that will complement the planting in front of the site (within the highway) and Fishergate School opposite. There is no identified harm to the Central Historic Core Conservation Area (which is adjacent the site).

Setting of listed buildings

5.20 Fishergate Primary School, on the opposite side of the road is Grade II listed, as is Fishergate House to the south, and Ivy Cottage at 33 Fishergate to the north.

5.21 Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 advises that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall 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.

5.22 The listed buildings in the vicinity of the site are all within an urban inner city location. The proposed development will not affect how these buildings are appreciated in context and public views will not be affected. The scheme has a neutral effect on listed buildings.

Archaeology

5.18 The site is within the City Centre Area of Archaeological Importance. NPPF paragraph 194 states that “where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”.

5.19 Policy D6 of the 2018 eLP advises that proposals will be supported where harm to archaeological deposits is unavoidable, when detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

5.20 The applications have provided an adequate desk-based assessment, as required by the NPPF. York Archaeological Trust have also undertaken preliminary

site investigations, which are reported in the application and inform the proposed mitigation agreed with the Council's Archaeologist. The mitigation will be secured through condition and comprise stripping the site, to determine whether archaeology can be preserved in-situ, considering the foundation design, otherwise there will be excavation (a full excavation is expected). The mitigation, combined with the benefits of the proposed regeneration of the site, outweigh the impact on archaeology if excavation is required. The approach will be set out in an archaeological remains management plan. The plan will be required to set out a program of public engagement relating to the excavation. It may be possible to use the remaining structural elements of the Rialto Cinema as a public engagement tool. Publication of the findings, in particular how these relate to the excavations which have taken place on surrounding sites over the past 40 years, will then occur.

Design

5.21 NPPF paragraph 130 sets out design considerations. In addition paragraph 131 now emphasises the importance of trees in urban environments. Paragraph 130 advises developments should -

- a) function well and add to the overall quality of the area over the lifetime of the development;
- b) be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.22 In respect of design the application was previously deferred to give further consideration to servicing arrangements, public safety and accessibility

Servicing

5.23 The reception has been relocated to the south side of the site (adjacent the Blue Bridge Lane entrance) to accept deliveries. There is car parking immediately outside the entrance. Any deliveries or drop-off can take place on Blue Bridge Lane (parking is permitted for 1 hour between 8:00 and 18:00). Such activity could not be

accommodated on Fishergate without detriment to the existing pedestrian and cyclist facilities. This arrangement does not give rise to noise concerns. The entrance gate is some 12m from Fishergate and over 20m from the nearest dwellings. There also remains a site access onto Fishergate, which would be the most convenient access for residents go to/from the city centre via Fishergate.

5.24 Servicing/deliveries can utilise the existing car parking spaces on Blue Bridge Lane. Operationally such activity will occur throughout the day and not be in direct conflict with school drop-off / collection; a time when residents advise traffic causes congestion on the street, and difficulties for residents leaving Fishergate House. There is no evidence from other operational student developments that day to day servicing results in a high number of traffic movements that give rise to an unacceptable impact on highway safety, or residual cumulative impacts on the road network that would be severe, which is the test in NPPF paragraph 111. The applicants Transport Assessment predicts no more than 10 vehicle movements associated with parcel deliveries and servicing each day. The existing car park and servicing access to the site is via Blue Bridge Lane and William Court. It is a material consideration that traffic generation will be significantly lower when comparing the previous use of the site (and also the suggested alternative uses) to the proposed use.

Accessibility

5.25 The accessible rooms have been relocated to adjacent core 3, which is closest to the car parking spaces. There is now an entrance into the building adjacent the car parking. That access would be restricted to only those in the accessible rooms. The requirement to provide accessible rooms is controlled through building regulations. In this case Part M volume 2 (which includes measures relevant to student accommodation). This is separate legislation the development is required to comply with.

5.26 The scheme is NPPF compliant in respect of good design, in respect of its function, provision of amenities, appearance in respect of the local area and it introduces new tree planting, where servicing / drainage storage requirements allow.

5.27 The buildings layout and design has been influenced by the following factors –

- Entrance points located so the majority of activity; comings and goings of occupants is concentrated towards Fishergate.
- Communal uses on the wing of the building facing Fishergate to provide a more active frontage. This also enables a communal space looking onto the larger landscaped courtyard.
- Detailed pre-application discussions with the Council's Design and Conservation team have informed the buildings scale and form, which respects the areas prevalent character.

- Cycle storage has been re-organised so trees can be accommodated and landscaping is more prominent in the north courtyard, both in terms of resident's outlook and in views from Fishergate.
- The location, orientation and size of windows have all been carefully considered to avoid overlooking surrounding properties at William Court and Fishergate House.

5.28 The scheme includes a mix of studio rooms and cluster flats (the largest cluster has 13 bedrooms, although all but two of the clusters have fewer than 10 bedrooms). Given the mix of accommodation types, and the provision and variety of communal space for all residents at ground level and in the courtyard there is adequate amenities within the scheme. The internal communal facilities provide over 300 sq m floor space.

5.29 Fire strategy – a dry riser system is proposed to be installed in the cores (staircase areas) this allows fire-fighting to be undertaken within the building if required. On this basis tenders only need to gain access within 18m of each dry riser as set out in BS 9991 (fire safety in design). This provision is achieved in the proposed scheme.

5.30 The appearance of the scheme; the buildings and landscaping and how it respects the local area is set out in the section on Heritage Assets. The scale, form and materials of the building better respect the area compared to the site in its existing condition. The scheme is also beneficial in providing landscaped areas, which will be visible from Fishergate and Blue Bridge Lane.

5.31 The proposed condition related to site management will cover secure by design measures. In particular the presence of on-site security, access control and CCTV coverage of the cycle store areas.

Sustainable design

5.32 Local requirements for buildings in terms of addressing climate change are eLP 2018 policies CC1 and CC2, which seek to secure enhancements over the 2013 Building Regulations. New buildings are expected to have a dwelling emission rate (DER) that is a 28% improvement over the 2013 regulations.

5.33 A reduction of 28.22% over a baseline building has been estimated to be achievable, through incorporating combined heat and power (CHP), photovoltaics, a variable refrigerant flow (VRF) system for heating and cooling amenity spaces, and mechanical ventilation and heat recovery (MVHR). The local requirement can be secured through planning condition.

Biodiversity

5.34 The NPPF states decisions should contribute to and enhance the natural and local environment by minimising the impacts on, and providing net gains for biodiversity and recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

5.35 Net gain would be achieved as a consequence of the additional areas of soft landscaping proposed on-site. A condition is also proposed to provide habitats for bats and birds within the building fabric.

Neighbours amenity

5.36 Paragraph 130 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Para. 185a states planning decisions should *“mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”*

Sub-station

5.37 One of the deferral reasons previously was in relation to the sub-station. The building would have no unacceptable impact on neighbours living conditions for the reasons set out below -

Visual impact

- The sub-station building would be 3m from the boundary with William Court. It would be 2.8m to 3m high, with a sloping roof. A green roof is now proposed. The boundary fence to 25 William Court is some 1.8m high. Due to the separation distances involved and height of the proposed building it would not be over-bearing or over-dominant.

Noise

- The sub-station specific noise assessment provided sets out noise from each sub-station and the attenuation measures. It considers noise from all equipment in the sub-stations. British Standard BS 8233:2014 'Guidance on Sound Insulation & Noise Reduction for Buildings' recommends maximum LAeq (average) noise levels of 50dB in gardens and 30dB in bedrooms at night-time. The assessment concludes that noise levels from the sub-station would be 28dB in the garden of 25 William Court. This is a reasonable level, based on national standards, regardless of existing background noise levels. NPPF para. 185a is complied with; there would be no significant adverse impact. The applicants have confirmed louvres on the building can be located so not on the elevation facing the side boundary with William Court. This can be secured through condition.

Magnetic fields

The energy networks association advice on such is as follows – “*Small electricity distribution substations, typically one for every few hundred homes, generally produce up to 2 microteslas close to their perimeter fence or wall, and often no electric field at all. The fields fall rapidly with distance, and within 1 to 2 metres from a typical substation, the fields associated with it are usually indistinguishable from other fields present in homes. Larger electricity transmission substations do not produce very large fields themselves (generally less than a microtesla); the fields close by are mainly produced by power lines and cables entering them. There is no restriction on EMF grounds on how close houses can be to substations*”.

William Court

5.38 The rear of the north wing of the proposed building was moved further away from the west boundary in revised plans. The separation is 10.7m between the end elevation and the boundary with the rear garden of 25 William Court.

5.39 The separation between the proposed building and neighbouring rear garden is the same as that between the front elevation of 18 William Court and the rear garden to 19 William Court. The upper floor windows on the proposed building in this area have also been orientated so only a narrow section of the window (some 34cm wide) looks towards the neighbour’s garden. The section of the building opposite the side elevation of 25 is closer, around 9.5m from the boundary. There are only two small secondary windows in the side elevation on no.25. The neighbour is an end of terrace house; the main windows are to the front and rear. As the scale of buildings would not be significantly different (the ridge of the proposed building is just under 1m taller than the neighbour), the separation distances comparable to elsewhere on William Court, and given the window design, the proposed development, reflects local conditions and would not be unduly overbearing or over-dominant.

5.40 At the south end of the site windows on the proposed building are also orientated to look away from rear gardens and towards either the side elevation of buildings or more public streets and spaces. The proposed building will be setback from the footpath edge, behind a strip of landscaping. The ridge level of the proposed front gables are under 1m higher than the ridge levels of housing at William Court. There would not be undue overlooking. In terms of building scale and proximity there is not a material difference, to the extent that amenity is affected, between the existing and proposed buildings on-site.

Fishergate House

5.41 The building footprint is predominantly set away from Blue Bridge Lane as the main courtyard garden is on the south side of the site. The proposed building is far less oppressive compared to the existing. There are only two ends of the east and west wings that extend to the boundary. The primary windows on these wings look east / west and not towards Fishergate House. Only at the south-east corner is there a living room with a large south facing window. The windows architecturally help address what is a prominent corner. They would overlook a shared communal space

but have no adverse amenity effect on the dwelling to the south which is some 25m away.

Fewster way

5.42 The north wing of the building will be approximately 21m from the side elevation and garden of the nearest house at Fewster Way. This is reasonable in respect of amenity.

Building services noise

5.43 The plant room enclosures will be capable of attenuating any plant noise. This will be covered through condition. Separation distances between sub-stations and residential accommodation are recommended to be 3m and this is achieved.

5.44 A condition is recommended regarding on-site management and operation of the development in respect of avoiding noise disturbance.

Highway safety and sustainable travel

5.45 The NPPF states that in assessing applications it should be ensured that:

- Opportunities to promote sustainable transport included where appropriate.
- Safe and suitable access to the site can be achieved for all users.
- Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.46 The NPPF states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.47 Given the type of development proposed, and its location, an essentially car free development accords with the NPPF policies and objectives. It is also consistent with the approach taken at other city centre sites with purpose built student accommodation, which have successfully integrated into the locality. Car parking provision (5 spaces) is for accessible parking and to accommodate a space for the car share / car club only. There will be an electric vehicle charging facility also.

Travel Plan

5.48 A full travel plan, prepared in accordance with national guidance, setting ongoing monitoring / targets will be required through condition. The purpose of the travel plan will be to encourage sustainable travel. A contribution has been agreed for the Council to provide input to the Travel Plan over its lifetime and ensure it is appropriate in respect of targets, monitoring, and implementation.

Cycle storage

5.49 The cycle facilities are shown on drawing 2101-GWP-01-00-DR-A-(PA)-0055_PA15. Provision is around 61%, with 5% for over-sized cycles, plus 14 visitor spaces. The amount is adequate, based on monitoring of cycle provision use at other in-use student developments. One of the stores can now be accessed directly from William Court and there would be 20 spaces in the south courtyard with access via Blue Bridge Lane. The type of storage proposed is acceptable, and is all set out to manufacturer's recommendations; there is space on site for extra provision if needed.

Waste collection

5.50 The waste collection point and access for servicing / maintenance has been tracked to show appropriate vehicles can access. It is acceptable on highway safety grounds.

Drop-offs

5.51 Space for drop-offs (for example taxis) is provided for on Blue Bridge Lane under existing highways arrangements. The main access and reception is now on the Blue Bridge side of the site.

Car parking

5.52 There are other purpose built student accommodation schemes of a similar location and scale to as proposed which have been in operation for some time now. There is no compelling evidence that these have an adverse effect on the highway network. A condition is however proposed that through the operator students are made aware they cannot bring cars to site and there will be measures to be agreed in respect of addressing any safety issues of students parking in surrounding streets that may arise.

Fishergate

5.53 The developer will fund amendments to existing restrictions in front of the site on Fishergate to ensure no stopping / waiting at any time. This is considered necessary in the interests of all users of the highway.

Construction management

5.54 The construction management plan provided advises that measures will be in place during construction so delivery vehicles will not attend site between the hours of 8.15am-9am or 14:45- 16:00, to avoid the beginning and end of the school day.

Beginning / end of term

5.55 For the beginning and end of term arrangements a management plan has been issued. The plan confirms marshals will be employed to supervise the locality on moving days, which will be phased over two weekends. Students will need to book a 20 minute moving in slot (therefore using the 5 spaces on site 15 arrivals per hour could be accommodated).

Public protection

5.56 Section 15 of the NPPF, regarding the natural environment advises that planning decisions should contribute to the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution. Paragraph 186 states opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.

Land contamination

5.57 Standard conditions are proposed for a site investigation, to inform a remediation strategy and for evidence the remediation has been successful.

Noise

5.58 A noise impact assessment has been undertaken to inform local noise conditions. This provides comfort that by design future residents will experience reasonable noise levels. Conditions are proposed to secure such construction and also that plant / machinery (including the sub-stations) will not have an adverse effect on neighbours. Refer to section on resident's amenity for further commentary on the sub-station.

Construction management

5.59 A construction management plan (CEMP) has been submitted and is considered broadly acceptable by Public Protection. Officers have asked only for an update in terms of the air quality measures within the scheme, to reflect the impacts and mitigation identified in the applications air quality assessment. This can be dealt with, through an update to the CEMP prior to determination of the application alternatively through condition.

EV parking

5.60 A condition is recommended to require electric vehicle charging points in accordance with the Council's Low Emission Strategy.

Air quality

5.61 The application is supported with a technical air quality assessment, it has been reviewed by the Council's Public Protection Team and deemed acceptable. The assessment determines impacts during the construction phase, mitigation is recommended and will be secured through planning condition. Operational impacts has been determined as negligible / not significant. Further to the assessment there are benefits as a consequence of the scheme. There are currently 128 car parking spaces on site. This would be reduced to 5 parking spaces, which will include electric vehicle charging points and a space for a car club vehicle. The site is currently all developed significantly, with buildings or hard-standing for parking. The amount of soft landscaping and number of trees on-site will increase.

Drainage and flood risk

5.62 The NPPF in paragraph 167 establishes that when determining any planning applications, flood risk elsewhere should not be increased and sustainable drainage systems be incorporated, unless there is clear evidence that this would be inappropriate. The local approach following the NPPF, in policy ENV5, is that existing surface water rates are evidenced and reduced by 30%. It also applies the sustainable drainage hierarchy.

5.63 Following the sustainable drainage hierarchy connection into the sewer is proposed. Site investigation has determined that soakaways would not perform adequately and direct connection into a watercourse is not achievable. The run-off rate proposed, and agreed with Yorkshire Water, is 27.5 litres / sec. The run-off rate would exceed the local requirement in ENV5; it would reduce the existing run-off rate by over 30%.

5.64 The site is outside of Flood Zones 2 and 3. The development is therefore appropriate in terms of flood risk and NPPF paragraph 159 which seeks to direct development away from areas at the highest risk (of flooding).

6.0 CONCLUSION

6.1 The NPPF establishes the need to take a positive approach to decision-making and the significant weight given to economic growth. Having regard to the statutory duties in sections 66 and 72 of Listed Buildings and Conservation Areas Act, the development would not harm the setting of any designated heritage assets. Archaeological interests can be appropriately maintained through recording. There are no policies in the NPPF that protect assets of particular importance which provide a clear reason for refusing the development in this instance. Therefore the presumption in favour of development applies in this case; that, as stated in NPPF Paragraph 11d, planning 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 NPPF taken as a whole.

6.2 The bingo hall closed as it was unviable and the operator declined to renew their lease. Officer's advice is the permanent loss of the facility does not outweigh the benefits of the proposed use. There is demonstrable need for the proposed development; which must be given substantial weight in decision-making as stated in NPPF paragraph 120 and decisions must be made in accordance with the presumption in favour of sustainable development in NPPF paragraph 11d.

6.3 The scheme is considered an improvement over the existing site in terms of how it respects local character. There would be no undue effect on neighbours' amenity

and adequate amenities for future occupants. Technical matters can be addressed, to achieve policy compliance, through conditions in respect of sustainable design and construction, biodiversity, drainage, archaeology, the highway network and ground conditions and pollution.

6.4 Consequently, applying NPPF paragraph 11d, it is considered that there are no adverse impacts which significantly or demonstrably outweigh the benefits of the proposal, when assessed against the policies in the NPPF as a whole. It is therefore concluded that the proposal represents sustainable development and that permission should be granted in accordance with the presumption in favour of sustainable development.

6.5 Approval is recommended subject to conditions and a Section 106 agreement for the following –

- Traffic Regulation Orders (£6,000) to provide for - amending existing waiting restrictions on Fishergate to 'No waiting and no Loading at any time'.
- Travel Plan support (£25,000 (£5,000 per year)) – for the Council to provide input and ensure the travel plan is implemented reasonably over a 5-year period following occupation.

7.0 RECOMMENDATION: Approve subject to conditions and a Section 106 agreement for the following –

- Traffic Regulation Orders (£6,000)
- Travel Plan support (£25,000)

1 TIME2 Development start within three years

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

Drawings 451 2101 GWP-

Location Plan

01 XX DR A PA 0001 PA02

Demolition Plan

01 XX DR A PA 0003 PA02

Site Plan

01 XX DR A PA 0010 PA16

Floor Plans

01 00 DR A PA - 0012 PA17, 0013 PA12, 0014 PA12, 0015 PA14, 0016 PA14

Elevations

01 XX DR A PA - 0020 PA13, 0021 PA13, 0022, PA10, 0023 PA10, 0024 PA10

Sections

01 XX DR A PA - 0031 PA06, 0032 PA06

Details

01 XX DR A PA - 0040 PA04, 0041 PA06, 0042 PA04, 0043 PA04

Sub-station

01 00 DR A PA 0050 PA10

Cycle provision

01 00 DR A PA 0055 PA15

Landscaping proposals by encon drawing A5102 01 rev J

Tree Protection Plan DR-5473-02 by Brooks Ecological (contained in Arboricultural Impact Assessment)

Construction management plan

Waste management strategy by Curtins revision V03.

Student Traffic Management Plan 078912-CUR-00-XX-RP-TP-004-V04_TS revision V04

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

- 3 HWAY40 Dilapidation survey
- 4 NOISE7 Restricted hours of construction
- 5 Construction Management

The construction of the development hereby permitted shall be carried out in full adherence with the construction management plan revision A dated 19.5.2021.

Reason: To minimise the impact on residential amenity and the highway network

during construction, in accordance with NPPF paragraphs 110, 130 and 185.

6 Archaeology

A programme of post-determination archaeological mitigation initially an archaeological strip of the site followed by a level of excavation is required.

- a) No intrusive investigation or development shall commence until an Archaeological Remains Management Plan (ARMP) has been submitted to and approved by the local planning authority in writing. For land that is included within the ARMP, no intrusive investigation or development shall take place other than in accordance with the agreed ARMP.
- b) The initial site investigation shall be completed in accordance with the programme set out in the ARMP approved under (A). The ARMP will be updated accordingly with a full mitigation strategy.
- c) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the approved ARMP and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the ARMP.
- d) A copy of a report and evidence of publication shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

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

7 Drainage - existing infrastructure

No development shall commence until measures to protect the public sewerage and water supply infrastructure that is laid within/adjacent to the site boundary have been implemented in accordance with details that have been submitted to and approved by the Local Planning Authority (in consultation with the statutory undertaker).

The details shall include -

- The means of ensuring that access to the pipe(s) for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.
- If the required stand-off or protection measures are to be achieved via diversion or closure of the sewer(s) or water main(s), the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the

approved works have been undertaken.

Reason: Required prior to commencement in the interests of public health and maintaining the public sewerage and public water networks (maintained by Yorkshire Water), in accordance with sections 12 and 15 of the NPPF.

8 On-site drainage

The site shall be developed in accordance with the drainage strategy as detailed in the Tier Consult report dated May 2021. Surface water will discharge via storage with a restricted discharge of 27.5 (twenty seven point five) litres per second.

Prior to development (excluding demolition) full details of the site drainage shall have been submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved details.

Details shall include -

- Consideration must be given to the use of soakaways. Discharge to the public sewer shall only be permitted if it can be evidenced soakaways are unsuitable (through an appropriate assessment carried out under BRE Digest 365).
- Storage volume calculations, using computer modelling, which must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.
- Existing and proposed ground levels.
- Future management and maintenance of the proposed drainage scheme.

Reason: In the interests of preventing increased flood risk, as required under NPPF section 15, policy ENV5 of the 2018 eLP and the City of York Council Sustainable Drainage Systems Guidance for Developers.

9 Land contamination - site investigation

Prior to development (excluding demolition) an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons. A written report of the findings shall be produced, submitted to and 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 shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

10 Land contamination - remediation

Prior to development (excluding demolition), 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 submitted to and approved in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall 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.

11 LC3 Land contamination - remedial works

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

Reason: To ensure that risks from land contamination to the future users of the land

and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

12 LC4 Land contamination - unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

13 Sustainable design and construction

Prior to commencement of construction of the development details of the proposed building design, to reduce carbon emissions, shall be submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

The details shall evidence either a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations 2013 or compliance with any approved Part L document dated 2021 or thereafter.

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

14 Materials

Manufacturer's details 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 construction of the development. They shall be made available for review on-site, at the discretion of the Local Planning Authority. The development shall be carried out using the approved materials.

Sample panels of the brickwork to be used shall be erected on the site and shall

illustrate the colour, texture and bonding of brickwork/ stonework 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 within that phase. These panels 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 good design, in accordance with section 12 of the NPPF.

15 Large scale details

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 of the development and the works shall be carried out in accordance with the approved details.

- a) Typical sections at 1:20 or 1:10
- b) Boundary treatment
- c) Cover to external cycle store

Reason: In the interests of good design, in accordance with section 12 of the NPPF.

16 Noise

Prior to commencement of construction of the development a detailed scheme of noise insulation measures for protecting the approved student accommodation rooms from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

The scheme shall demonstrate that the building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework paragraph 130.

17 Landscaping scheme

Prior to first occupation of the development hereby permitted the approved

landscaping scheme, as shown on drawing Landscaping proposals by encon drawing A5102 01 rev J, and on the approved sub-station and site plan drawings shall have been fully completed.

Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority. The areas of landscaping, as shown on the approved plans, shall be maintained as such at all times.

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 amenity, good design and the character and appearance of the conservation area.

18 Bat habitat

Prior to first occupation or use of the development four integrated features providing roosting facilities for bats shall be constructed within the fabric of the new building, and four boxes for nesting birds.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF.

19 Provision of servicing areas, cycle storage and making good of the highway

Prior to first occupation of the development hereby permitted the areas shown on the approved plans for parking and manoeuvring of vehicles and cycle parking facilities shall have been constructed and laid out in accordance with the approved plans, and all existing vehicular crossings not shown as being retained on the approved plans shall have been removed by reinstating the kerb; to match adjacent levels. Thereafter all such servicing areas shall be retained solely for such purposes.

Reason: In the interests of highway safety and good design, in accordance with sections 9 and 12 of the NPPF.

20 Plant and machinery

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00, measured at the site boundary with any neighbouring dwelling, when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

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

of the area, in accordance with the National Planning Policy Framework paragraph 130.

21 Electric vehicle charging facilities

Prior to first occupation of the development hereby permitted a minimum of 1 Electric Vehicle Recharging Point shall be provided on site which is accessible from the approved car parking spaces. The charging point shall incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle.

In addition, a minimum of 1 additional parking bay shall be identified for the future installation of additional Electric Vehicle Charging Point. This additional bay shall be provided with all necessary ducting, cabling and groundwork to facilitate the addition of Electric Vehicle Charge Points in the future, if required (passive provision).

The Electric Vehicle facilities shall be retained thereafter and reasonably maintained at all times and be available for the charging of electric vehicles.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and NPPF paragraph 112.

22 Site security

Prior to first occupation of the development hereby permitted a scheme detailing site security measures shall be submitted to and approved by the Local Planning Authority. The development shall operate in accordance with the approved details. The scheme shall detail -

- Access control measures at the site and into cores within the building.
- CCTV coverage for the cycle stores
- Access restriction measures to ground floor windows

Reason: In the interests of good design, in accordance with NPPF section 12.

23 Site and student management plan

Prior to first occupation of the development hereby permitted a site and student management plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times be managed and occupied in full accordance with the approved site and student management plan. The plan shall include the following details -

- Measures to prohibit student parking on or in the vicinity of the Site (save for temporary parking arrangements in accordance with the move-in procedure).
- Imposition of tenancy restrictions to prevent student tenants being a keeper of or

in control of a car within 400m of the Site and measures taken to enforce such restriction, including annual parking surveys in the surrounding area.

- Maintenance of servicing and waste collection facilities.
- Provision of staff on-site.
- Strategy for dealing with any complaints from the public.
- Measures to ensure on-site staff will monitor excessive noise and raise issues with residents.
- That the student tenancy agreements include clauses relating to anti-social behaviour.

Reason: In the interests of the amenity of local residents and highway safety, in accordance with NPPF sections 110 and 130.

24 Travel Plan

Within six months of first occupation of the development hereby permitted a Full Travel Plan, prepared by the site operator shall be submitted to the Local Planning Authority for approval in writing. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan as approved.

The plan shall adhere to National Planning Policy Guidance, in providing objectives, monitoring and meeting the identified objectives. It shall include details of the Travel Plan co-ordinator and details for monitoring cycle usage and providing extra facilities subject to demand. Results of annual travel surveys shall be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

25 Student accommodation only

The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City. The operator of the development shall keep an up to date register of the name of each person in occupation of the development together with course(s) or conference(s) attended, and shall make the register available for inspection by the local planning authority on demand at all reasonable times.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, in accordance with Policy H7 of the 2018 Publication Draft Plan.

26 Use of car parking spaces

The parking spaces within the site shall only be used for the following activities -

- Charging of electric vehicles
- Accessible parking
- As a space for use by city car club vehicles (or similar car share arrangement)
- Any temporary parking required in association with the servicing or maintenance of the development hereby permitted, or at the beginning/end of term time, as specified in the Student Traffic Management Plan (as referred to in condition 2).

Reason: In the interests of promoting sustainable travel and accessibility.

27 Communal uses

The development hereby permitted shall include the whole of the amenity space and facilities for occupants, in accordance with the approved floor plans, and retain them as such at all times.

Reason: In the interests of good design and amenity.

28 No gate, door or other opening shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

29 Sub-station

The sub-station(s) hereby permitted shall be spaced at least 3 metres from the side boundary shared with 25 William Court, as shown on Sub-station drawing 01 00 DR A PA 0050 PA10. There shall be no louvres on the west elevation of the sub-station.

The combined noise level of the sub-station buildings and all associated plant shall not exceed 28dB(A) when measures at the site boundary with William Court (as defined in the Substation noise assessment dated 17.12.2021)

Reason: In the interests of neighbours amenity, in accordance with NPPF paragraph 130.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH
In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38)

in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: sought amended plans to address issues regarding design and through the use of planning conditions.

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:

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

Contact details:

Case Officer: Jonathan Kenyon

Tel No: 01904 551323