

COMMITTEE REPORT

Committee: Planning Committee
Date: 28 September 2006

Ward: Fishergate
Parish: Fishergate Planning Panel

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

1.0 PROPOSAL

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

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

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

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

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

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

Floodzone 2 Flood Zone 2 CONF

Schools Multiple (Spatial)

2.2 Policies:

3.0 CONSULTATIONS

3.1 INTERNAL.

3.2 Highway Network Management.

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

3.3 City Development.

No comments to make.

3.4 EPU.

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

3.5 Urban Design and Conservation.

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

3.6 Community Services.

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

3.7 EXTERNAL.

3.8 Fishergate Planning Panel.

Object strongly on following grounds.

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

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

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

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

3.9 Sport England.

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

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

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

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

3.10 York Civic Trust.

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

3.11 English Heritage.

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

3.12 York Georgian Society.

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

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

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

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

3.13 Environment Agency.

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

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

3.14 Third Parties.

12 letters of objection received making the following observations.

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

4.0 APPRAISAL

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

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

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

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

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

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

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

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

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

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

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

5.0 CONCLUSION

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

6.0 RECOMMENDATION: Approve following Sec of State Decision

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

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

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

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

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

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

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development

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

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

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

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

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

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

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

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

Reason: So as to achieve a visually cohesive appearance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of highway safety.

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

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

- 17 Prior to **the commencement of each phase of the development** starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the LPA.

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

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

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

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

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

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

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

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

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

Reason: To protect the amenity of local residents.

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

Reason. To protect the amenity of local residents.

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

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

Reason: To protect the amenity of future residents.

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

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

Reason: To protect the amenity of local residents.

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

Reason: To protect the amenity of local residents.

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

Reason: To protect the amenity of local residents.

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

Reason: To protect the amenity of future and adjacent residents

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

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

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

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

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

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

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

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

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

Reason: To prevent obstruction to other highway users.

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

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

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

Reason: In the interests of road safety.

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

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

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

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

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

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

Reason: In the interests of road safety.

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

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

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

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

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

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

Reason - in the interests of highway safety.

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

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

7.0 INFORMATIVES: Notes to Applicant

1. 1. REASON FOR APPROVAL

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

2. 2. INFORMATIVE:

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

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

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

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

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

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

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

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

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

f) There shall be no bonfires on the site.

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

Contact details:

Author: Matthew Parkinson Development Control Officer
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