

APPENDIX 3

City of York Council

Committee Minutes

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

*attended site visits

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

61. INSPECTION OF SITES

The following sites were inspected before the meeting:

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

62. DECLARATIONS OF INTEREST

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

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

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

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

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

APPENDIX 3

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

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

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

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

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

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

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

APPENDIX 3

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

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

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

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

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

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

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

The following additional papers had been circulated to Members:

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

APPENDIX 3

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

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

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

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

The concerns expressed by some Members regarding the proposals included:

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

APPENDIX 3

- Dissatisfaction with the planning process and advice given.

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

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

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

RESOLVED: That the application be approved:

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

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

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

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

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

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

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

Faber Maunsell - 30034-P-009B

Reason: To achieve an acceptable form of development.

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

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

APPENDIX 3

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

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

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

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

Reason: So as to achieve a visually cohesive appearance.

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

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

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

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

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

APPENDIX 3

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

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

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

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

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

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

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

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

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

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

APPENDIX 3

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

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

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

Reason: In the interests of highway safety.

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

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

16 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

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

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

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

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

APPENDIX 3

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

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

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

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

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

Reason: To protect the amenity of local residents.

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

Reason: To protect the amenity of local residents

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

Reason: To protect the amenity of future residents

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

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

Reason: To protect the amenity of local residents

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

APPENDIX 3

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

Reason: To protect the amenity of local residents.

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

Reason: To protect the amenity of local residents.

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

Monday to Sunday 09.00 to 22.00.

Reason: To protect the amenity of future and adjacent residents

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

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

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

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

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

APPENDIX 3

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

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

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

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

Reason: To prevent obstruction to other highway users.

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

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

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

Reason: In the interests of road safety.

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

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

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

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

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

APPENDIX 3

Reason: In the interests of road safety.

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

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

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

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

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

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

Reason: in the interests of highway safety.

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

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

And with the following informatives:

1. Informative:

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

APPENDIX 3

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

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

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

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

4. REASON FOR APPROVAL

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

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

APPENDIX 3

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

APPENDIX 3

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

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

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

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

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

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

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

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

APPENDIX 3

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

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

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

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

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

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

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

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

RESOLVED: That the application be approved:

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

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

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

APPENDIX 3

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

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

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

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

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

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

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

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

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

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

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

APPENDIX 3

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

Drg CO921 AL(0)p 901B, 903A, 30034-P-009 B

Reason: To achieve an acceptable form of development.

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

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

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

Reason: So as to achieve a visually cohesive appearance.

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

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

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

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

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

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

APPENDIX 3

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

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

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

Reason: In the interests of satisfactory and sustainable drainage.

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

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

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

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

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

Reason: To protect the amenities of adjacent residents.

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

APPENDIX 3

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

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

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

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

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

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

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

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

Reason: In the interests of road safety.

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

Reason: In the interests of road safety.

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

Reason: To prevent obstruction to other highway users.

APPENDIX 3

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

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

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

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

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

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

29 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

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

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

Reason: In the interests of highway safety.

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

Reason: To protect the amenity of neighbouring residents.

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

APPENDIX 3

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

Reason: To protect the amenity of neighbouring residents.

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

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

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

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

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

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

And with the following informatives:

1. Reasons for approval :-

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

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

APPENDIX 3

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

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

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

- (iii) Subject to a Section 106 Agreement covering the following:
 - a) The implementation of or funding towards off site highway improvements to address the requirements and additional impact of the development upon the local highway network. This would include the provision of an improved footpath link from St George's Field car park to the site and a coach dropping off point within that car park;
 - b) Funding towards the highway measures identified in Foss Basin Traffic Study;

APPENDIX 3

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

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

COUNCILLOR R WATSON,
Chair.

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