

## COMMITTEE REPORT

**Date:** 19 January 2017      **Ward:** Micklegate  
**Team:** Major and      **Parish:** Micklegate Planning  
Commercial Team      Panel

**Reference:** 16/01976/FULM  
**Application at:** Aviva Yorkshire House 2 Rougier Street York YO1 6HZ  
**For:** Change of use from offices (use class B1) to 124no. bed hotel and 33no. serviced suites/apartments (use class C1) and six storey extension to rear/southwest  
**By:** Yorkshire House Development One Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 27 January 2017  
**Recommendation:** Subject to the receipt of acceptable elevational amendments to the proposed extension and a scheme of highway improvements, Delegated Authority be given to the Assistant Director of Planning and Public Protection to approve the application subject to appropriate conditions.

### 1.0 PROPOSAL

1.1 Planning permission is sought for the change of use of the existing building from an office use to a hotel use including 124 bedrooms and 33 serviced apartments. The proposal would also include a 6 storey extension to south west/rear elevation. Vehicle parking spaces (37) would be provided (23 at lower ground floor level/basement and 14 at upper ground floor level). The recessed stone panels at the upper ground floor in the north eastern elevation would be replaced by windows. In the southern east elevation a recessed panel would be replaced by glazing and a door within a raised platform to create an outside seating area for a potential coffee shop.

1.2 The building ceased being used by Aviva in early 2016.

1.3 The site is within the Central Historic Core Conservation Area it is within an Area of Archaeological Importance. The Grand Hotel to the south west and south is Grade II\* listed, and at the time of writing a number of extension of the Grand were being constructed. To the north east 15, 16, and 17 Rougier Street are Grade II listed. In the wider area there are a significant number of listed buildings. The city walls - an ancient scheduled monument lies to the north and north-west of the site.

1.4 The site is within Flood Zone 3

1.5 Revised plans have been submitted removing a storey from the extension and removing a roof extension. Further information was submitted regarding economic viability has been submitted during the application process. By virtue of revised

scheme being submitted the application has been subject of 3 separate periods of consultation. The last consultation period was due to expire end 11.01.2017.

## **2.0 POLICY CONTEXT**

### 2.1 2005 Draft Development Plan Allocation:

- Areas of Archaeological Interest GMS Constraints: City Centre Area 0006
- Conservation Area GMS Constraints: Central Historic Core CONF
- City Boundary GMS Constraints: York City Boundary 0001
- Floodzone 2 Floodzone 2
- Floodzone 3 Floodzone 3
- York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies: Please see the Appraisal Section (4.0) for national and local policy context.

## **3.0 CONSULTATIONS**

### INTERNAL CONSULTATIONS

#### Highway Network Management

3.1 Raises concerns regarding the servicing of this as a hotel. Frequent deliveries will be taken from the private access road off Rougier Street. The access is close to a bus interchange attracting many pedestrian movements. Unlike the adjacent hotel using the access already, no turning is provided off highway for wagons as part of this application. This will lead to vehicle/ pedestrian conflicts across the entrance due to reversing manoeuvres. Therefore request pedestrian improvements to the highway crossing the entrance, giving better visibility and protection for pedestrians. A pedestrian build out into the entrance will allow visibility for pedestrians and will still allow vehicles one-way movements in and out of the access.

3.2 Should the applicant agree to providing this improvement, would require this to be reflected in resubmitted plans. Condition the improvements under Grampian condition and facilitate it under either a section 62 or 184 of the HWA.

#### Planning and Environmental Management (Conservation)

3.3 The revised height of the side extension as shown on section drawing 4043/PL/022 as 35.23m. The Grand is shown on this section as having an eaves level of 33.09m.

3.4 The roof forms of The Grand elevation facing the proposed side extension vary depending on the geometry of gables and eaves but the general starting point for a

roof form is taken here as 33.09m. As this stands the proposed side extension sits above the start of some roof form and this is assessed as causing a degree of harm to the setting of The Grand at the bottom end of the scale of "less than substantial".

3.5 If an additional floor was removed from the side extension then the side extension would be perceived as below any part of the roof forms of The Grand and assessed as causing no harm.

3.6 The modelling of the elevation on the revised plans and new dimensioned part plan section is tokenistic. The proposals should demonstrate a more pronounced level of modelling.

### Planning and Environmental Management (Archaeology)

3.7 This site lies within the Central Area of Archaeological Importance in the former area of the Roman civil settlement (Colonia). In addition, it lies within the Central Historic Core Conservation Area and faces the Scheduled City Wall and Grade II\* listed Grand Hotel.

3.8 Archaeological excavations in the 1980s in advance of the construction of Roman House (adjacent) revealed up to 7m of archaeological deposits including evidence of Roman timber and masonry buildings. Excavations in the adjacent hotel in 2009 recorded medieval structural remains at c.11m AOD. These excavations revealed that there was a steeper slope towards the river during the medieval period. An archaeological evaluation was also carried out on the site. This revealed Roman structural remains including degraded concrete and mortar floors at a height of 7.5-8 AOD. The Roman structural sequence was truncated by shallow pits containing medieval pottery, sealed by medieval dumps and 19th century demolition material. Most recently (2016) an archaeological desk-based assessment has been produced by On-site Archaeology.

3.9 The current proposal includes the erection of an extension on top of the current basement car park. Levels will need to be reduced with pile foundations being inserted in the car park area. The 2009 evaluation has confirmed the presence of archaeological remains beneath this building that will be adversely affected by this development. Therefore, an archaeological excavation is required in the areas of the proposed supports to the depths required for the construction of the extension. An excavation beneath the generator room will be required post demolition.

3.10 The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. The information supplied by the applicant demonstrates that the site has the potential to preserve undesignated heritage assets of national importance. In present, these deposits will lie below the formation levels for the foundations (ground beams, pile-caps) for the development. There will be limited disturbance to these deposits caused by piling through the deposits below the formation levels for

the development. This disturbance is less than the 5% that is allowed by policy HE10 (Draft 'Local Plan' - incorporating the 4th set of changes (April 2005), and is therefore acceptable. The development as described in the application will impact on archaeological deposits currently preserved above the proposed formation levels for the development. The information supplied by the applicant demonstrates that these deposits are undesignated heritage assets that are not of national importance. These deposits must therefore be recorded prior to destruction.

3.11 Request a condition setting out the archaeological measures that must be put in place to ensure an adequate record of these deposits is made.

### Flood Risk Management Team

3.12 No comments received.

### Public Protection

3.13 The Noise report shows that during the night time period internal noise levels on all levels of the existing property would comply with the requirements for internal noise levels in dwellings. The results indicate that the existing property would be likely to comply with the requirements for internal noise levels in dwellings during the day time period on all levels of the property too, with any current exceedances of up to 2dB of the standard being likely to reduce due to internal absorption from soft furnishings provided in the property.

3.14 In terms of the proposed rear extension existing day time levels show an Leq of 62.5dB(A). Given the BS8233 internal design criteria of 35dB(A) then satisfied that internal noise levels will comply with this standard with suitable glazing and treated ventilation vents (if provided). During the night time also satisfied that the measured level of 55.6dB(A) external would be easily reduced to the BS8233 internal design criteria of 30dB(A).

3.15 One concern relates to the maximum noise levels occurring during the night time period, where Lmax levels of up to 52.8 dB(A) were recorded internally and 81.8 dB(A) externally. Given the proposed use of the building for primarily hotel and serviced apartments, on the facades most affected, satisfied that noise need is not an issue which would prevent the development proceeding. However given concerns over the potential number of occurrences during the night time period when the internal noise levels are likely to exceed 45.0dB(A) request a condition to ensure that internal levels comply with the requirements of BS8233:2014.

3.16 City of York Council's Public Protection team undertake monitoring of nitrogen dioxide at a number of locations in the vicinity of the site, the closest sites being directly opposite the proposed development on Rougier Street. This monitoring is currently showing that although levels of nitrogen dioxide are breaching the annual mean objective, they are not indicating breaches of the hourly mean objective. As

such, Public Protection do not have concerns with respect to the hotel element of the scheme.

3.17 With respect to the residential apartments proposed for roof level and serviced suites to the fifth and sixth floors, whilst these would be considered relevant locations in terms of the annual mean nitrogen dioxide objective, it is not considered that any air quality mitigation would be required due to the elevated position away from the roadside. It is generally acknowledged that concentrations of NO<sub>2</sub> decrease with height above street level. The upper floors of buildings are typically affected by lower pollution levels than ground floor.

3.18 Request the following as conditions: a Construction and Management Plan, Hours of construction and demolition, details of external plant and equipment, hours of delivery, adequate facilities for the treatment and extraction of cooking odours, electric vehicle recharging point, and the Reporting of Unexpected Contamination

### Public Realm

3.19 No comments received

### Planning and Environmental Management (Forward Planning )

3.20 States Policy E3b (Existing and Proposed Employment Sites) Of the Development Control Local Plan (2005) seeks to resist the loss of existing employment sites and retain them within their current use class. In order to determine if there is a sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in quantitative and qualitative terms, evidence that the site has been marketed (for at least 6 months) should be sought. In addition either point b), c) or d) of policy must be met.

3.21 Policy EC3 (Loss of Employment Land) of the emerging Local Plan continues the approach to existing employment land set out under E3b in the Draft Local Plan. The council will expect developers to provide a statement to the satisfaction of the Council demonstrating that the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and the proposal would not lead to the loss of a deliverable employment site that that is necessary to meet employment needs during the plan period. An analysis of the office market shows a major challenge for the City - that of the undersupply of grade A office accommodation both in the city centre and peripheral locations, which acts as a constraint on inward investment. Recent analysis that has accompanied planning applications points to the oversupply of B grade office accommodation in the city, with a number of prior notifications for ORC received in such cases.

3.22 The Employment Land Review (July, 2015) describes the criteria used to assess employment sites, in determining a preferred list for the emerging Local

Plan. These criteria reflect previous economic appraisals (best practice) and local economic knowledge. The proximity to York's railway station is noted as of particular importance for high value sectors in York where regular, reliable links to London are available.

3.23 The Council expect the applicant to provide evidence of effective marketing the site/premises for employment uses for a reasonable period of time. Where an applicant is seeking to prove a site is no longer appropriate for employment use because of business operations, and/or condition, the council will expect the applicant to provide an objective assessment of the shortcomings of the land/premises that demonstrates why it is no longer appropriate for employment use. This includes employment generating uses outside the B use classes. The applicant has included such information in the submitted Planning Statement, which concludes that whilst the site has not been actively marketed since its acquisition from Aviva, undertaking an upgrade of the current 'B' grade office space would be economically unviable, and its loss as 'B' grade office space would not harm the economic wellbeing of York. The applicant has submitted supplementary costings to demonstrate why the creation of Grade A offices would be economically unviable - these should be tested by EDU colleagues to determine whether the assumptions and conclusions are accurate.

3.24 In the emerging Local Plan (Preferred Sites 2016) only York Central in the city centre has been identified as a means of providing additional B1 office space, a development of 80,000sqm office led commercial space (B1a). This is set against an overall land requirement of 71,000sqm for B1a use over the Plan period. The emerging Plan proposes no change to the existing use of Aviva House, which it assumes would be retained in its current employment use. The site has an important role, and the potential of such an accessible, prominent site as part of the City's employment land supply, particularly in the context of need and locational criteria identified by the ELR (July, 2015). There are benefits of a high quality hotel locating in the City; however the loss of office space would be to the detriment of York's employment land supply.

### Education Planning

3.25 No education payment required (13 apartments in the original submission no longer proposed)

### Housing Services

3.26 No affordable housing requirement generated by the hotel and serviced apartment use.

### Economic Development Unit

3.27 States the fact rendering the building unprofitable for office use is that any valuation must be considered on the basis of residential value because of permitted development rights (PDR), so the value of purchase (and therefore the rental income required from office space) is considerably more than were residential use not an option. As stated, 'if an office developer were to make an offer below the residential value then quite clearly they would be unsuccessful - and outbid by a residential developer'.

3.28 The assumptions in the assessment around rental yields, initial void periods and net capitalisation seem fair.

3.29 There is no suggestion from the developer or the assessment that there is lack of demand for office space, nor that strong rental yields could be achieved; only that once purchase at a value which is competitive to residential development, and rental yields are factored in, there is minimal capital available to actually convert the building to grade A offices. This assessment is in keeping with wider evidence and independent property studies, that there is indeed demand for city centre grade A office space and at strong rental yields, but that residential (or other commercial) uses are considerably more profitable, so that in locations in York where there is residential demand and permitted development rights apply, it is difficult for office development (especially where conversion to higher quality specification is required) to compete commercially and therefore be viable from a developer perspective.

3.30 From an economic policy perspective and in relation to city outcomes around wages and high value jobs, office space would still be the preferred use for Yorkshire House, and were it not for permitted development rights, this position may be able to be upheld through planning policy. However, given the viability assessment and the evidence provided, it would be difficult to oppose change away from office which in competition with residential property values and current market conditions has been shown to be insufficiently profitable and therefore unviable from a developer perspective.

## EXTERNAL CONSULTATIONS/REPRESENTATIONS

### Micklegate Planning Panel

3.31 No comments received.

### Environment Agency

3.32 Raises no objections, if development is completed in accordance with the submitted flood risk assessment, with all residential accommodation at first floor level and above. National planning policy states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment. In all circumstances where warning and emergency response is fundamental to managing flood risk,

advise LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

### Yorkshire Water

3.33 No comments received.

### 20th Century Society

3.34 No comments received.

### Historic England (comments to previous scheme)

3.35 Support the application; Historic England is content in principle with the conversion of this building to a hotel and serviced apartments. The revised siting of the extension back within the courtyard so that it is less prominent in views from the City Wall and from the other vantage points. The applicant has provided visualisations from Clifford's Tower and from the tower of York Minster. The roof top extension provides a less cluttered roof line and is an improvement upon the current appearance in these views. From Clifford's Tower the courtyard extension will be visible but Yorkshire House occupies the middle ground in this view and considers the extension will not be excessively dominant. Considers that the proposal now sustains the significance of the conservation area and the heritage assets within the setting of which it lies. Consider it represents an improvement upon the current situation in providing a tidier roof profile than the present cluttered appearance. Therefore consider it sustains and enhances the significance of the above heritage assets, in accordance with paragraph 131 of the National Planning Policy Framework (NPPF)

3.36 Requests that a condition to be applied which ensures that the top of this building remains free from further aeriels or other additional structures in the future.

### Make It York

3.37 Supports the application. Should the hotel proposal be turned down, then the property is likely to end up as flats. Believe that the addition of a high quality hotel is a better proposition for the city. Tourism is a vital part of the York economy and the city need to add strong brands to the offering if the city is to compete with the growing competition from other Northern cities.

3.38 Despite the addition of new hotel rooms in the last few years, room rate occupancy remains high and above the average of other cities. The proposed brand is a strong one and welcome addition to the city's tourism offer. The proposed development would improve the appearance of this part of the city, creating a cluster of quality hotels close to the station. Make it York want to see Grade A office



accommodation in the city and high quality hotels and tourist attractions, the proposed development fulfils one of these requirements.

#### Police Architectural Liaison Officer (PALO)

3.39 States that between 01.12.2015 and 30.11.2016 there were 92 reported crimes and 55 reported incidents of anti-social behaviour within 100m radius of the area. Taking into consideration the size of the study area, crime and anti-social behaviour levels within the vicinity of the proposal are extremely high.

3.40 The analysis also indicates that the night time economy in this area is having a significant influence on crime and disorder. This is already placing a demand on police and other emergency service resources.

3.41 Situated within the City of York Council's Cumulative Impact Zone (CIZ). City of York Council as Licensing Authority under the Licensing Act 2003, has in place a special cumulative impact policy for the area. This policy clearly identifies the area as being under 'stress', because the cumulative effect of the concentration of late night and entertainment premises has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.

3.42 No documents have been submitted with this application to show how the applicants have considered crime prevention in respect of their proposal.

3.43 Access control arrangements should be incorporated at all entrance doors in order to prevent unauthorised entry, e.g. keyfob entry system.

3.44 Taking into consideration that this hotel would be located within the CIZ, vertical drinking within these premises should not be supported and CCTV should be made a requirement, if a Premises Licence is successful, to cover all areas to where the public have access to consume alcohol.

3.45 Request planning conditions that the developer provide full details of how crime prevention is being addressed.

#### Conservation Areas Advisory Panel (comments made on original scheme, no comments received for revised scheme)

3.46 States whilst the Panel has no objection to the proposed conversion of the existing building they object to the provision of the new block which neither complements nor contrasts with the existing building. Also objects to the provision of the additional floor to the existing building which would detract from the particularly distinctive structure.

#### York Civic Trust (comments made on original scheme, no comments received for revised scheme)

3.47 Objects; the site is one of the most sensitive in the City south-west of the river, being adjacent to the grade II\* Grand Hotel; and very close to the City Walls, which are a Scheduled Ancient Monument. The Yorkshire Aviva building is considered a landmark building, but a detractor to the character of the City Centre Conservation Area. Any alteration to the building should therefore be of the highest quality in order to enhance the Conservation Area.

3.48 No objection in principle to the change of use, but consider there is an element of over-development in the proposals. Both the proposed seven storey extension and the proposed penthouse addition do nothing to enhance the setting of the significant historic assets in the vicinity, notably the Grand Hotel and the City Walls. The extension will be visible from many points around the City both sides of the river and it will not be an improvement upon the existing views. Views into the courtyard of the Grand Hotel would be compromised, and views from the Grand Hotel would be severely compromised.

3.49 The design of the proposed extension would detract from the massing and design of the existing building since it does not continue the original design, nor does it contrast sufficiently to enhance the building in its own right. The additional floor to the existing building which it was felt would detract from this particularly distinctive structure.

3.50 Previous archaeological intervention in and close to this application site indicates that it is highly probable that the area contains waterlogged deposits of Roman and later date. Since the new extension will require piled foundations of some sort, it is essential that adequate provision is made for archaeological investigation.

## PUBLICITY AND NEIGHBOUR NOTIFICATION

3.51 Three Representations from 2 from neighbour (to previous schemes) objecting to the development

- Result in significant harm to heritage asset: the conservation area, and the neighbouring Grade II \* listed Grand Hotel
- Proposed extension would obscure views to and from the rear of the listed building
- Result in a loss of office accommodation. there are limited opportunities to provide quality new build or refurbished office accommodation in the city centre. It is possible to convert these Grade B offices to high quality office space with Grade A characteristics, as evidenced by Northern House immediately opposite Yorkshire House. Increased office rentals are now at levels that can support financial viability for such refurbishment, and the excellent location of Yorkshire House means it would be an extremely

attractive proposition for potential office occupiers. Although York Central would be able to meet the Grade A market in the future, such availability has been long awaited and no date has been forthcoming for the availability of Grade A offices.

- Do not consider that the submitted drawings faithfully illustrate the relationship between The Grand Hotel and the proposed extension to Yorkshire House.
- The proposed extension would affect the amenity distances hotel room to hotel room. The closest would be 6.7m, others would be 11.2m and 19.3m, well below normally acceptable privacy distances.
- Would result in the closing off of the space around the rear of the listed building. From a conservation and civic design point of view we consider the proposed extension would result in over-intensive development.
- Supporting information from applicant indicates the proposed development would result in harm. Objector considered this to be significant harm.
- Proposed alterations and the consequent impacts on the surrounding historic context are not justified in terms of viability or public benefit. A high purchase price cannot be given to justify significant harm. The Design and Access Statement (01) states the need to extend the floorspace 'to make a viable scheme' whereas elsewhere (04) it is described as an opportunity to 'maximise bedroom numbers to attract a high profile hotelier' and the Planning Statement does not seem to pursue a viability argument.
- Roof top extension is top heavy and inappropriate particularly the increase in height
- No justification as to why its shape is the best to complement the form of the existing landmark building, or that it is designed to add positively to the visual quality of the complex
- The impact on the setting of the Grand Hotel needs a quite separate and more detailed type of analysis, outside the broad scope of the townscape views. This has not been done. The NPPF requires applicants to explain the significance of any heritage asset affected by a proposal. Insufficient regard for the setting of the Grade II\* Grand Hotel, obscuring views to and from the rear, and that it would harm the appearance of the conservation area.
- Concerned that the new extension would be as high as the existing Yorkshire House (in elevation) and think that, in oblique angles and fore-shortened perspectives, it may compete with and detract from the dramatic full height chimney on the Grand Hotel gable when seen from the north. These civic

design failings conflict with the policies of the NPPF related to good design, Policy G4 of the 2005 Draft Local Plan

- A prior notification has been accepted by the Council for conversion of the offices to residential use. However, in a rising commercial market, with the advantages that the central location that Yorkshire House has, and with the pool of offices being diminished by conversion to flats, the value of upgrading these offices to Grade A is increasing. Whilst office accommodation on York Central is in the pipeline, it has been so for over 15 years and no date for availability of Grade A offices is yet known. On this basis, short to medium term demand will need to be within the existing city centre and opportunities are very limited. The application site has the attributes to facilitate an upgrade to Grade A office accommodation. Its location has proved attractive to rail sector businesses and void rates for good quality offices have been low in the locality compared with other similar buildings elsewhere in the city. Successful refurbishments in the area have included Northern House, 27 Tanner Row, 20 George Hudson Street and Mill House North Street. Recent rental figures achieved are almost back up to 2006 levels. A shortage of Grade A and good quality Grade B offices in the city centre is serving to put upward pressure on rental levels. The refurbishment of the offices to Grade A is becoming more viable. The fact that a hotel use throws up the highest value for the vendor does not necessarily result in the best outcome for the benefit of the city as a whole. An office use would result in significantly more jobs at a higher level of pay than a hotel and serviced apartments, traditionally low paid jobs, would be able to.
- The space that would be occupied by the extension to Yorkshire House, and it would be 7 storeys, against the single storey of the adjacent dining pavilion.
- The proposed extension will be prominent in the view of the Grade II\* listed Grand from Station Road, the city walls and beyond the walls. The elevation is a view from a single aspect and does not illustrate how the extension will close off existing views to and from the north-west and south-west.
- The revised drawings show very little change, other than the re-positioning of the proposed new extension, so nearly all the previous criticisms remain unanswered and in some respects the previous criticisms have become stronger. In particular the proposed extension has had insufficient regard for the setting of the Grade II\* Grand Hotel, and both it and the added rooftop extension would still harm the appearance of the conservation area. The newly submitted material demonstrates that the site would still be overdeveloped and that there is no way of making it acceptable.
- Whilst there are other Grade II\* listed buildings in the city centre, there are few that have the size or prominence of the Grand, which was constructed to

house the North Eastern Railway Company over 100 years ago. The conversion of the building to hotel use was carried out on close consultation with Historic England and Council Officers to create an enduring future for this iconic building. Its intrinsic value should not be denigrated by proposals which would permanently damage its setting.

- Will negatively impact on tourist accommodation within York and surrounding area
- Questionable sustainability
- No parking available, will interfere with the Rougier Street bus station

## **4.0 APPRAISAL**

### RELEVANT SITE HISTORY

16/02434/ORC - Proposed change of use from offices to 66 apartments (use class C3) under Class O Part 3 Schedule 2 of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 - Approved

15/02932/ORC - Proposed change of use from offices to 42 apartments (use class C3) under Class O Part 3 Schedule 2 of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 - Approved

### KEY ISSUES:-

- Loss of employment (office space)
- Impact to heritage assets
- Visual amenity and character
- Impact to neighbouring uses
- Highways

### PLANNING POLICY

4.1 The National Planning Policy Framework (NPPF) indicates a presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 does not apply in this case as the more restrictive policies apply concerning flooding and heritage assets,(Sections 10 and 12). There are three dimensions to sustainable development: economic, social, and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. The core principles within the NPPF states always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; the use of previously developed land is encouraged; take account of the different roles

and character of different areas; conserve heritage assets in a manner appropriate to their significance.

4.2 Paragraph 58 of the NPPF states that decisions should aim to ensure that development: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.

4.3 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. (This application is not in the Green Belt.)

4.4 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.5 The public consultation on the Preferred Sites 2016 document and supporting evidence for the emerging City of York Local Plan has just ended and the responses are being compiled and assessed. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Plan is capable of being a material consideration in the determination of planning applications.

## PRINCIPLE OF DEVELOPMENT

4.6 The NPPF seeks to promote the vitality of town and city centres and requires Local Planning Authorities to set policies which are positive and promote competitive town centre environments. In part it is suggested that this should be done by allocating a range of sites for offices to ensure that office uses are met in full and not compromised by site availability. The NPPF is clear in that Planning should operate

to encourage and not act as an impediment to sustainable growth. The NPPF states planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

4.7 A core principle of the NPPF to "support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances".

4.8 Policies E3b of the Development Control Local Plan (2005) and Policy EC3 (Loss of Employment Land) of the emerging Local Plan seek to keep all office uses in such use, unless there is an adequate supply of alternative premises over the plan period or where the proposed use will lead to significant benefits to the local economy. The broad intention of these policies does not conflict in principle with the NPPF.

4.9 The aim of local and national policy is to retain office space within the city centre for future office use and to attract inward investment. The site provides a large area of office space within the city centre, which is in need of some renovation. Yorkshire House provides circa 65,000 sq ft/ 6039 sqm net office building. The site until recently was used as office accommodation by Aviva.

4.10 The City of York Council's 2013 Office Stock report indicates that there is approximately 1.5m sq ft of commercial office stock within the city centre, only a hand full of which are greater than 10,000 sq ft in size with fewer still considered to be of Grade A quality. This figure does not take account that over the last few years a number of large city centre office blocks have been or are about to be removed from the office market.

4.11 The drive towards residential conversion has arguably left a shortage of high quality, large floor plate office space within the city centre and has led to a two tier office market where a shortage of grade A space contrasts with a relatively healthy level of smaller scale second-hand supply. In its current state Yorkshire House is considered to provide Grade B office space, and would require some updating before use by other office occupants. The applicant argues there is a surplus of grade B office space within York and there is generally little requirement for larger floor plate offices of 10,000 ft plus. There are some concerns that York's reputation as a major office location has been significantly eroded, and in particular this has led to a perception that York cannot accommodate larger requirements, leading in turn

to a significant impact on demand from inward investors, who are not considering York as a location.

4.12 The applicant has submitted viability information outlining why office space and the upgrade to Grade A office space would be unviable. The Economic Development Unit considers that the assumptions in the assessment around rental yields, initial void periods and net capitalisation are fair.

4.13 Whilst the application building was not openly marketed the applicant argues that the building would be unprofitable for office use by virtue that any valuation must be considered on the basis of residential value because of permitted development rights (from office to residential - Class O, General Permitted Development Order - 2015). Therefore the value of purchase (and the rental income required from office space) is considerably more than were residential use not an option. As stated, 'if an office developer were to make an offer below the residential value then quite clearly they would be unsuccessful - and outbid by a residential developer'.

4.14 In addition in the submitted viability information there is no suggestion that there is lack of demand for office space, nor that strong rental yields could be achieved; only that once purchase at a value which is competitive to residential development, and rental yields are factored in, there is minimal capital available to actually convert the building to grade A offices. The Economic Development Unit consider that the assessment is in keeping with wider evidence and independent property studies, that there is indeed demand for city centre grade A office space and at strong rental yields, but that residential (or other commercial) uses are considerably more profitable, so that in locations in York where there is residential demand and permitted development rights apply, it is difficult for office development (especially where conversion to higher quality specification) to compete commercially and therefore be viable from a developer perspective. They applicant argues that it is unlikely that a commercial developer would ever seek to create a substantial sized, high quality Grade A office building (either new build or conversion) on a speculative basis.

4.15 The proposed change of use would result in a significant loss of office space and with regards to city outcomes around wages and high value jobs, office space would still be the preferred use for Yorkshire House. The proposed hotel use would provide approximately 80 jobs. By virtue of the viability assessment and the evidence provided, it would be difficult to oppose change away from office which in competition with residential property values and current market conditions has been shown to be insufficiently profitable and therefore unviable from a developer perspective. The proposed use would bring the building back into use. In addition the applicant has prior notification under the General Permitted Development Order for the conversion of the building as residential use. Officers consider, without adopted local policy that it would be difficult to defend a refusal on the basis of loss of office space in this case.



## HOTEL DEVELOPMENT

4.16 The NPPF considers tourism related developments such as hotels to be a main town centre use. As a town centre use hotel development plays an important role in supporting the economic well being and vibrancy of York's city centre. By virtue of the city centre location a sequential test is not required.

4.17 Policy V1 'Visitor related development' of the Development Control Local Plan (2005) advises that visitor related development will be encouraged providing; there are adequate servicing arrangements, the site is accessible by public transport, whether highway safety would not be compromised, where development would improve the prosperity of the cities tourism industry and economy, and when there is no adverse impact on amenity and the setting.

4.18 Policy V3 of the Development Control Local Plan (2005) relates to new hotels in the city. V3 states planning permission for hotels will be granted provided the proposal:

- Is compatible with its surroundings in terms of siting, scale and design;
- Would not result in the loss of residential accommodation;
- Would not have an adverse effect on the residential character of the area;
- Is well related in terms of walking, cycling and access to public transport in relation to York City Centre or other visitor attractions

4.19 The site is in the city centre, within walking distance of the train station and tourist attractions. The site is suitable for a hotel (and ancillary restaurant, bar and coffee shop) in location terms. The area is commercial and there would be no loss of dwellings. In this respect there is no conflict with Development Control Local Plan (2005) Policies V1 and V3. The proposed hotel is considered to have a neutral if potentially positive impact to the vitality and viability of the area. The introduction of windows in the north east elevation and the landscaping will provide more visual interest at ground floor level, the proposed use will provide more footfall in the area during later hours.

4.20 The visual impact of the development, servicing and amenity are assessed in the other sections of the report.

4.21 The applicant states that their intention is that the hotel will be of 5\* quality. The applicant is confident that there is a market for 4\*/5\* hotel accommodation and this view is not challenged. The York Tourism Accommodation Study (July 2014) has aims of increasing the number of 4\*/5\* standard accommodation however the star rating of the hotel can not be ensured. If the principle of a hotel is considered acceptable, it is therefore considered unreasonable to condition the hotel be 4\*/5\* quality.

4.22 It is considered that if the application is approved it would be necessary to impose a condition that the upper floor suites would be managed by the hotel and not sold as apartments on the open market. This is because the relevant planning considerations in respect of a residential would differ for example, affordable housing, education and open space contributions may be applicable together with a number of other issues noise, air quality etc.

## IMPACT ON HERITAGE ASSETS

4.23 The site is within the Central Historic Core Conservation Area and it is within an Area of Archaeological Importance. It is also forms part of the setting of the Grand Hotel to the south west and south is Grade II\* listed. At the time of writing a number of extensions to the Grand Hotel are under construction. To the north east 15, 16, and 17 Rougier Street are Grade II listed. In the wider area there are a significant number of listed buildings. The City Walls - an ancient scheduled monument lies to the north and north-west of the site.

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

4.25 The NPPF states that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise paragraph 129. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the to the asset's conservation. The more important the asset the greater the weight should be. Where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits; where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal. The NPPF goes on to state that Local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance, paragraph 137.

4.26 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply in these circumstances.

4.27 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 12 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 131, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness. Paragraph 132 establishes the great weight that should be given to a designated heritage asset's conservation with a clear and convincing justification being provided to justify any harm or loss.

4.28 Paragraph 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. Development Control Local Plan (2005) policies HE2, HE3, HE4 and HE10 reflect legislation and national planning guidance. In particular, Policy HE2 states that proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

#### Central Historic Core Conservation Area

4.29 The application site is within the Central Historic Core Conservation Area. The Central Historic Core Conservation Area Appraisal (2013) sets out important considerations for the area which must be met by any new development. The site falls within Character Area 22 Railway Area, it is recognised that this part of the area is characterised by large office development, in many instances, the buildings have a poor relationship with the street. The public realm to the north and north west is a priority for public realm improvements. The key views from Station Rise and the City Walls of the Minster are considered to be of high importance and development that would negatively affect these views will not be allowed.

4.30 The proposed use of the building would not affect the conservation area or its character. The proposed extension building would be set back from the Station Rise

elevation and would not be visible or have little presence in the key views of the Minster. The Conservation Architect considers that the proposed extension would not result in harm to the character, appearance, or setting of the conservation area.

## Listed Buildings

4.31 The NPPG states that "It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting."

4.32 The proposed development is not considered to harm the setting or special interests of the Grade II listed 15, 16, and 17 Rougier Street

4.33 The Grand Hotel appears to have a similar overall ridge height at Yorkshire House, but due to the highly modelled roof plane the hotel appears much lower and less bulky than the plainly rectilinear Yorkshire House. The roof forms of The Grand elevation facing the proposed side extension vary depending on the geometry of gables and eaves but the general starting point for a roof form is taken here as 33.09m. The proposed side extension sits above the start of some roof form. The proposed extension is considered to cause harm, the Conservation Architect considers that it is 'less than substantial harm' to the setting for the adjacent Grade II\* listed building. The NPPF is clear in that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. When carrying out this balancing exercise, considerable importance and weight should be afforded to any harm to Heritage Assets in order to comply with the statutory duties in sections 72 and 66 to the 1990 Act.

4.34 NPPG states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

4.35 The applicant has submitted 2 no. Prior Notifications for the change of use of the building from offices to apartments, one during the current application for the hotel. The Prior Notification consents would create up to 66 flats which are considered to have some public benefit by virtue of adding to the housing stock, although this would not include affordable housing. As such the applicant has submitted evidence that the building is capable of a viable conversion without the need to extend and thus impact on the setting of the adjacent listed building. The applicant has advised that if the hotel is refused the building will be converted to dwellings, thus it is concluded that the residential development within the existing envelope is viable.

4.36 The hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. The hotel is proposed to be 4\* and it is an aim of the Council (York Tourism Study) to increase the number of 4\*/5\* establishments, however as set out in paragraph 4.21 the quality of the hotel can not be subject to conditions and the proposed and future occupiers may change. There would be additional spend from the tourists however the use of the building as flats or offices would also provide a number of people living/working in the city and the spend that would bring to the city centre. The proposed hotel would create 80- 90 employment opportunities and it is the re-use of a currently vacant building. The applicant argues that the level of accommodation including the extension is required to attract the 4\* hotel operator and the intended operator (Malmaison) require this number of rooms/suites.

#### Ancient Scheduled Monument

4.37 By virtue of the setting back of the extension into the plot it is not considered that the proposed development would result in harm to the visual amenity of the city walls, or impact on the setting of the walls.

#### Archaeology

4.38 Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

4.39 This site lies within the Central Area of Archaeological Importance in the former area of the Roman civil settlement (Colonia). Archaeological excavations in the 1980s in advance of the construction of Roman House (adjacent) revealed up to 7m of archaeological deposits including evidence of Roman timber and masonry buildings. Excavations in the adjacent hotel in 2009 recorded medieval structural remains at c.11m AOD. These excavations revealed that there was a steeper slope towards the river during the medieval period.

4.40 An archaeological evaluation was carried out on the site in 2009. This revealed Roman structural remains including degraded concrete and mortar floors at a height of 7.5-8 AOD. The Roman structural sequence was truncated by shallow pits containing medieval pottery, sealed by medieval dumps and 19th century demolition material. The current application was accompanied by an archaeological desk-based assessment.

4.41 The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. The information supplied by the applicant demonstrates that the site has the potential to preserve undesignated heritage assets of national importance. The Council Archaeologist considered that if present, these deposits will likely lie below the formation levels for the foundations (ground beams, pile-caps) for the

development. The City Archaeologist considers there would be limited disturbance to these deposits caused by piling through the deposits below the formation levels for the development. This disturbance is less than the 5% that is allowed by policy HE10 Development Control Local Plan (2005). A condition requiring the archaeological measures that must be put in place to ensure an adequate record of these deposits is made.

## FLOOD RISK

4.42 Paragraph 104 of the NPPF states that applications for a change of use should not be subject to sequential or exception tests. The Environment Agency does not have an objection to the application, subject to the mitigation set out in the FRA taking place, part of this mitigation includes a Flood Evacuation Plan being in place.

4.43 The NPPG advises that a site specific FRA must -

- Identify the flood risk
- Where appropriate, demonstrate how land uses most sensitive to flood damage have been placed in areas within the site that are at least risk of flooding
- Flood risk management measures to make the development safe
- Ensure no increased flood risk elsewhere and where possible reduce risk
- What flood-related risks will remain during the lifetime of development, and how will these risks be managed? (E.g. flood warning and evacuation procedures)

4.44 According to the NPPG for buildings to be safe for their lifetime, the impact of climate change needs to be considered. To be safe from flood risk, buildings should be designed to avoid/be resilient to flooding and there should be means of escape during 1 in 100 ('design') flood events, and plans in place for evacuation if there is an extreme flood.

4.45 The site lies within Flood Zone 3. Flood risk is from the River Ouse to the north east. The 1 in 100 year flood level is 10.02 AOD, 10.94 with climate change. Ground levels on site range between 9.46m AOD and 11.45m AOD. The City of Council York Strategic Flood Risk Assessment recommends finished floor levels are a minimum of 600mm above the modelled 1 in 100-year flood level; which would equate to 10.62m AOD. This is not proposed, however flood resilient design measures are proposed, to defend up to 11.30m AOD and there would be no residential accommodation on the lower or upper ground floor. The proposal and the mitigation measures set out in the FRA meet the requirements in the NPPF in terms of providing a means of escape and being safe for its lifetime.

4.46 There is no increase in the impermeable surfacing. There would be no change in flood risk elsewhere due to no change in surface water run-off rates.

## VISUAL AMENITY AND CHARACTER

4.47 The roof top extension has been removed from the proposed plans; the roof top extension was considered to result in harm to the visual amenity and character of the conservation area. The design of the extension together with the appearance above the natural architectural terminus of the design of the building would have resulted in harm and would have been prominent from a significant distance. The revised plans confirm there are no proposed alterations to the roof.

4.48 The introduction of glazing at first floor level in the Rougier Street and Station Rise will be the scale of the existing recessed panels. It is considered that this would create interest to the ground floor level and is considered to be a positive addition. The raised plinth for the outside seating area together with the soft landscaping would be within the curtilage of the building and does not form part of the formal highway, it is considered that it would create visual interest and would be an enhancement to the existing.

4.49 Revised plans had been submitted showing more details of the 'recessed' panels and fenestration of the proposed extension. The recess was considered tokenistic at 25mm and given the scale of the proposed extension it would not be perceptible from a distance. The windows were set a standard distance from the facade of the building and did not reflect the recessed windows of the original building. The proposals were considered to lack architectural interest, depth, and variation, particularly in contrast to the strong visual appearance of the host building and the Grand Hotel. Revisions have been requested. If members are minded to approve the application it would be recommended that approval be subject to the receipt of satisfactory further revisions to increase the set back of the extension and the recess of the windows to add architectural interest to the extension. Such revisions are however expected imminently and if received, Members will be updated at Committee as to the officer view as the acceptability on these revision.

## IMPACT ON NEIGHBOURING USES

4.50 There are flats to the north east on Rougier Street opposite the main entrance of the proposed hotel. It is not considered that the use of the building as a hotel will have a further impact on the residential amenity on the occupants than the previous office use

4.51 There are a number of offices opposite the proposed site on Rougier Street, the proposed hotel use is unlikely to cause a disturbance and the office use is unlikely to impact on the workings of the proposed hotel.

4.52 The proposed hotel would be adjacent to the 5\* Grand Hotel, and the proposed hotel is a 4\*/5\* it is likely they will compete for the same market. The NPPF states that LPAs should promote competitive town centres that provide customer choice;

and retain and enhance existing markets and, where appropriate, ensuring that markets remain attractive and competitive. LPAs should support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances. The applicant is confident that there is a market for 4\*/5\* hotel accommodation and this view is not challenged.

4.53 The proposed extension would bring the resulting building closer to the Grand Hotel the distance between the extension and the hotel rooms of the Grand are not considered to result in undue harm to outlook. The minimum distance between the proposed extension and the rear of The Grand is 21 metres. The Grand is currently undergoing extension with the conversion and extension of Roman House, the minimum distance between each hotel room at its distance is 6.5 metres. If this was residential this would not be acceptable. However, a hotel use would only give rise to visitors using the rooms on a short term basis and so the same level of amenity expected with residential is an unreasonable expectation. The distance would be the same if the building was retained as office use. Therefore it is not considered a refusal could be upheld on this basis. The proposed extension would be adjacent to the Grand Hotel dining room, currently under construction. From the approved plans for the dining room there are no windows in the elevation facing the proposed extension as such it is not considered there is harm to the use of this part of the Grand Hotel. The change of use and the proposed extension are not considered to impact on the use and therefore economic viability of the adjacent hotel/listed building, as such in approving this application it is not considered to unduly threaten its ongoing conservation than a 4\*/5\* hotel elsewhere in the city.

## HIGHWAYS

4.54 The National Planning Policy Framework advises that developments should:

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

4.55 The servicing will be via a lane from Rougier Street. The Highway Network Management team have some concerns regarding the increase in the number of servicing vehicles. The access is close to a bus interchange on Rougier Street which attracts many pedestrian movements. Unlike the adjacent Grand Hotel which uses this access road, no turning is provided off highway for lorries. This is considered to lead to vehicle/ pedestrian conflicts across the entrance due to reversing manoeuvres. As such pedestrian improvements to the highway crossing



have been requested. At the time of writing the report officers were awaiting plans showing the highway improvements. An update will be provided at committee.

4.56 Cycle parking is provided on the plans. There is considered to be sufficient space within the proposed cycle store to house the required Appendix E minimum number of cycles. Details of the stands can be sought via condition.

4.57 Whilst there would be an increase in the number of servicing vehicles it is not considered that the proposed hotel would result in a significant increase in traffic in the surrounding area resulting in harm. The site is a city centre location close public transport links. Whilst the number of parking spaces on the site is restricted to 37 there are a number of public and private car parks in close proximity.

4.58 Refuse bins will be stored within the building envelope, as the previous use and will be collected from the lower ground floor vehicle access.

## AIR QUALITY

4.59 Paragraph 123 of the NPPF requires that adverse impacts on health and quality of life are mitigated and reduced and that planning decisions should ensure that any new development in Air Quality Management Areas (AQMAs) is consistent with the local air quality action plan. Policy GP4b requires proposals for development within AQMAs to assess their impact on air quality. The building falls within City of York Council's Air Quality Management Area (AQMA). The public Protection team advise a hotel is not considered to be a 'relevant location' in terms of the annual mean nitrogen dioxide objective (unless someone lives there as their permanent residence) but would be considered a relevant location in terms of the hourly mean nitrogen dioxide objective. A hotel use would generally be regarded as a lower category of sensitivity compared with a residential dwelling, due to the reduced period of occupancy.

4.60 The CYC undertake monitoring of nitrogen oxide opposite this site on Rougier Street. The monitoring is currently showing that although levels of nitrogen dioxide are breaching the annual mean objective, they are not indicating breaches of the hourly mean objective. The residential units have been removed from the proposed development and the suites on the upper floors would be used in association with the hotel and would be used on a short term use. As such Public Protection do not require any mitigation

4.61 Public Protection has requested facilities for the re-charging of electric vehicles. On the basis of the number of parking spaces provided at least one bay is required for the hotel. It is considered that this is in line with the NPPF and the Councils low emission strategy. It is considered that this can be sought via condition

## NOISE

4.62 The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life, paragraph 123 and Policy GP1 of the Development Control Local Plan (2005) requires that there should be no undue adverse impact from noise disturbance. Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- Whether or not a good standard of amenity can be achieved.

4.63 A noise assessment was submitted with the application and provided details of background noise monitoring undertaken within the existing property and to the rear of the property during July 2016. The results indicate that during the night time period internal noise levels on all levels of the existing property would comply with the requirements for internal noise levels in dwellings. In addition the results indicate that the existing property would be likely to comply with the requirements for internal noise levels in dwellings during the day time period on all levels of the property too, with any current exceedances of up to 2dB of the standard being likely to reduce due to internal absorption from soft furnishings provided in the property.

4.64 In terms of the proposed rear extension existing day time levels show an Leq of 62.5dB(A). Given the BS8233 internal design criteria of 35dB(A) Public Protection are satisfied that internal noise levels will comply with this standard with suitable glazing and treated ventilation vents (if provided). During the night time Public Protection consider that the measured level of 55.6dB(A) external would be easily reduced to the BS8233 internal design criteria of 30dB(A).

4.65 The maximum noise levels occurring during the night time period, where Lmax levels of up to 52.8 dB(A) were recorded internally and 81.8 dB(A) externally. Given the proposed use is hotel and serviced suites/apartments, the potential number of occurrences during the night time period when the internal noise levels are likely to exceed 45.0dB(A), a condition requiring internal levels to comply with the requirements of BS8233:2014 can be sought,.

4.66 The third bullet point of paragraph 123 of the NPPF is pertinent: "...recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established". In allowing a hotel use in this location this may potentially impact on the surrounding business activities of the surrounding late night businesses and prevent any further development of those businesses. Therefore ensuring (via condition) that building envelope is constructed to achieve a maximum internal noise level would reduce this potential. It is not considered that the use of the building as a hotel will unduly impact further on neighbouring properties than the previous office use in terms of noise.

4.67 The agent has confirmed that the extract from the kitchens would be directed through the central core of the building and no extraction flues on the side of the building will be required. Any such external flue proposed in the future would require separate planning permission.

## SAFE ENVIRONMENTS

4.68 There is a requirement on the LPA to consider crime and disorder implications, under S17 of the Crime and Disorder Act 1998. The NPPF states that decisions should aim to ensure development creates safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesions. Given the surrounding uses and the late night economy of the area there may be issues. The PALO submitted a report showing that between 01.12.2015 and 30.11.2016 there were 92 incidences of reported crime and 55 reported incidences of Anti Social behaviour. With regards to the reported crime the majority of the reported crimes took place between 21.00 and 05.00 hours.

4.69 As the PALO states, outside the Planning regime any premises license granted may be subject requiring the installation of CCTV which may assist in addressing any issues immediately outside the building. However it is considered that hotel users would be aware of the city centre location and the surrounding late night uses and the potential problems that arise in the proximity of such uses. As such it is considered that refusing the planning application on the fear of crime could not be reasonably defended at appeal.

## SUSTAINABILITY

4.70 Policy GP4a 'Sustainability' of the Development Control Local Plan (2005) requires issues of sustainability to be considered within planning applications. The site is in reasonable proximity to the train station, and regular bus routes. A limited number of vehicle parking is provided on site however there is an NCP car park in close proximity. The site is in close proximity to shops and other amenities. The site is considered to be in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within recognised walking distances of the site. The development would also benefit from covered and secure cycle parking.

4.71 Due to the scale of the development, according to York's Supplementary Planning Document on Sustainable Design and Construction, it would be a requirement that the extension achieved a BREEAM rating of Very Good. The supporting information indicates that the proposed development can achieve BREEAM very good and it is considered necessary to condition this to ensure it is undertaken.

## OPEN SPACE AND EDUCATION PROVISION

4.72 As the permanent residential element (rooftop extension) has been removed from the application, education and open space provision are not required.

## **5.0 CONCLUSION**

5.1 The loss of the office space and the requirement for the hotel is accepted. However the proposed 6 storey extension adjacent to the Grade II\* listed building is considered to result in 'less than substantial harm' to the setting of the listed building. The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The economic benefits set out in the above report (paragraph 4.37) are cumulatively, considered to provide sufficient public benefit to outweigh the less than substantial harm to the setting of the listed building, even when afforded considerable importance and weight to that harm.

5.2 The proposed extension currently displays a lack of architectural interest, depth, and variation in fenestration particularly due the lack of any recess when viewed in the context of the high architectural quality, variation and distinctiveness of the adjacent Grade II\* Listed building and the host building. Taking into account the surrounding context it is not considered that the proposed extension would improve the character and quality of the area, and amendments should be sought to the proposal in terms of detailing to the facade to improve the treatment of the elevation. These are anticipated very shortly for consideration. It is requested that the decision is delegated to officers to approve subject to satisfactory receipt of these and a scheme of highway improvements, and subject to appropriate conditions including those set out below.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Subject to the receipt of acceptable elevational amendments to the proposed extension and a scheme of highway improvements, Delegated Authority be given to the Assistant Director of Planning and Public Protection to approve the application subject to appropriate conditions including :

1 TIME2 Development start within three years

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

Drawing Number 001 Revision A 'Proposed Design Lower Ground Floor Plan' received 17 November 2016;  
Drawing Number 002 Revision B 'Proposed Design Upper Ground Floor Hotel Lobby/Bar/Restaurant' received 05 January 2017;  
Drawing Number 003 Revision B 'Proposed Design Typical Hotel Plan 1 - 4 Including Light Void' received 05 January 2017;  
Drawing Number 004 Revision B 'Proposed Design Typical Suites Level 5' received 05 January 2017;  
Drawing Number 005 Revision C 'Proposed Design Roof Plan as Existing' 05 January 2017;  
Drawing Number 006 Revision C 'Proposed Section 001' received 05 January 2017;  
Drawing Number 007 Revision B 'Proposed Elevation 001 Elevation 003' received 21 December 2016;  
Drawing Number 008 Revision B 'Proposed Elevation 004' received 21 December 2016;  
Drawing Number 009 Revision B 'Proposed Elevation 002' received 21 December 2016;  
Drawing Number 010 Revision B 'Proposed Elevation 001 Material Information Side Extension' received 21 December 2016;  
Drawing Number 011 Revision C 'Proposed Elevation 001 Material Information Roof as Existing' received 05 January 2017;  
Drawing Number 012 Revision B 'Proposed Upper Ground Level External Floor Finish' received 05 January 2017;  
Drawing Number 017 Revision A 'Proposed Design Site Plan' received 17 November 2016;  
Drawing Number 020 Revision A 'Proposed Design Typical Suites Level 6' received 05 January 2017;  
Drawing Number 021 'Proposed Elevation 001 Context Levels' received 04 January 2017;  
Drawing Number 022 'Proposed Diagrammatic Section Outline Context Levels' received 04 January 2017;  
Drawing Number 024 'Proposed Diagrammatic Plan Context Levels' received 04 January 2017;

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used (including details of the balustrades, access ramp, plinth for the outside seating area, the permanent planters) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if

Application Reference Number: 16/01976/FULM

Item No: 4g

sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance. The site is within a conservation area and within the setting of a listed building and ancient scheduled monument.

4 A programme of post-determination archaeological excavation is required on this site. The archaeological scheme comprises 3-5 stages of work. Each stage shall be completed and approved by the Local Planning Authority (LPA) prior to the start of construction/development.

(i) No archaeological evaluation shall take commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The Written Scheme of Investigation should conform to standards set by the Chartered Institute for Archaeologists.

(ii) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved in Section (i) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured.

(iii) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

(iv) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original Written Scheme of Investigation. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

Reason: The site lies within an Area of Archaeological Importance. The Archaeology Desk Based Assessment (ref: OSA16DT18 ) submitted with the application sets out the site has the potential to preserve undesignated heritage assets of national importance. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ. This condition is imposed in accordance with Section 12 of NPPF. The information is sought prior to commencement to ensure that the investigation is initiated at an appropriate point in the development procedure.

5 The serviced suites/flats (on the upper floors) shall only be occupied and used

in conjunction with the hotel use (Use Class C1) hereby approved, and shall not be used as independent residential units.

Reason: To clarify the use. The use of part of the building as independent residential units may have noise, air quality, highway, residential amenity implications as well as the requirement for affordable house, education, and open space contributions.

6 Prior to the first use of the building as a hotel a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs of the landscaping to the Station Rise/North West elevation shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site. The Station Rise/North West elevation is prominent within the Central Historic Core Conservation Area and in key views of the Minister and the city walls (ancient Scheduled monument), therefore details are required to ensure the planting is visually acceptable.

7 The development shall be carried out in accordance with the recommendations contained within the Flood Risk Assessment by Flood Risk Consultancy (2015-153 Revision B dated 27/01/2016) received 08 September 2016, in particular the flood mitigation measures identified in Part 7.

Reason: To ensure the development is safe from flood risk, in accordance with paragraph 103 of the National Planning Policy Framework.

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

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction' and Part 10 of the NPPF.

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

(i) Balustrades / glazed screens to external ground floor terrace and planting areas, to stairs and ramped access to the front access (to include manufacturer's details of applicable).

(ii) Details of outside café seating area, including section

(iii) Section through proposed ground floor windows in north east and north west elevation

(iv) Section through the glazed link between the host building and the extension

Reason: So that the Local Planning Authority may be satisfied with these details. In the interests of the character and appearance of the conservation area. The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

10 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

INFORMATIVE: Noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

Vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).



Dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

Lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

Reason: To protect the amenity of occupants of the surrounding/nearby buildings and the users of the pedestrian and vehicle highway. The information is sought prior to commencement to ensure that the CEMP is initiated at an appropriate point in the development procedure.

11 The building envelope of the hotel, including the extension and original building, shall be constructed so as to achieve internal noise levels no greater than 30 dB LAeq (8 hour) and 45dB LAMax inside bedrooms at night (23:00 - 07:00 hrs ) and 35 dB LAeq (16hour) in all other rooms during the day (07:00 - 23:00 hrs). These internal noise levels shall be observed with adequate ventilation provided. The detailed scheme shall be submitted to and approved in writing by the Local Planning Authority and fully implemented prior to the first use of the building as a hotel. Thereafter no alterations to the external walls, facades, windows, doors, roof or any openings in the building(s) shall be undertaken (including the closing up or removal of openings) without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of hotel residents and guests. To comply with

paragraph 123 of the NPPF to protect the existing business. The information is sought prior to first use to ensure that the works are undertaken at an appropriate point in the development procedure.

12 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. 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.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

REASON: To safeguard the amenity of occupants of neighbouring premises. To comply with Core Principles and Part 11 of the NPPF.

13 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 and agreed in writing by the Local Planning Authority. Once the details are approved the approved facilities shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

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

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

14 In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to

and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by 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. To comply with Part 11 of the NPPF.

15 One electric vehicle recharging point should be installed prior to first use of the hotel use. The location and specification of the recharge points shall be submitted to and agreed in writing by the Local Planning Authority prior to installation. The details shall also allow for increased demand in future years, appropriate cable provision shall be included in the scheme design and development, to allow further recharge points to be added if demand necessitates this. Prior to first use of the hotel, an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework. The information is sought prior to first use to ensure that the electric vehicle recharging point is initiated at an appropriate point in the development procedure.

16 All construction and demolition works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday                      07.00 hours to 19.00 hours  
Saturday                                  07.00 hours to 13.00 hours  
Not at all on Sundays and Bank Holidays.

Reason. To protect the amenity of occupants of neighbouring and nearby buildings

17 Upon completion of the development, no deliveries shall be taken at or dispatched from the site outside the hours of:

Monday to Friday 07:00 hours to 23:00 hours  
Sundays and Bank Holidays 09:00 hours to 18:00 hours

Reason: To protect the amenity of occupants of neighbouring and nearby buildings

18 Prior to the first occupation of the development details of the cycle stands or  
Application Reference Number: 16/01976/FULM                      Item No: 4g

fixings within the cycle parking area shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the approved details have been provided, and the cycle parking area 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.

## **7.0 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 (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Sought revisions to the proposed development
- Sought additional information
- Use of conditions

#### **2. 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.

#### **3. INFORMATIVE**

Notwithstanding the approved plans the adverts indicated on the elevations will likely require advertisement consent.

#### **4. DISPOSAL OF COMMERCIAL WASTE INFORMATIVE**

Section 34 of the Environmental Protection Act 1990 places a duty of care on all producers of controlled waste, i.e. businesses that produce, store and dispose of rubbish. As part of this duty, waste must be kept under proper control and prevented from escaping. Collection must be arranged through a registered waste carrier. It is unlawful to disposal of commercial waste via the domestic waste collection service.

Adequate arrangements are required for proper management and storage between

collections.

#### Section 47 of the Environmental Protection Act 1990

The storage of commercial waste must not cause a nuisance or be detrimental to the local area. Adequate storage and collections must be in place. Where the City of York Council Waste Authority considers that storage and/or disposal are not reasonable, formal notices can be served (Section 47 of the Environmental Protection Act 1990). Storage containers cannot be stored on the highway without prior consent of the Highway Authority of City of York Council.

#### **Contact details:**

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