

COMMITTEE REPORT

Date: 19 November 2020 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel

Reference: 19/02415/FULM
Application at: Castle Mills Car Park Piccadilly York
For: Erection of 106 apartments including 36no. 1-bed, no. 68 2-bed and 2no. studios, flexible commercial floorspace (A1-A3 and B1 1458sqm gross), provision of new pedestrian and cycle bridge across the River Foss and creation of new public realm and pedestrian and cycle route at riverside north
By: City Of York Council
Application Type: Major Full Application
Target Date: 30 November 2020
Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The site, which occupies an area of 6,186sqm, is spread across the two banks of the River Foss, with the western part referred to as “Riverside North” and the eastern part as “Castle Mills”. A narrow section which connects the two is to accommodate the proposed pedestrian and cycle bridge.

1.2 Castle Mills is bordered by the River Foss to the west and Piccadilly to the east. Ryedale House lies to the north of the site and the Travelodge Hotel adjoins the site to the south. The Castle Mills site was recently cleared of two car park buildings (17/01499/FUL). Riverside North has a triangular shape and is bordered by the River Foss to the east. It is bound to the north-west by the York Castle Curtain Wall beyond which is the Eye of York. The southern boundary of the site abuts Tower Street.

1.3 The application site has a prominent and sensitive location being visible from the top of Clifford’s Tower and from the City Walls at Fishergate Postern, from Fishergate and from the approaches to and along Skeldergate Bridge. It is located in the Central Historic Core Conservation Area and the Area of Archaeological

Importance and lies within the setting of the Eye of York, which includes Clifford's Tower (Scheduled Monument and Grade 1 listed), Castle Museum (formerly the Debtors' and Female Prisons, both Grade 1 Listed) and the Crown Court (Grade 1 listed). Part of York Castle (Scheduled Ancient Monument) and Raindale Mill (a non designated Heritage Asset), lie within the land at Riverside North and the City Walls (Scheduled Monument) lie to the south west of the site.

1.4 The site is within Flood Zones 2 and 3, the medium and high probability zones.

THE PROPOSAL

1.5 The proposed development involves the erection of two mixed use buildings on the Castle Mills part of the application site. A part 7 / part 8 storey building is proposed to the north comprising two blocks (Blocks A and B) with a five storey building (Block C) proposed to the south, running along the site's boundary with the Travelodge Hotel. The space between the two main buildings would accommodate landscaped public realm which would connect to the proposed pedestrian and cycle bridge providing a link to the opposite (west) bank of the Foss (Riverside North). The buildings would accommodate 106 apartments (2 x studios, 36 x one bed and 68 x 2 bed apartments) with 20 of the units (Block C) proposed as affordable apartments. Flexible commercial space (Class A1 to A3, 1458sqm) would be provided at ground floor.

1.6 The proposals for Riverside North comprise a re-design of the public realm with the creation of usable space and a functional cycling and walking route which would link Castle Mills to the proposed surface level crossing at Tower Street. This crossing, which forms a part of the wider Masterplan, is outside of the application site boundary.

COUNCIL'S MASTERPLAN

1.7 In April 2018 the council's Executive approved the high level spatial masterplan for the regeneration of the Castle Gateway. It was developed through public engagement with detailed input from key stakeholders through the Castle Gateway Advisory Group. The resulting masterplan seeks to celebrate the city's heritage and balance the public's desire for high quality public realm with commercial development opportunities that help fund that ambition.

1.8 A key objective of the Castle Gateway masterplan is the relocation of surface car parking away from the Eye of York and the provision of a vibrant public realm which offers a flexible, multi-purpose civic space. This requires the closure of the Castle Car Park and the re-provision of the car parking, at a reduced capacity, at St George's Field (current planning application ref: 19/2063/ FULM). The commercial revenue generated by the development of the Castle Mills site would be dedicated to fund the construction of the proposed multi storey car park at St. George's Field.

CONSULTATION PRIOR TO SUBMISSION OF APPLICATION

1.9 A series of six public events were held at pre-application stage which included four drop-in exhibition and guided walks events and two workshop sessions. A Statement of Community Involvement detailing discussions and feedback from the events accompanies the application.

REVIEW AT EXECUTIVE IN LIGHT OF IMPACT OF COVID-19

1.10 The applicant has provided the following the statement with respects to the impact of Covid-19 on the Castle Gateway project;

Having considered all options, the Executive have taken the decision to commit to the delivery of the Castle Gateway masterplan and to continue as planned with the procurement of a construction partner for the Castle Mills apartments, allowing the council to retain the commercial return to cross-subsidise the wider public benefits of the Castle Gateway, as well as delivering many of the key elements of the first phase of the masterplan. This includes the new pedestrian/cycle bridge over the Foss; the riverside park at the rear of the Castle Museum; and the pedestrian/cycle crossing over the inner-ring road. The final decision to proceed with construction would then be taken next summer, on completion of the detailed design and receipt of the actual tender price.

The Executive have also reiterated their commitment to providing replacement car parking before the closure of Castle Car Park. However, due to the uncertainty created by Covid, the intention is to delay the procurement of a construction partner for the new multi-storey car park at St George's Field until next summer. This is to ensure that the full impact of Covid on car parking is known before committing to the next stage of expensive detail design. The detailed design of the public realm to replace the Castle car park would be

brought forward in to the first phase of development. It is important to stress that the closure of Castle Car Park remains dependent on the replacement car parking being provided.

ENVIRONMENTAL IMPACT ASSESSMENT

1.11 As part of the site falls within a Scheduled Ancient Monument, the proposal is within a “sensitive area” as defined by the Environmental Impact Assessment Regulations 2017. The proposed development has been screened and it is concluded that the proposals are not likely to have a significant effect on the environment and / or are of a complexity such that the environmental impacts can be assessed through the planning application process rather than through requiring the preparation of an Environment Impact Assessment.

2.0 POLICY CONTEXT

Key Sections of the NPPF

Section 4 – Decision Making

Section 5 – Delivering a sufficient supply of homes

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

Key relevant policies of the 2018 Publication Draft Local Plan

DP2 – Sustainable Development

DP3 – Sustainable Communities

SS3 – York City Centre

SS5 – Castle Gateway

R3 – York City Centre Retail

H2 - Density of Residential Development

H3 – Balancing the Housing Market

H10 – Affordable Housing

HW2 – New Community Facilities

HW3 – Built Sport Facilities

HW7 – Healthy Places

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas
D5 – Listed Buildings
D6 – Archaeology
D7 – The Significance of Non Designated Heritage Assets
GI6 – New Open Space Provision
ENV1 – Air Quality
ENV2 – Managing Environmental Quality
ENV4 – Flood Risk
ENV5 – Sustainable Drainage
T1 – Sustainable Access
T5 – Strategic Cycle and Pedestrian Network Links and Improvements
DM1 – Infrastructure and Developer Contributions
CC1 - Renewable and Low Carbon Energy Generation and Storage
CC2 - Sustainable Design and Construction of New Development
CC3 – District Heating and Combined Heat and Power Networks

Relevant policies of the 2005 Draft Development Control Local Plan

SP3 – Safeguarding the Historic Character and Setting of York
SP7B – York City Centre and Central Shopping Area
GP1 – Design
GP3 – Planning against crime
GP4A – Sustainability
GP4B – Air Quality
GP9 – Landscaping
GP15A – Development and Flood Risk
T2B – Proposed Pedestrian / Cycle Networks
NE2 – River and Stream Corridors
HE2 – Development in Historic Locations
HE3 – Conservation Areas
HE9 – Scheduled Ancient Monuments
HE10 - Archaeology
HE11 – Trees and landscape

3.0 CONSULTATIONS

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT
(CONSERVATION ARCHITECT)

Comments further to receipt of amendments made to the photomontage and revisions to the Heritage Statement

3.1 The assessment of significance is weak as it underestimates the level of harm that will be caused to significance by the scale of the proposal. The setting of the heritage assets has not been fully understood and any impact of the development is not properly assessed. The impact on views, wider setting, and how the heritage assets are appreciated is underplayed and this is a fundamental problem. The importance of the historic relationship between places, identified by Historic England has not been taken into consideration in the design of the proposals.

3.2 Overall, the proposal is too tall for this site resulting in a fundamental change to the character and appearance of the Conservation Area and the setting of numerous and very important heritage assets. The cumulative harm to so many heritage assets could be considered less than substantial harm but at the highest level in terms of the NPPF. The impact of the proposal is not on a single heritage asset or even on a number of different heritage assets with no interrelationship; there are a substantial number of assets that form a complex of the highest heritage values that together make a unique and incredibly important whole. The cumulative and negative impact of the development will cause irreversible harm.

3.3 The harm caused is considered to be at the upper level of less than substantial to all of the designated heritage assets identified. This is because of the connectivity and interrelationship of all those assets. The scale of the proposed development will 'loom' over the heritage assets and interrupt important views that assist in understanding their significance. I, therefore, object to the application in the strongest terms.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (DESIGN MANAGER)

Comments which take into account the revised submission

Proposed Masterplan Approach

3.4 There is a need for appropriate mechanisms to link this application to these other wider benefits, in order to be able to consider these wider benefits as material to any negatives of this application. There is also an issue of how to be certain that

these wider benefits will be realised given the likely long timescale of the whole project, and the funding gap.

3.5 The proposal will improve pedestrian and cycle connectivity within the wider neighbourhood. Key to this is the new bridge. Improved connectivity is very beneficial as is improved use of the land around Castle Museum.

Proposed Site Layout

3.6 Splitting the proposal into two buildings was necessitated by a drainage easement crossing the site but it fortuitously drives a wedge of new public realm from street to riverside. This space is very beneficial. The subsequent bridge is in a less than ideal crossing place (being slightly obscured and blind from some approach routes in the area), but, it's the only place that the council can realistically control its delivery. It is still beneficial to bridge the Foss here, although its benefits will have to wait.

Ground Floor uses

3.7 The exclusion of parking ensures the ground floor will be a people centred place and this is supported. The inclusion of commercial uses will help animate the ground floor. The main building A&B positions itself on the Foss edge which is an appropriate response. In relation to Foss edge treatment 2, the Travelodge is set back from the river and has a private walkway along the Foss edge. This currently has limited public access but there is the potential for the proposed site to connect into this walkway to promote future connectivity to Travelodge. Further to a request for a deeper Foss edge covered walkway in front of the smaller proposed building, revised plans which detail the moving of the column line, have been submitted. There is now an approximate 1.5 m gap for access which is ok but not generous.

Public realm & bridge design

3.8 The approach of a visually "quiet" bridge design is supported. The bridge uses the depth of the guarding as a structural beam which hinders views for some users. The Castle Mills Plaza side landing of the bridge on plan is also tight up against a commercial unit. This should be given more free space here, because, again, it unnecessarily limits view-ability of the river setting for some users. The bridge design has been amended to accommodate better visibility and this is now a good

proposal. The recommendation to reduce the size of the commercial space or realign the bridge landing has not been addressed.

Architectural design

3.9 The smaller building block C is designated for affordable units and is not considered to be segregating, given that this overlooks the primary public space. The larger building block A&B has a relatively narrow light-well. Whilst this is not ideal, the overall idea, to have dual aspect living for nearly everyone, is rarely achieved and to be supported.

3.10 Fenestration reflects aspect - different brick choice; different height (smaller building on Foss side). This will impart a feeling of quality and ensure the overall façade has elements in light/shade. The top two floors and the roof profile have been revised in an attempt to make them less noticeable or less monolithic, however this has *not* remedied concerns of overall height.

3.11 Overall, the building design is a higher standard than most recent apartment building planning applications and the DAS demonstrates a thorough exploration of design ideas and explanation of the final proposal.

Massing & Height / Townscape impact

3.12 Urban infill occurs in the gap between Ryedale House and Travelodge, sloping in height from one to the other. This is not an appropriate design response for this site. In reaching up almost to the parapet line of Ryedale House, the proposal mistakenly takes the approach of making a continuous development form that runs from Ryedale House all the way down to the Travelodge. This does not blend Ryedale House into the urban fabric - it magnifies its impact. Instead of one form - narrow in width compared to the full composition of the three 18th century buildings, it now presents an overall footprint of development form similar in size to the footprint of the Castle Museum/Crown Court, rising above and behind these buildings when seen from Clifford's Tower. This would clearly harm the setting of these buildings. In addition, these Grade I listed buildings would no longer dominate the surroundings from this view.

3.13 The above also applies to the experience of Piccadilly as townscape. Other than Ryedale House, there are no buildings of comparable scale to the proposal, all are at least two floors lower. Piccadilly is often referred to as one able to

“accommodate change” because of its lack of 19th century and earlier buildings that would otherwise shape its direction of change. This puts it under huge pressure to be a type of tall building zone but proposals for height should be assessed for their interrelationship with other sensitive areas and assessed correctly this should limit height.

3.14 Recommendations: Reduce the height of the main building by at least a floor, and for this omission to be taken from the mid-level rather than top-level (so as to make the greatest reduction in impact).

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.15 The introduction of a footbridge across the Foss increases the status of the river as an asset to the city. Unfortunately this is not the best location for it, but the potential for alternative locations appear to have passed.

3.16 The proposed development would result in the removal of a significant quantity of existing vegetation on the west bank but there are no particularly valuable individual specimen trees. Overall, the proposed planting on the western bank would compensate for the losses. A nicely established hedge adjacent to Tower Street and some young trees would also be removed; it might be possible to retain these.

3.17 The landscape proposals for the west bank achieve a reasonable balance between maintaining the environment of the Foss as a natural wildlife corridor and celebrating a new entrance into the city. The proposed landscape would make a positive contribution to the visitor experience along the new route between Tower Street and the proposed bridge, such that the area would become an open space in its own right. The circle of paving close to Tower Street seems to be an unnecessary additional gathering space in an otherwise strong and simple concept of broad sweeps and a path through a landscape. The lighting scheme is too busy and needs to be more selective about which items are the most essential and effective.

3.18 The scale of the building with no greenery to soften its western elevation is rather stark for this intimate stretch of river that offers considerable natural environment benefits to the city centre location. Means of introducing more vegetation should be investigated. The proposed trees would be in raised planters; relative to the scale of the building and the space in which they sit, they will look rather dwarfed, though they will provide greenery at the more immediate eye level.

The levels of activity within the spill out space and the courtyard do not warrant that much paving. There may be greater value in creating a softer environment with some additional planting at ground level and/or larger beds within the plaza and courtyard.

3.19 The street trees proposed on the Piccadilly frontage would be a positive addition to the street along with the narrowing of the carriageway.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGIST)

3.20 During the bat activity surveys, the group of trees on the west bank proposed for removal were noted to provide foraging and commuting habitat for common bat species. This area of trees and scrub will be replaced by riparian planting. A lighting strategy has not been submitted with the application but would have potential to impact on the River Foss as a wildlife corridor and which should be considered a sensitive receptor. A sensitive lighting strategy could be secured through a planning condition.

3.21 Overall this proposal does not have a significant negative impact on biodiversity, however neither does it make a significant contribution to enhancing the biodiversity and wildlife interest of the area. The Environment Agency has provided comments on the missed opportunities for improving the overall form and function of the River Foss for biodiversity, including the creation of riparian and over-hanging bankside vegetation throughout the site, reducing hard engineered banks; but where required designing these with features that provide ecological improvements.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGIST)

Piccadilly Investigations

3.22 A desk-based assessment, six months data from ground water monitoring and an archaeological report characterising the deposits on site and assessing their state of preservation have been carried out. These investigations will inform an archaeological mitigation strategy for the area proposed for the apartment block.

Castle Riverside Investigations

3.23 Two archaeological evaluations have been carried out comprising two small trenches excavated in the area proposed for flood storage and bridge abutment on the western bank of the River Foss and a further two linear evaluation trenches following revised proposals for flood storage.

Impact of proposals

3.24 The impacts of the proposed development on the archaeological deposits are:

- Foundations – piling, pile caps and ground beams.
- Drainage and flood storage areas.
- Bridge abutment foundation.
- Impact on groundwater movement/drying out of deposits through the use of piles through anoxic deposits.

3.25 The foundation design for the site is currently unknown and will not be determined until ground investigation has been carried out. The design will need to be such that it preserves at least 95% of the most significant archaeological deposits. The impact of the piling on the longer term preservation conditions is unknown. A condition to secure further water monitoring will provide further data on this impact. Archaeological conditions requiring a watching brief, a programme of archaeological excavation, a foundation design, organic deposit preservation, and outstanding post-excavation work, are recommended.

AFFORDABLE HOUSING

3.26 Provision of mainly on site affordable housing with a supplementary off site commuted sum contribution is in accordance with Local Plan policy H10 and is supported for this planning application. There will also be a set of 'cascade' provisions agreed whereby the on-site homes would be replaced by a commuted sum in the event that the council does not itself acquire the homes, and suitable terms cannot be agreed with a Registered Provider.

3.27 For detailed comments relating to how the proposals meet the requirements of Policy H10, please refer to paragraphs 5.18 to 5.23.

FORWARD PLANNING

3.28 Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the

stated consistency with the Framework, we would advise that the policy requirements of emerging plan policies DP2, DP3, SS3, SS5, R3, H2, H3, H10, HW2, HW3, HW7, D1, D4, D5, D7, D10, GI6, ENV1, ENV2, ENV4, ENV5, T1, T5, T7 and DM1 should be applied with moderate weight.

3.29 We support the principle of mixed use development in this location to include residential and commercial floorspace. Further information has been submitted in relation to climate change which demonstrate high standards of sustainable design and construction which is welcomed and appear to be in accordance with Policies CC1 and CC2.

3.30 We do not raise a policy objection to this application, subject to any comments from colleagues in design and conservation on the design and historic environment considerations in this sensitive location.

PUBLIC PROTECTION

3.31 Recommend conditions relating to machinery and plant noise, noise insulation measures for protecting the residential accommodation above the commercial units, extraction equipment, noise insulation measures to protect residential units from externally generated noise, details of the area to be used for external seating, hours of deliveries and waste collection, flood lighting and a Construction Environmental Management Plan condition. No objections in relation to air quality.

3.32 With respects to contamination, the submitted assessment identifies a number of potential sources of contamination associated with the site's historical use and identifies a moderate risk in the context of a mixed commercial and residential end use. Public Protection agree with the report recommendation of an intrusive ground investigation (including soil sampling, groundwater monitoring and ground gas monitoring). If contamination is found, appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Recommend the appropriate land contamination conditions.

HIGHWAY NETWORK MANAGEMENT

Car parking

3.33 Although the highway authority does not object to the proposed development being "car free", the preference of the authority would be for a small amount of car

parking to be provided on site (20 to 25 spaces), including some disabled spaces, to ensure that the development is accessible to all and does not result in additional pressure on parking provision in the area.

Servicing

3.34 All servicing would take place from Piccadilly. This will need to be supported by a servicing strategy to be conditioned and measures to ensure no access on site by delivery/servicing vehicles. The applicant will be required to fund the implementation of any TRO/physical measures (such as bollards) required.

Cycle Parking / Sustainable Travel

3.35 As there is over 50% provision of Sheffield stands, no objections are raised to the revised cycle parking arrangements.

3.36 CYC will want to be involved in the delivery and monitoring of the travel plan. Please secure the following contributions:

- £400/unit for first residents to get bus pass or cycle offer
- £200 per unit for car club
- £300/unit Travel plan contribution (to cover implementation and monitoring by CYC for a 5 year period)

3.37 Conditions relating to access layout and off-site improvements layout and detailed design, construction management plan, technical approvals for the bridge, also required.

EDUCATION

3.38 Education Contributions are requested for this development, totalling £367k for 19 places across all 3 sectors (7 x Primary, 3 x Secondary and 9 x Early Years). This would fund expansion works at Fulford School, in Primary Planning Area 7 (which contains Fishergate, St George's and St Oswald's) and nearby Early Years provision.

LEAD LOCAL FLOOD AUTHORITY

3.39 We note the objection from the Environment Agency with regards to Sequential and Exceptions Tests and flood storage compensation and therefore await further

details. An Emergency Flood Evacuation Plan should be submitted for approval prior to determination.

3.40 In line with CYCs Sustainable Drainage Systems Guidance, the use of soakaways or a means of surface water disposal should be explored by carrying out site specific infiltration testing. Existing connected impermeable areas should be proven by way of site specific CCTV Survey and should not be assumed to be 100% impermeable. We understand an existing drainage survey has been carried out but this has not been included within the submitted Drainage Strategy which may prove the existing connected impermeable areas.

3.41 Peak run-off from Brownfield developments must be attenuated to 70% of the existing rate. Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change.

LEISURE / OPEN SPACE

3.42 As there is no new on site open space and play place space within the application site, off site contributions of £26,274 and £35,768 are required. The contribution can be towards the creation of new open space and play provision within the immediate vicinity or for use at the Cemetery Road play area. A contribution of £37,062 towards outdoor sport provision is also required. The potential spend could be used for outdoor gym equipment on the riverside path close to the development, or potential beneficiaries of Rowntree Park, York Railway Institute, York Rowing Club etc.

3.43 The area to the rear of the Castle Museum is to be opened up to public access including a new bridge crossing the River Foss to Piccadilly. This will greatly increase the number of people coming into contact with the River and therefore the following water safety measures are sought:

1. Measures which reduce the likelihood of people being in the water e.g. fence or hedge. Where no barrier is present there shall be a strong demarcation of the water's edge.
2. People in the river shall have the means to self-rescue, through the provision of ladder(s) or chains.

3. People on the river banks shall have access to the necessary safety equipment to attempt a rescue e.g. life buoy(s). These shall be located under street lighting.
4. Safety signage advising of the dangers of the River.

EXTERNAL

HISTORIC ENGLAND

3.44 Whilst we are supportive of the redevelopment of this site we have serious concerns about the impact the development will have on the setting and key views to and from Clifford's Tower, of the wider Eye of York and its key components including the distinctive cupola of the Debtors Prison. We also have concerns about the design and articulation of the elevation facing onto the River Foss and feel this could be strengthened by introducing a strong vertical emphasis to the design to break up the massing and to tie it more strongly to the River Foss frontage. We also have concerns about Piccadilly and how the development will contribute to the wider development of this street.

3.45 Without a clear document by the Council setting out clear and convincing justification for the proposals and how any public benefit will be secured we do not consider this application meets paragraphs 193, 194 or 196 of the NPPF. Therefore whilst we remain supportive of the overall objectives of the Castle Gateway Masterplan we are unable to support this application or the related St George's MSCP application at this time since we are not convinced that there is an adequate mechanism in place to ensure the harm will be outweighed by the delivery of public benefits.

Comments in response to additional / revised information

3.46 The two development schemes constitute 'harm' to designated heritage assets, but the potential public benefits associated with the removal of the Castle Car Park are considerable. In order to demonstrate the relationship between harm and public benefit, it is necessary to clearly and accurately state the degree of harm. Unfortunately the Statement of Heritage Significance fails to do this. There are inconsistencies and unusual omissions from the assessment whilst the significance and degree of harm are frequently under-assessed.

3.47 The design details of the apartment blocks have not been revised, and therefore we reiterate our previous comments that the apartment buildings cause

'harm' by their height and massing. The northernmost block is too tall, particularly given the relationship with the Debtors' Prison. It is not clear why the penthouse apartments should appear as two storey units, thereby making a 6 storey building appear as 7 storeys. It is essential therefore that the justification for the scale and height of the proposed buildings is made explicit, as in this way the harm generated by the structures can be effectively judged against the public benefit of the whole scheme. This is then further necessity why the Assessment of Significance document should be robust with a clear and consistent and consistently applied methodology.

ENVIRONMENT AGENCY

3.48 The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails:

- to demonstrate that all compensatory storage proposed is both achievable and feasible
- to detail all proposed mitigation in detail
- Is lacking in detail to demonstrate that the mitigation that is proposed will work as intended

3.49 In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused.

Missed opportunities for river improvement to support implementation of RBMPs

3.50 In line with the Humber River Basin Management Plan (RBMP), we recommend that the proposed development is used as an opportunity to restore more natural processes, form and habitat to the River Foss water body.

YORKSHIRE WATER

Comments in response to revised information

3.51 We have no objection to the proposed building stand-off from public sewer centre-line of four metres on the Castle Mills side and 6 metres on the Castle side; and the proposed bridge foundation stand-off from public sewer centre-line. The

developer is now required to enter into a formal build-over agreement with Yorkshire Water.

3.52 The submitted drawing does not show any foul water or surface water drainage proposals however it is noted in the submitted Drainage Strategy (November 2019) that surface water will discharge to the river via storage with restricted discharge of 40.5 litres/second, subject to LLFA/EA requirements. Foul water will discharge to public combined sewer running along Piccadilly. We have no objection to these proposals.

3.53 There is a public combined sewer and a 1200 mm diameter public combined sewer recorded to cross the site. The presence of this infrastructure shall be taken into account in the design of the scheme.

POLICE ARCHITECTURAL LIAISON OFFICER

3.54 There is limited reference as to what crime prevention measures will be incorporated into this development. The most significant crime issues that could affect this development are burglary, criminal damage and cycle theft. Antisocial behaviour and violence are also major problems in the area. The following points are made;

- The cycle / pedestrian route is located so that it can be well used, providing fewer opportunities for crime and generally increase safety, is overlooked and illuminated either directly or indirectly and has short, direct, wide and attractive to use and avoids passing along rear boundaries.
- Recommended that the communal entrance doors for the apartment blocks are fitted with an electronic door release mechanism connected to a videophone in each apartment. Where there is communal access to 25+ dwellings, compartmentation should be considered to curtail unlawful movement.
- The proposed site layout plan has outward facing frontages providing natural surveillance of the public realm.
- Lighting or the lack of it can have a significant impact on crime and the fear of crime. External lighting is recommended for every doorset.
- The landscaping details appear to be appropriate and raise no concerns in relation to designing out crime.
- Any future operating hours for the commercial units needs to take into consideration the amenity of residents.

- There is clear demarcation of private, semi-private and public space that creates defensible space, where it is clear who has control and ownership.
- Recommended that the cycle stores be limited in size, by using compartmentation, to hold a maximum of 25 cycles each and access controlled with an electronic fob key that only gives access to the store required.
- Amenity space around the site should be subject to an effective maintenance plan to address such issues as litter removal, damage repair, repair to security features in communal areas (lighting, access control, CCTV etc.).
- A condition is recommended requiring the applicant to provide full details of how the above 'designing out crime' advice and recommendations are to be addressed.

Further Comments in response to additional information submitted

3.55 Having reviewed the documents submitted in relation to designing out crime, it is pleasing to note that the advice and recommendations from initial set of comments has been taken into consideration. In particular, the redesign of the secure cycle storage is to be commended.

GUILDHALL PLANNING PANEL

3.56 The Guildhall Planning Panel raises the following objections;

- This proposal is for an unexciting building in a prestigious location.
- The height of the proposed northern building. It is only a few metres lower than Ryedale House and will lead to a canyon effect on Piccadilly.
- The height, length and repetitive nature of the roofline of the northern building which continues the blocking effect of Ryedale House as seen from Clifford's Tower and the Eye of York.
- The reduced size of the public space compared with earlier concepts. The projection of the northern building into the proposed public square area reduces the useful community space and narrows the connection with Piccadilly and beyond.
- The narrowness of the ramp to the bridge as it passes the commercial unit under the projection as it will be a hazardous area for cyclists and pedestrians.
- The original proposals for this site also included an accessible public riverside walk along the Foss and additional trees on Piccadilly, which are not present in this application.

- The amount of private space for 106 flats. The building courtyard is small and will be dark as it will be surrounded completely by the high building. The ability of residents from the southern building to safely and easily access this courtyard.
- The loss of the view of the Castle Walls from Mill Street, to be replaced by views of the southern five-storey building.
- The impact on the local community of an increase of an additional 62mm flood level in the event of a major flood, caused by the lack of required water storage on the site in the event of flooding.
- The mix of flats proposed includes too many single bedroom units. There is no indication as to how the social units will be delivered, whether by "affordable" housing, housing association or other means.
- The Panel is concerned that the requirement for financial gain from this development to cover the cost of the St. Georges Field car park development will disadvantage the community in this area of the Guildhall Ward.

WATER SAFETY FORUM

3.57 We welcome the regeneration of the riverside but would like to promote water safety within the plans. We would recommend appropriate lighting along all public access routes and the removal of any potential trip hazards that may lead to people accidentally falling in the river. We would also ask for appropriate lifesaving equipment to be strategically placed within the public access areas. Where at all possible access to the river should be restricted to prevent people accidentally falling into the water.

YORK MUSEUM TRUST

3.58 Support the application. YMT have been fully consulted on the project throughout and have had detailed dialogue to ensure the Castle Walls and other Heritage assets have been fully recognised as part of this process. YMT believes this is an important step in opening up the potential the Castle Gateway area, creating a sense of place and community and improving the environment for residents and visitors.

4.0 REPRESENTATIONS

4.1 10No. third party representations have been received. 9No. objecting to the scheme and one in support. Comments made are as follows;

- (i) The proposed 8-storey northern building is too high and would dominate both Piccadilly and the Eye of York. It is only two metres lower than Ryedale House and much higher than the Travelodge and the buildings opposite as well as the proposed new hotels further up Piccadilly, the Castle Walls and the museum buildings on the other side of the River Foss. It will dominate the museum buildings when seen from many points in the Eye of York, Clifford's Tower and parts of Tower Street.
- (ii) The length and height of this building will block much of the westerly light and will make Piccadilly seem like a canyon cutting out all the sun onto the street. In winter months, the shadow cast by the proposed buildings will keep the narrow passage between the proposed buildings and neighbouring areas on the Piccadilly side without any sunlight at all. No west-east cross-sectional drawing, showing the relation of the buildings to the residential properties, Mayfair House and Trafalgar House, located directly opposite provided. Infer from the plans that the height and mass of the proposed development would result in a denial of natural light to these residential properties, as measured by the 25 degree "rule of thumb test" described in the Building Research Establishment (BRE) guide "Site Layout Planning for Daylight and Sunlight" 2011.
- (iii) A building of this height will create excess wind onto an area which can be extremely windy.
- (iv) The designs are an architectural "light concoction" which "could be anywhere" except opposite a Grade 1 listed building in a Conservation Area.
- (v) Views - The attractive view of the Cupola and the Castle Walls from Mill Street will be lost due to the size and positioning of the southern building. The symmetry of the views from the Eye and Clifford's Tower will be lost as all the new buildings will be visible between and above the Castle Museum buildings. The external balconies overhanging the River Foss will distract from the views of the listed buildings around the Eye. One of the stated aims of the development was to open up the views of the River Foss from Piccadilly and yet the south-eastern corner of the northern building breaks into and blocks much of the view of the Plaza and the River Foss from Piccadilly.

- (vi) Insufficient open space. The plaza is too small and congested where it meets Piccadilly. The diagonal ramp across the plaza area breaks up the connection between Piccadilly and the river and considerably reduces the useful size of the plaza.
- (vii) The bottom of the bridge ramp where it meets Piccadilly will be a hazardous area with so many conflicting cycle and pedestrian routes. This junction area needs more space to allow better segregation of routes.
- (viii) The original footbridge was proposed to link the vista and desire line between Clifford's Tower and St. Deny's. The new bridge will do neither. The proposed design for the bridge is functional and unattractive and will not provide an opportunity for people to pause. Its high abutments will prevent wheelchair users and children from enjoying the views of the river below.
- (ix) Some of the visualisations from the Eye provided in the application appear to be incorrect as they show the new buildings to be 2-storeys lower than Ryedale House rather than 2 meters (approximately 2/3rd of a storey).
- (x) The proposed commercial units on the ground floor will introduce commercial activities which will detract from the living conditions of the new residents – especially in the social housing.
- (xi) Original ideas for the scheme discussed at consultation stage have been abandoned.

5.0 APPRAISAL

KEY ISSUES

5.1 The key issues to be considered are:-

- Principle of the proposed development
 - Housing – Density and Mix
 - Affordable Housing
 - Design and External Appearance
 - Impact on Designated Heritage Assets (Listed Buildings / Conservation Area /
- Application Reference Number: 19/02415/FULM Item No: 3c

Archaeology)

- Landscaping
- Ecology
- Impact on Residential Amenity / Health and Well-Being
- Highways
- Flood Risk and Drainage
- Sustainable design and construction
- Open Space
- Education

POLICY CONTEXT

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

National Planning Policy Framework (February 2019)

5.3 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", 2019). It is a material consideration in the determination of this application. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Emerging Local Plan

5.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted to the Secretary of State for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

5.5 Relevant draft policies are set out in section 2 of this report.

5.6 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The directly relevant evidence base comprises –

- Strategic Housing Market Assessment (SHMA)
- Heritage Impact Appraisal
- Open Space and Green Infrastructure Update 2017

2005 Draft Development Control Local Plan

5.7 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with very limited weight.

PRINCIPLE OF DEVELOPMENT

5.8 In line with the NPPF, the application is in principle weighed in favour of the proposed development as the site is within the urban area, vacant and is classed as 'brownfield land'. The site is on the National Brownfield Land Register adding weight to the principle of housing at the site. NPPF Paragraph 119 states "*Local planning authorities should take a proactive role in helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers, using the full range of powers available to them*". At paragraph 117, the NPPF states that planning decisions should "*promote an effective use of land in*

meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."

5.9 The proposed development forms a key component of the York Castle Gateway masterplan development proposals, which are addressed in Policy SS5 of the 2018 Draft Plan. Policy SS5, which Officers consider can be afforded moderate weight, allocates Castle Gateway as an “*Area of Opportunity*”, with the proposed site allocated for mixed use development on the Proposals Map. The Policy identifies Castle Gateway as a major regeneration area of the city centre and an area home to high quality cultural, river and heritage assets that form part of York’s unique character, but suffer from a poor quality setting amongst car parking and neglected buildings.

5.10 The aims of the regeneration of the Castle Gateway area include;

- The enhancement of the setting of Clifford’s Tower and other features within the Eye of York,
- Improvement of the economic, environmental and social sustainability of the area,
- Integration of the area with the broader city centre,
- Improvements to pedestrian and cycle flow throughout the area and improve connections with the wider city,
- Bringing forward of new commercial and other development that improve the area and complements and facilitates the implementation of the public realm enhancements.

5.11 The principle of the proposed development which makes provision for a mix of uses to include residential, active ground floor commercial uses, alongside the provision of a new pedestrian and cycle bridge across the River Foss and creation of new public realm is in accordance with the provisions of Policy SS5 of the 2018 Draft Plan, with the proposals reflective of the key aspirations for the regeneration of this part of the city centre.

HOUSING DENSITY

5.12 The application site falls within the city centre and city centre extension zone as identified in the 2018 Draft Plan. Policy H2 (which Officers consider to carry moderate weight), stipulates that housing developments within the city centre will be expected to achieve a net density of 100 units per hectare. Policy H2 also states

that higher density will be supported for sites within 400m of a high frequency public transport corridor, which this site is. The policy highlights the issue that delivering densities that support the efficient use of land requires good design and within Conservation Area, should also have regard to any relevant guidance contained in the appraisal of the conservation area.

5.13 106 residential units are proposed on a site 0.6ha in size. This equates to a density of 177 dwellings per hectare. The location of the site and its proximity to infrastructure and transport links is one where the NPPF would support a higher density, making optimal use of the site. However, notwithstanding the consideration that maximising the use of brownfield development in such a sustainable location is desirable, there is a complex relationship and balance to achieve in relation to high density development, the surrounding context and viability. Whether the amount of development proposed is acceptable for the site, considering local character, the setting of heritage assets, the need to promote regeneration and the importance of good design, is assessed in the following sections.

HOUSING MIX

5.14 106 residential units are proposed consisting of 2No 1 bed studios, 36No 1 bed roomed apartments and 68No. 2 bed roomed apartments.

5.15 NPPF paragraph 61 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). The national design guidance states that “well-designed neighbourhoods provide a variety and choice of home to suit all needs and ages” and that good design promotes social inclusion by: contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all; maximising the potential for social integration in the layout, form and appearance of types of development.

5.16 2018 Draft Plan Policy H3 states "proposals will be required to balance the housing market by including a mix of types of housing which reflects the diverse mix of need across the city, as defined by the most recent Strategic Housing Market Assessment (SHMA). This includes flats and smaller houses for those accessing the housing market for the first time, family housing of 2 to 3 beds and homes with

features attractive to local people”. The policy requires that the housing mix proposed should also be informed by the nature of the development site and the character of the local surrounding area. The policy is considered to carry moderate weight.

5.17 Although the scheme over provides 1 and 2 bed apartments in relation to the current and future demographic trends identified in the SHMA, it is recognised that the SHMA seeks to set a housing mix at a strategic level and as such, the range of housing delivered will vary by site. This site is within an urban context within the city centre and therefore is compatible with higher density living and accordingly it will be apartment led. Delivering higher density apartment living on this site can be balanced with the provision of a suitable proportion of larger homes on the strategic housing sites identified in the plan, out of the city centre and therefore Officers consider the housing mix proposed is reasonable for this urban site.

AFFORDABLE HOUSING

5.18 There is a demonstrable need for affordable housing provision in the city, estimated at 573 homes per year in the SHMA. Local Plan policy H10 (affordable housing) sets a target of 20% provision on urban sites where more than 15 dwellings are proposed of which 80% should be social rented tenure allocated to households identified through the Council’s waiting list. The other 20% should be for Discount Sale at fixed prices.

5.19 For this scheme of 106 apartments, the policy obligation is the provision of 21.2 affordable of the total homes. All 20 units in the 5 storey block are proposed as affordable apartments (12No.1 bed units and 8No. 2 bed units). In addition, a commuted sum in lieu of 1.2 equivalent apartments has been agreed which will be calculated at 1.2x the difference between the market value of a typical 2-bed flat, and the estimated affordable housing transfer value (£65,000). The 20No. affordable units and commuted sum in combination are considered to meet the policy requirement.

5.20 Policy H10 also requires the size and type of affordable homes to be a pro-rata mix of the total homes provided on site, taking into account assessments of local need where on-site provision is required. Whilst it is acknowledged that a disproportionate number of 1 bed affordable units is proposed, given that 2-bed social rented apartments are expected to be occupied by families in the majority of cases and the facilities and amenities available in the proposed development and its

surrounding area, which may not prove suitable for some family households, the greater proportion of 1 bed homes is considered appropriate in this case.

5.21 Another key requirement of Policy H10 is that the affordable homes need to be fully integrated within the development by pepper-potting throughout with no more than two affordable dwellings placed next to each other. The exception to this is apartment blocks if they are to be transferred freehold to Registered Providers. The applicant has advised that future management arrangements for the larger blocks are not known at present and therefore there is uncertainty as to whether affordable housing could be included in these blocks due to factors such as the affordability of service charge levels and provision of suitable management of shared areas. The applicant therefore intends to provide on-site affordable housing solely within Block C. This is considered to accord with Policy H10, provided the freehold is transferred to the affordable housing landlord at a price which enables the agreed tenure mix to be delivered with no public subsidy.

5.22 Due to site constraints the proposed 1-bed affordable homes are not considered equivalent to the open market apartment types nor visually indistinguishable, being single aspect and not afforded any external balcony. The 2-bed apartments are however dual aspect and each include a balcony, and offer comparable size and equivalent design quality to the market 2-bed homes. At a size of 50 sqm per 1 bed apartment and 70 sqm per 2 bed apartment, the affordable homes offer good internal space.

5.23 The proposed tenure of the affordable homes is 80% (16no.) social rent and 20% (4no.) intermediate tenure. Although the policy compliant intermediate tenure provision is considered to be Discount Sale, taking into account the wider benefits of the scheme and the overall suitability for households who may not be able to access a mortgage, Officers consider it is acceptable to deliver Intermediate Rent apartments at up to Local Housing Allowance (LHA) levels for this application. These are likely to provide excellent homes for groups who would not qualify for high priority through the North Yorkshire Homechoice system, such as local key workers on lower incomes.

DESIGN AND EXTERNAL APPEARANCE

5.24 The assessment of design takes into account the local context, the impact on heritage assets and the form and function of the scheme. The following sections of the 2018 Draft Plan and NPPF are relevant in this respect.

5.25 NPPF policy on developing previously developed land allows for an approach which either maintains an area's prevailing character and setting, or of promoting regeneration and change. It places importance on securing well-designed, attractive and healthy places (paragraph 122). Chapter 12 of the NPPF gives advice on achieving well-designed places. At paragraph 127 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, be visually attractive through good architecture, layout and appropriate landscaping, be sympathetic to local character whilst not stifling innovation, establish a strong sense of place, and create safe and accessible environments.

5.26 At paragraph 130, the NPPF advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These aims are reflected in Policy GP1 of the 2005 draft Local Plan and D1 and D2 of the 2018 Draft Plan. Policy D1 (Placemaking) advises that schemes will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. In this respect, further advice is given on urban structure, density and massing, streets and spaces, building heights and views and character. Local plan policy SS5 for the Castle Gateway is also relevant. With regards to Piccadilly it has aspirations that regeneration schemes provide active frontages and contribute to public realm improvements (reducing the size of the vehicular carriageway on Piccadilly and improve the size and quality of the pedestrian foot streets, including tree planting).

Site layout

5.27 The fundamental constraint in the design process has been the existence of a sewer which runs across the southern part of the site, owned and maintained by Yorkshire Water and which requires an easement zone of 3 metres to either side of its enclosure. The sewer impacted on the form of the building (as well as the location of the bridge) and led to the creation of two smaller blocks rather than one central building with the new buildings pushed as much as possible away from the sewer, running adjacent to the site's northern and southern boundaries. Splitting the development into two blocks has resulted in the creation of a wedge of new public realm from street to riverside, connecting to the pedestrian / cyclist bridge, which is welcomed as a significant public benefit.

5.28 The ground floor of both buildings is designated for the commercial and ancillary activities such as refuse, plant rooms and cycle storage. The exclusion of parking from the scheme and the inclusion of commercial uses is supported as a means to help animate the ground floor space and ensure it is a people centred space.

5.29 The main building (Blocks A and B) is positioned on the Foss edge which results in more space being available for the new public realm and, overall, creates a desirable variety of approaches along this stretch of the Foss. In terms of the smaller building (Block C), an approximate 1.5 metre gap has been provided to the Foss edge to allow the potential for the proposed site to connect to the private riverside walkway which lies in front of the Travelodge. Block C, which is designated for affordable units, overlooks the primary public space. This is appropriate given that the Travelodge boundary is a blank wall.

Bridge Design

5.30 The bridge design is visually “quiet” (i.e. without bow string arch or structural complications) which is considered appropriate given that the space in which it is situated is relatively constrained and due to the importance of the setting of the castle. Officers had raised concerns with respect to the guarding which at a height of 1.1m above deck level would hinder views for some users. This element of the design has since been amended to accommodate improved visibility to the satisfaction of Officers.

Architectural Design

5.31 The development comprises two buildings; Block C (a five story block) and the larger building (Blocks A and B), which is split into two primary components, one running parallel to Piccadilly, the other parallel to the Foss. Blocks A and B are linked to each other by two service cores, leaving an open space in the middle that provides a deep light-well lined by walkways that access the apartments. This building has a highly modelled and varied skyline, seven storey in the main, but with three protrusions at eight floors, that are the upper levels of three duplex apartments.

5.32 Although Blocks A and B have a relatively narrow light-well, the provision of dual aspect living for almost all units is welcomed. Primary living spaces

appropriately face outwards rather than to the light well and Officers support the overall floor plan which it is considered will provide a spatially dynamic experience.

5.33 The building design is considered to be of a high standard. The design of the fenestration reflects the aspect with projecting balconies to the Foss and recessed balconies to the road elevation with different brick choices and different heights. Both elevations are considered to have sufficient chunkiness, i.e. set backs, wall reveals, in the composition of ordinary/repeated aspects like windows to ensure the overall façade has elements in light/shade, a mechanism used to make large buildings feel less oppressive.

Massing and Height – Townscape Impact

5.34 Other than Ryedale House, there are no buildings of comparable scale to the proposal with all other buildings at least two floors lower in height. Given its relationship to the impact on heritage assets, consideration to the impact on townscape from the massing and height of the proposed buildings is provided in the following section.

IMPACT ON HERITAGE ASSETS

5.35 The site is within the Central Historic Core Conservation Area and within an Area of Archaeological Importance. It also forms part of the wider setting of Clifford's Tower and the Castle precinct. The Castle Museum, the Female Prison, the debtor's prison, curtain wall, are all Grade I listed as are the Crown Court and Railings and Clifford's Tower. York Castle is a scheduled ancient monument.

5.36 The Central Historic Core Conservation Area Appraisal (2013) (CHCCAA) sets out important considerations for the area which should be met by any new development. The Castle Piccadilly area includes buildings of exceptional historical and architectural quality of international importance. Regeneration could transform this part of the City by enhancing the unique setting of these buildings and securing their sustainable future, in particular, the character, setting and appearance of the Castle Precinct (the area of the Scheduled Ancient Monument including Clifford's Tower).

5.37 The CHCCAA sets out that the majority of the buildings along the bank of the River Foss are designated as detractors (including the former Castle Mills car park which previously occupied the site). The reason Piccadilly is included within the

conservation area is less related to the buildings in it and more related to how it contributes/impacts on the extensive patchwork of other conservation areas around it and how it contributes to the understanding of the history of the city. The Appraisal comments on the deteriorated quality of the buildings along Piccadilly and the fact that its location is particularly sensitive since it is directly opposite the Castle precinct. The Appraisal sets out the sensitivity of views to the Castle buildings and that building heights and layouts must respond to this. Breaking up blocks into a series of smaller elements and controlling building heights would help to achieve this.

5.38 The application site falls within a strategic panoramic view point from Clifford's Tower, Key View 16 (CHCCAA). The appraisal sets out that no new development should be permitted which would break the skyline of the historic core when viewed from this point. The views from Clifford's Tower provide an understanding of the 'topography' of the townscape. The appraisal sets out that there is a clear material division from this elevated vantage point: the everyday mass of the city is coloured in the reds and browns of brick and clay tile. From this 'choppy sea', as it has been described, rise the medieval buildings of Church and State.

5.39 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Planning 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 such harm should be afforded substantial weight.

5.40 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. 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 sustain and enhance their significance. The 2018 Draft Plan Policy D4 (2018) advises that harm

to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

Conservation Area and Setting of Listed Buildings

5.41 Ryedale House is the most prominent building on Piccadilly, designed to stand significantly taller than the predominant urban neighbours. The Council's Design Manager assesses it as having "*an arrogant lack of urban neighbourliness and this approach is not something to repeat*". In being so clearly viewable, it was referred to as impacting negatively on the setting of the Castle Site by Historic England and within the CHCCAA.

5.42 Block A / B (largely seven storey with three protrusions at eight floors), fills the gap between Ryedale House and the Travelodge by sloping in height downwards from one to the other. It reaches almost to the parapet line of Ryedale House and as a result, appears as a continuous development form that runs from Ryedale House to the Travelodge. It is contended that this does not blend Ryedale House into the urban fabric as instead of it appearing as one form, relatively narrow in width, it presents an overall footprint of development form similar in size to the footprint of the Castle Museum/Crown Court, rising above and behind these buildings when seen from Clifford's Tower (Key View 16: CHCCAA).

5.43 The views from Clifford's Tower are characterised by a fine-grained roofscape of small-scale patchwork roofs above which rise the buildings of Church and State. The Eye of York and its key components including the distinctive cupola of the Debtors Prison, The Female Prison and Crown Court and the surviving elements of the Castle Walls, derive their significance as centres for justice, power and authority, which is clearly evidenced by their prominence when compared to the subdued scale of the built city within its setting.

5.44 By rising above and behind the buildings comprising the Eye of York, it is considered that the proposed development, together with Ryedale House, would cause harm to their setting and to the significance of the conservation area as these buildings would no longer dominate the surroundings from this view. The proposed development would also encroach on views along Bishopgate Street and Skeldergate Bridge towards the Eye of York and will rise above the roofline of the debtors Prison and encroach on the dominance of the distinctive cupola. The southern penthouse apartment of the new development would also be highly visible

in views from Fishergate and the City Walls at Fishergate Postern.

5.45 In response to concerns relating to the height of the proposed development, the applicant has assessed the financial implications of reducing the height of the main building (Block A / B) by one storey. The results of this review conclude that whilst build costs would be reduced, there would be a loss of 1,050m² of saleable floor area resulting in an overall net loss of £3.2m of development value. With the project viability gap already anticipated to be £3.3m, this would double the overall first phase project viability gap to £6.5m putting the whole project delivery at risk. The applicant states the following;

“As a minimum this would lead to a full reconsideration of the delivery strategy, including the option to dispose of Castle Mills to the highest bidding private developer. Independent valuations of the site suggest that this would likely result in hotel or student accommodation, and we are of the view that any private developer led application would result in lower architectural quality and, as a minimum, proposals of the same height and massing”.

5.46 Taken as a whole, the development proposals would harm the setting of a number of heritage assets. Legislation requires considerable importance and weight to be given to the desirability of avoiding such harm. The NPPF also requires great weight to be given to such harm in the planning balance, despite it being minor. The harm is assessed as “less than substantial”.

5.47 Balanced against the identified harm to heritage assets caused by the height and massing of the proposed development are a number of public benefits comprising the provision of much needed new housing, including twenty affordable units which meet the 2018 Draft Plan 28% carbon reduction targets, the creation of ground floor spaces for commercial units (the intention being that they are for small independent traders) and the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside route. Through the inclusion of the bridge, the proposed development will also significantly improve pedestrian and cycle connectivity within the wider neighbourhood with the intentions of the Castle Gateway Masterplan being for a continuous pedestrian and cycle route linking with the 2015 Hungate bridge and the proposed new surface level crossing on Tower Street, to St. George’s Field.

5.48 Beyond this, the proposed development at Castle Mills has an integral role to play in both direct delivery of the key public benefits of the regeneration and funding

of the wider Castle Gateway Masterplan. The financial return from the sale of the apartments would provide in the region of £35m, the major funding source for phase one of the Masterplan. This sum will be dedicated to fund the construction of the proposed multi storey car park at St. George's Field, which in turn will allow the closure of the Castle Car Park. This would allow the realisation of one of the key objectives of the masterplan, to remove surface car parking away from the Eye of York and to replace it with a flexible, multi-purpose, vibrant area of public realm. Without the Castle Mills development, there is no funding to pay for the St George's Field multi storey car park (MSCP) and as a consequence, Castle Car Park would not be able to close.

5.49 These public benefits are significant and far reaching and have the potential to enhance the setting of heritage assets. It is acknowledged however that these wider public benefits cannot be secured through this planning application and there is a lack of certainty that these benefits can be realised given the long timescale of the project and funding complexities. Historic England are unable to support the applications for this reason advising that they are not convinced that there is an adequate mechanism in place to ensure the delivery of the public benefits. In effect, they are concerned that the scenario could emerge whereby the Castle Mills scheme may proceed in isolation, without the public benefit from the closure of Castle Car Park being realised. This is particularly pertinent in light of the review of the Castle Gateway project and the intention to delay the procurement of a construction partner for the new multi-storey car park until next summer so as to ensure the full impact of Covid on car parking is known before committing to the next stage of expensive detail design and given that the applicant has emphasised that the closure of Castle Car Park remains dependent on the replacement car parking being provided. Questions are therefore asked as to the weight that can be attributed to these public benefits in the exercise of balancing them with the identified harm to heritage assets.

5.50 To address these comments, the applicant has submitted a supplementary note explaining the relationship between the applications and the delivery of the Masterplan. The Council confirms that it would accept a planning condition, or other form of restriction, to be applied to the Castle Mills application that prevents the occupation of the development until such time as the Castle car park has closed.

5.51 It should be noted that whilst the closure of the Castle car park can be secured by means of a condition (to include a requirement that all ticket machines and associated car park signs be removed), the details of the public realm works would

be the subject of a future separate planning application. The applicant has confirmed that this body of work would be brought forward in to the first phase of development to ensure permission would be in place to create a shovel ready scheme and to help secure any external funding that may become available. With this approach, it is acknowledged that whilst the removal of cars from this area would result from the implementation of the permission, the works to transform the space into a flexible, multi-purpose, vibrant area of public realm would not be secured.

5.52 Officers are satisfied that adequate mechanisms are in place to ensure the delivery of the public benefits identified above. Therefore whilst it is considered that less than substantial harm to the setting of a number of heritage assets would result, this harm is considered to be outweighed by the closure of the Castle Car Park and other public benefits such as the provision of new housing including twenty affordable units, the creation of new public realm to the rear of the Castle Museum and through the inclusion of the bridge, improvements to pedestrian and cycle connectivity. Whilst harm to heritage assets is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.

ARCHAEOLOGY

5.53 Castle Mills lies in the Central Area of Archaeological Importance in an area where there are deep archaeological deposits that include saturated, well preserved organic deposits. These deposits are non-designated heritage assets potentially of national significance.

5.54 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. 2018 Draft Plan Policies D6 and D7 reflect national planning guidance and require an understanding of the archaeology affected to avoid substantial harm (preserve 95% of deposits) or where there would be harm, undertake adequate mitigation.

5.55 Investigations carried out on the Piccadilly part of the site reveal the existence of natural deposits covered by alluvial clays, beneath fishpool deposits all covered by post-medieval and modern land reclamation deposits. The Castle Riverside investigations revealed 18th to 20th century levelling deposits covering a possible medieval rampart/bank associated with the Castle wall. In the areas of the deepest,

most intrusive areas of proposed flood storage, evaluation trenches revealed late 19th / early 20th century surfaces below the modern ground surface. The results suggest that this area has been landscaped and the ground raised. It is anticipated that below these surfaces, there will be mid - late 19th century archaeology to the formation depths of the storage areas at c.1.4m below ground.

5.56 The foundation design for the site (including piling, pile caps and ground beams), the drainage and flood storage areas and the bridge abutment foundations will cause harm and result in loss of deposits on this site. Although the foundation design for the site is currently unknown and will not be determined until ground investigation has been carried out, in accordance with 2018 Draft Plan Policy D6 and to avoid substantial harm, the foundation design will be such that no less than 95% of archaeological deposits are preserved in-situ. Any harm is considered to be less than substantial, outweighed by the economic and social benefits of the development in terms of the provision of new housing, the provision of regeneration in the area with employment benefits, and can be mitigated by conditions.

LANDSCAPING

5.57 Policy D2 (Landscape and Setting) of the 2018 Draft Plan states that proposals will be encouraged and supported where they conserve and enhance landscape quality and character. The key elements of the landscaping proposals involve the creation of a new public space, improved connectivity through the introduction of a new bridge link and the redefinition of the area of landscape between the River Foss and the City Walls.

5.58 The Castle Mills public space will form several functions; (i) the entry point to both of the new buildings, (ii) the link between Piccadilly and the Foss and the access point for the proposed bridge link and (iii) the external space for commercial units. Level changes and the location of the sewer have been key to its design. An open, accessible base within the public space has been created incorporating terraced seating and planting to accommodate the level change. Feathered steps are also used in areas with a smaller level difference.

5.59 The existence of the sewer and its easement restrict the potential for planting large species trees into the ground which would have helped to balance the scale and dominance of the proposed buildings. Instead the proposed trees would be raised planters with incorporated seating which will provide greenery at eye level but relative to the scale of the building, may look rather dwarfed. In response to Officer

comments that this public space could be improved by a reduction in the extent of paving and the creation of a softer environment with additional planting at ground level and/or larger beds within the plaza and courtyard, without conflict with the sewer easements, the applicant states that the raised planter / seat elements are designed to accommodate small trees or large specimen shrubs to create greening at a human scale. No revisions to this element of the landscaping scheme have been submitted.

5.60 A proposed crossing point over the Foss is considered a significant public benefit as apart from increasing the status of the river as an asset to the city, it would provide a much needed cyclist/pedestrian link between St. Georges Field / the River Ouse and Piccadilly with potential connectivity allowing pedestrian flow into the Eye of York. The bridge link from Castle Mills will bring pedestrians and cyclists to the base of the City Walls. The 4 metre wide route will continue south, its alignment dictated by existing levels and the Tower Street crossing point, the location of Raindale Mill, and the landing stage for the footbridge. The introduction of this broad sweeping pavement as an important gateway link to the city centre via a new footbridge alters the status of this segment of landscape between the Castle Museum/Curtain wall and the river Foss.

5.61 To accommodate the landing of the bridge on the west bank and the change in levels, the scheme involves the removal of a significant quantity of existing vegetation, including a group of trees. Whilst this is valuable cover in terms of greenery, there are no particularly good individual specimens and overall, the proposed planting on the western bank is considered to compensate for the losses.

5.62 Sweeping gabion walls to create planted terraces and seating are proposed with different riparian species as the level above the water increase. The top of the embankment toward the castle walls becomes more ornamental. Given its historic and relatively inaccessible nature and strong association with the river Foss, it is considered appropriate to strike a balance between this area looking natural and yet celebrating it as a new entrance into the city with attractive features that provide horticultural interest and places to sit and enjoy the natural environment within the city. Officers consider that the structure of the landscape, and the mix of native and non-native/ornamental planting will make a positive contribution to the visitor experience along the new route between Tower Street and the proposed bridge and the area would become an open space in its own right.

5.63 Subject to detailed landscaping conditions including a condition relating to an appropriate lighting scheme, it is considered that the proposal accords with 2018 Draft Plan Policy D2 and Paragraph 170 of the NPPF which seeks to ensure valued landscapes are protected and enhanced.

ECOLOGY

5.64 The application site lies within the Foss Corridor which is of regional importance. The River Foss is noted as a Site of Local Interest because of its wildlife interest and importance as a connecting green corridor. Policy GI2 of the Emerging Plan seeks to conserve and enhance York's biodiversity. Part (vi) of GI12 states that where appropriate, any development should maintain and enhance the rivers, banks, floodplains and settings of the Rivers Ouse, Derwent and Foss, and other smaller waterways for their biodiversity, cultural and historic landscapes, as well as recreational activities where this does not have a detrimental impact on the nature conservation value

5.65 A number of trees on the western bank are proposed for removal to facilitate the new bridge and public realm. During the bat activity surveys undertaken on site, this group of trees were noted to provide foraging and commuting habitat for common bat species. This area of trees and scrub will be replaced by 'riparian planting' which includes scattered trees and is a mix of native and ornamental plant species, and alongside the western bank, by an area of 'floating planting units' proposed within the river. An area of scrub on the eastern bank will be removed but not replaced with any semi-natural habitat.

5.66 In response to Officers concerns that this proposal would not have a significant negative impact on biodiversity but neither would it make a significant contribution to enhancing the biodiversity and wildlife interest of the area, the applicant recognises that further mitigation to the water's edge can be secured through the detailed landscaping scheme and could include additional soft planting and the creation of otter holts. It is forwarded that the river wall could also be softened by introducing overhanging plant species, or coir rolls, similar to the floating planting system, to allow the connection of vegetation between the river and bank and the line of the river wall could be amended to create a different wall profile, to make the level change between the river and bank more gradual to further enhance the provision of diverse habitat and create measureable net gains for biodiversity.

5.67 On the basis of the additional enhancements, which can be secured through the detailed landscaping condition, it is considered that the proposal accords with the 2018 Draft Plan Policy, which strives for “enhancement” of biodiversity and Paragraph 175 of the NPPF, which advises that development should encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

FLOOD RISK

5.68 Policy ENV4 of the 2018 Draft Plan is in accordance with Paragraph 163 of the NPPF which states that when determining applications the LPA should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
- and development is appropriately flood resilient and resistant;
- it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- any residual risk can be safely managed;
- and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Sequential Test

5.69 The part of the site proposed to accommodate residential development is located within Flood Zone 3a and as such a sequential test is required to demonstrate that there is no other more suitable location for the development which is at a lower risk of flooding. In this case, the wider Castle Gateway area of opportunity and beyond that, the city centre, has been used as the site search area for this residential led, mixed use development. Within the Castle Gateway area of opportunity there are no other available sites that could accommodate the proposed development, or offer the benefits identified in the Castle Gateway Masterplan. Of the 5 alternative sites identified, none met the criteria for being reasonably available in terms of either size, suitability for the development proposed, deliverability and developability. In light of the lack of suitable alternative sites, it is considered that the sequential test is passed.

Exception Test

5.70 For the Exception Test to be passed: it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk; and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall (para 160 of the NPPF).

5.71 The application involves residential development which is considered to be a 'more vulnerable' land use. The site has historically been developed having recently been cleared of two car park buildings. The scheme would provide much needed new housing, including twenty affordable units, the creation of ground floor commercial spaces and the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside route. Through the inclusion of the bridge, the proposed development will also improve pedestrian and cycle connectivity within the wider neighbourhood and beyond this, the proposed development has an integral role to play in both direct delivery of the key public benefits of the regeneration and funding of the wider Castle Gateway masterplan. All of the above demonstrate that the scheme would provide wider sustainability benefits to the community.

5.72 The Environment Agency has raised objections to the submitted Flood Risk Assessment for the reason that it fails to demonstrate that all compensatory storage proposed is both achievable and feasible and is lacking in detail to demonstrate that the mitigation that is proposed will work as intended. Discussions between the applicant and Environment Agency have been ongoing and it is anticipated that a revised Flood Risk Assessment will be submitted shortly which will need to include an effective evacuation plan. Members will be updated at the meeting.

DRAINAGE

5.73 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Development Control Local Plan (2005) Policy GP15a (Development and Flood Risk) and 2018 Draft Plan (Policy ENV5 Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

5.74 The Council's Drainage Engineer has requested the applicant to explore the use of soakaways as a means of surface water disposal (in line with the Council's Sustainable Drainage Systems Guidance for Developers) and to undertake site specific infiltration testing and has requested that the applicant proves through CCTV survey, existing connected impermeable areas.

5.75 Further information from the applicant together with an updated response from the Flood Risk Management team, are awaited. Members will be updated at the meeting.

HIGHWAYS

5.76 The proposed development does not include any dedicated car parking spaces on site. Whilst this could be a concern in terms of the impact of displaced parking, with residents parking in adjacent streets and using contract parking at public/private car parks, in the context of the climate change emergency declared March 2019, it is considered acceptable in this case. The site is centrally located and well served by a significant number of frequent bus services within a short walking distance. Shops, services and employment sites are also available within short walking/cycling distances. Also, based on the number of units proposed and census data, it is estimated that a maximum of 30 cars would be linked to households living in the proposed residential development and this additional demand for parking could be accommodated in the public/private car parks available (and proposed) in the vicinity of the site.

5.77 Whilst it is recognised that a small amount of parking on site, to include disabled spaces, would help to ensure that the development is accessible to all and would limit pressure on parking provision in the area, this is balanced against the consideration that the exclusion of parking allows the design to incorporate principles which promote physical and mental health and ensures that the ground floor becomes a people centred place, which is supported. Servicing will take place from Piccadilly with no access on site by delivery / servicing vehicles.

Cycle Parking / Sustainable Travel

5.78 In accordance with 2018 Draft Plan policies T1 (Sustainable Access) and T5 (Strategic Cycle and Pedestrian Network Links and Improvements), the scheme involves significant improvement to pedestrian and cycle links in the vicinity of the

site as well as a high level of enclosed cycle parking. To address the request by Officers to look at options to separate the one large cycle store into smaller units and to ensure the use of Sheffield type stands with sufficient space between the stands and in the aisles, revised plans have been submitted. An additional room has been detailed with both locations accessed from the central courtyard. These rooms would accommodate 90 spaces for the 86 apartments of Block A containing a 50:50 split of Sheffield Style stands (preferred) and Two Tier (Gas assisted) racking.

5.79 Block C cycle provision has also been redesigned with two rows of Sheffield stands providing 28 high quality, usable spaces for the 20 apartments. The storage would be overlooked by the new public realm as well as the circulation core and the apartments of the larger block, and is sited close to the main entrance of the smaller block. These measures encourage frequent use of cycling as a transport option, while retaining appropriate levels of security and safety in line with the City of York Council's Cycle Parking Guidance v3 (Feb 2017). 18 spaces using Sheffield stands for the commercial element (in line with standards), is also proposed.

5.80 In order to promote and incentivise sustainable travel, contributions towards a Travel Plan, car club and to allow first residents to get bus pass or cycle offer, will be secured. The applicant has agreed to the payment of these contributions.

RESIDENTIAL AMENITY OF FUTURE OCCUPANTS

5.81 The NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.82 The site is within the defined city centre, where mixed use schemes are appropriate in principle, as defined in both national and local policy. With regards town centres the NPPF policy is based on ensuring vitality and the need for 'town centre uses' to be accommodated. This policy context has to be borne in mind when assessing the impact on surrounding residential uses.

5.83 Considering the location of this site between the Travelodge and the residential Ryedale House, it is considered that subject to conditions to ensure environmental standards, the proposed uses are compatible in this city centre location. Whilst of a larger scale than the car park which previously occupied the site, the proposed

development is not considered to result in harm to the residential amenity of the occupants of the proposed flats in Ryedale House, or of those in Mayfair House and Trafalgar House located directly opposite, or impact on the viability of the Travelodge through being over-bearing or impacting on daylight. A Construction Environment Management Plan (CEMP) condition for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development, would be a requirement of the decision.

5.84 In relation to the amenity of future occupants of the proposed 106 residential units, this is considered acceptable. With respects to external public / private amenity space, the scheme incorporates the ground floor courtyard between Blocks A and B (private for the use of commercial tenants and residents only), new landscaped public realm between the main buildings together with public realm on the opposite (west) bank of the Foss (Riverside North). All units in Block's A and B have dual aspect views and have private external space in the form of projecting balconies, inset balconies or rooftop terraces. Although there are no balconies for the 12No. one bedroomed units in Block C, the 8No. two bedroomed units would have inset balconies.

5.85 No details have been submitted of the plant or equipment, such as air conditioning units and kitchen extraction units, to be provided within the proposed development and therefore conditions are proposed to reasonably control activity which can cause noise to mitigate the impact of the commercial units on the residential units. The conditions would cover noise from plant and machinery, noise insulation measures for protecting the residential accommodation above the commercial units, noise (and odour) from extraction equipment and noise insulation measures to protect residential units from externally generated noise, for instance from traffic, from any areas of public realm and from outside seating areas (including from the existing Travelodge riverside terrace). Conditions requiring details of the area to be used for external seating, hours of deliveries and waste collection and flood lighting would also be required.

5.86 In relation to security and designing out crime, Safer York Partnership (SYP) had highlighted a number of issues relating to illumination of paths and cycle routes, access controls for the apartment blocks, compartmentation and the design and management of cycle storage. The applicant has addressed these comments to the satisfaction of SYP.

HEALTH AND WELL-BEING

5.87 Related to the above section is the requirement, stipulated by 2018 Draft Plan policy HW7, that design principles that can support healthy lifestyles are incorporated into plans for development.

5.88 As detailed previously, the scheme is a car free development which incorporates a new pedestrian cycle link across the Foss. Cycle parking provision meets CYC's minimum standards and in addition to the provision of a private ground floor courtyard for the use of commercial tenants and residents of Blocks A and B, a new landscaped public realm between the main buildings together with public realm on the opposite bank of the Foss is proposed. Consideration has also been given to how the design may impact on crime or perception and safety. Officers therefore consider that the scheme satisfactorily addresses the requirements of Policy HW7.

OPEN SPACE

5.89 The NPPF advises that planning decision should aim to create healthy and inclusive places. Paragraph 96 states "access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate".

5.90 Policy GI6 (new open space provision) of the 2018 Draft Plan states 'all residential development proposals should contribute to the provision of open space for recreation and amenity... The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. Where there are deficiencies in certain types of open space provision in the area surrounding a proposed development, the Council will seek variations in the component elements to be provided by the developer in order to help to overcome them'. The policy continues by stating that the Council will encourage on-site provision where possible but off-site provision will be considered acceptable in certain circumstances.

5.91 The site is within the Guildhall Ward which has a surplus of parks and gardens but is deficient in natural / semi natural space, amenity green space, children's and

young person's facilities, outdoor space and allotments based on the Open Space and Green Infrastructure Update (September 2017). The requirements for this scheme (as detailed in this evidence base which is referenced in the local policy) amounts to the provision of 1566 sqm of amenity space, 476 sqm play space and 1,218 sqm towards sports.

5.92 With the evidence base identifying that the land within Riverside North is already allocated as natural and semi natural space in the local plan, it cannot be accounted for in any on site provision calculation, and on this basis, there is no new on site open space and play space within the application site. As such the off-site contribution can be requested subject to it meeting the CIL regulations – be necessary to make the development acceptable in planning terms, reasonable in scale and kind and directly related to the development.

5.93 The off-site contributions required for amenity space, play provision and sports pitches (totalling £99,104) would be spent on the creation of new open space and play provision within the immediate vicinity or for use at the Cemetery Road play area. It has been identified that the Outdoor Sport Provision Payment could be used for outdoor gym equipment on the riverside path close to the development, or potential beneficiaries of Rowntree Park, York Railway Institute, York Rowing Club etc.

SUSTAINABLE DESIGN AND CONSTRUCTION

5.94 A planning condition will require the buildings to be compliant with Emerging Local Plan policies CC1 and CC2 which require exceedance of Building Regulations with regards to energy efficiency and carbon emissions (through the use of low/zero carbon technology or building efficiency). Building Regulations require that the Dwelling Emission Rate (DER) does not exceed the Target Emission Rate (TER). Local policy requires a 28% reduction. The application is supported with a strategy as to how these local requirements would be met, these demonstrate building efficiency which would exceed Building Regulations and would build naturally ventilated residences served by a low carbon heat network.

5.95 In relation to Policy CC3, CHP has not been proposed as it has become more carbon intensive than other forms of heat and power. The proposals are compliant with Policy CC3 by proposing that a block heating network is utilised, making the most of low carbon electricity.

EDUCATION

5.96 NPPF paragraph 94 states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications”. Local draft supplementary planning guidance explains how the need for extra education spaces are determined and the relevant planning obligations.

5.97 The need arising from the development (based on local guidance and the mix) would be for 7 No. primary places, 3 No. secondary places and 9 No. early years places. The primary deficit contains Fishergate, St George’s and St Oswald’s. There is no scope for expansion at catchment Fishergate, but expansion at St Oswald’s is feasible and therefore a full contribution is sought. For secondary and early years, the contribution would fund expansion at Fulford School and for early years for expansion of existing provision within the catchment (1.5km).

CONCLUSION

6.1 The application site is within an area proposed for redevelopment and regeneration as outlined in the draft 2005 and 2018 Draft Plan, forming a key component of the York Castle Gateway masterplan development proposals. The site is within Flood Zone 3 and lies in a sensitive location within the Central Historic Core Conservation and in the Area of Archaeological Importance. In accordance with paragraph 11 of the NPPF, the more restrictive heritage asset and flood risk policies in the NPPF apply. The proposal, by virtue of its scale and massing, would result in harm to the setting of a number of designated and non-designated (archaeology) heritage assets.

6.2 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 harm to result is considered to be less than substantial and is outweighed by the environmental and social benefits associated with the closure of the Castle car park, the provision of new housing, including 20 affordable units, the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside and improvements to pedestrian and cycle connectivity within the

wider neighbourhood. Whilst the harm is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.

6.3 As set out in section 5, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

6.4 Approval is recommended subject to conditions and to the undertaking of a legal agreement to secure the following;

- (i) Affordable Housing - 20 affordable homes to be provided on site by the HRA. A commuted sum of £368,712 to be provided in lieu of onsite provision of the remaining 1.2 apartments.
- (ii) Open Space - Off-site contributions totalling £99,104 (Recreational open space £26,274, Play space £35,768 and Sports pitch provision £37,062)
- (iii) Education - Financial contribution of £366,753 towards 19 school places
- (iv) Highways - £400/unit for first residents to get bus pass or cycle offer, £200 per unit for car club and £300/unit Travel plan contribution (to cover implementation and monitoring by CYC for a 5 year period).

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

CM-BDP-ZZ-RL-DR-A-PL-1001 Rev PO3 (Site Location Plan with red and blue line boundary)

CM-BDP-ZZ-RL-DR-A-PL-1004 Rev PO3 (Proposed Site Plan)

CM-BDP-ZZ-RL-DR-A-PL-1005 Rev P04 (Ground Floor Site Plan)

CM-BDP-ZZ-RL-DR-A-PL-1006 Rev P01 (Site Layout with Topo Survey and Sewer)

ZZ-00-DR-A-PL-1110 (Refuse Ground Floor)
CM-BDP-SK024 Rev P03 (Cycle Storage Layout)
CM-BDP-SK027 Rev P01 (Cycle Storage Layout, 27.10.20)

M-BDP-ZZ-00-DR-A-PL-1210 Rev P09 (Proposed Plan - Level 00)
CM-BDP-ZZ-02-DR-A-PL-1211 Rev P06 (Proposed Plan Level 01)
CM-BDP-ZZ-02-DR-A-PL-1212 Rev P06 (Proposed Plan Level 02)
CM-BDP-ZZ-02-DR-A-PL-1213 Rev P06 (Proposed Plan Level 03)
CM-BDP-ZZ-02-DR-A-PL-1214 Rev P06 (Proposed Plan Level 04)
CM-BDP-ZZ-02-DR-A-PL-1215 Rev P06 (Proposed Plan Level 05)
CM-BDP-ZZ-02-DR-A-PL-1216 Rev P06 (Proposed Plan Level 06)
CM-BDP-ZZ-02-DR-A-PL-1217 Rev P06 (Proposed Plan Level 07)
CM-BDP-ZZ-02-DR-A-PL-1218 Rev P05 (Proposed Plan Level 08 Roof)
CM-BDP-ZZ-00-DR-A-PL-1110 Rev P09 (Proposed Plan - Level 00)
CM-BDP-ZZ-03-DR-A-PL-1111 Rev P06 (Proposed Plan Level 01)
CM-BDP-ZZ-03-DR-A-PL-1112 Rev P06 (Proposed Plan Level 02)
CM-BDP-ZZ-03-DR-A-PL-1113 Rev P06 (Proposed Plan Level 03)
CM-BDP-ZZ-03-DR-A-PL-1114 Rev P06 (Proposed Plan Level 04)
CM-BDP-ZZ-03-DR-A-PL-1115 Rev P06 (Proposed Plan Level 05)
CM-BDP-ZZ-03-DR-A-PL-1116 Rev P06 (Proposed Plan Level 06)
CM-BDP-ZZ-03-DR-A-PL-1117 Rev P06 (Proposed Plan Level 07)
CM-BDP-ZZ-03-DR-A-PL-1118 Rev P06 (Proposed Plan Level 08 Roof)

CM-BDP-ZZ-ELE-DR-A-PL-1170 Rev P06 (Proposed Elevation - West Riverside)
CM-BDP-ZZ-ELE-DR-A-PL-1171 Rev P06 (Proposed Elevation - South Public Plaza)
CM-BDP-ZZ-ELE-DR-A-PL-1172 Rev P06 (Proposed Elevation - East Piccadilly)
CM-BDP-ZZ-ELE-DR-A-PL-1173 Rev P06 (Proposed Elevation - North Block C)
CM-BDP-ZZ-ELE-DR-A-PL-1270 Rev P06 (Proposed Elevation - West Riverside)
CM-BDP-ZZ-ELE-DR-A-PL-1271 Rev P06 (Proposed Elevation - South Public Plaza)
CM-BDP-ZZ-ELE-DR-A-PL-1272 Rev P06 (Proposed Elevation - East Piccadilly)
CM-BDP-ZZ-ELE-DR-A-PL-1273 Rev P06 (Proposed Elevation - North Block C)
CM-BDP-ZZ-ELE-DR-A-PL-1274 Rev P06 (Proposed Elevation - South Block C along Travelodge)
CM-BDP-ZZ-ELE-DR-A-PL-1275 Rev P06 (Proposed Elevation - North along Ryedale House)
CM-BDP-ZZ-ELE-DR-A-PL-1276 Rev P06 (Proposed Elevation - North Courtyard)
CM-BDP-ZZ-ELE-DR-A-PL-1277 Rev P06 (Proposed Elevation - West Courtyard)
CM-BDP-ZZ-ELE-DR-A-PL-1278 Rev P06 (Proposed Elevation - South Courtyard)
CM-BDP-ZZ-ELE-DR-A-PL-1279 Rev P06 (Proposed Elevation - East Courtyard)

CM-BDP-ZZ-ELE-DR-A-PL-1370 Rev P04 (Bay Study 01 Riverside)
CM-BDP-ZZ-ELE-DR-A-PL-1371 Rev P04 (Bay Study 02 Piccadilly)
CM-BDP-ZZ-ELE-DR-A-PL-1372 Rev P04 (Bay Study 03 Piccadilly)

CM-BDP-ZZ-ELE-DR-A-PL-1373 Rev P04 (Bay Study 04 Block C)
CM-BDP-ZZ-ELE-DR-A-PL-1374 Rev P04 (Bay Study 05 Block C)
CM-BDP-ZZ-ELE-DR-A-PL-1375 Rev P04 (Bay Study 06 Block B Courtyard)
CM-BDP-ZZ-ELE-DR-A-PL-1376 Rev P04 (Bay Study 07 Core Blocks A, B)

CM-BDP-ZZ-ZZ-DR-A-PL-1410 Rev P03 (Apartment Types (1 Bedroom))
CM-BDP-ZZ-ZZ-DR-A-PL-1411 Rev P03 (Apartment Types (1 Bedroom))
CM-BDP-ZZ-ZZ-DR-A-PL-1412 Rev P03 (Apartment Types (1 Bedroom))
CM-BDP-ZZ-ZZ-DR-A-PL-1413 Rev P03 (Apartment Types (2 Bedroom))
CM-BDP-ZZ-ZZ-DR-A-PL-1414 Rev P03 (Apartment Types (2 Bedroom))
CM-BDP-ZZ-ZZ-DR-A-PL-1415 Rev P03 (Apartment Types (Duplex))
CM-BDP-ZZ-ZZ-DR-A-PL-1416 Rev P03 (Apartment Types (Duplex))
CM-BDP-ZZ-ZZ-DR-A-PL-1417 Rev P03 (Apartment Types (Duplex))
CM-BDP-ZZ-ZZ-DR-A-PL-1418 Rev P03 (Apartment Types (Duplex))
CM-BDP-ZZ-ZZ-DR-A-PL-1419 Rev P03 (Apartment Types (Studio))

CM-BDP-ZZ-00-DR-L-PL-0401 Rev P03 (Planting Strategy)
CM-BDP-ZZ-00-DR-L-PL-0301 Rev P05 (Landscape Sections Sheet 1 of 2)
CM-BDP-ZZ-00-DR-L-PL-0302 Rev P05 (Landscape Sections Sheet 2 of 2)
CM-BDP-ZZ-00-DR-L-PL-0303 Rev P01 (Landscape Elevations)
CM-BDP-ZZ-00-DR-L-PL-0201 Rev P07 (Proposed Levels Strategy 1 of 2)
CM-BDP-ZZ-00-DR-L-PL-0202 Rev P05 (Proposed Levels Strategy 2 of 2)
CM-BDP-ZZ-00-DR-L-PL-0001 Rev P06 (Landscape Masterplan)
CM-BDP-ZZ-00-DR-L-PL-0002 Rev P01 (Tree Removal/Retention Plan)
CM-BDP-ZZ-00-DR-L-PL-101 Rev P06 (Landscape General Arrangement 1 of 2)
CM-BDP-ZZ-00-DR-L-PL-102 Rev P05 (Landscape General Arrangement 2 of 2)

CM-BDP-ZZ-ZZ-DR-A-PL-1710 Rev PO6 (Bridge Proposed Plan)
CM-BDP-ZZ-ZZ-DR-A-PL-1711 Rev PO4 (Bridge Proposed Elevations)
CM-BDP-ZZ-ZZ-DR-A-PL-1712 Rev PO6 (Bridge Proposed Sections)

CM-BDP-SK009 Rev P02 (Sewer Easement on Ground Floor and Bridge Proposal)
CM-BDP-SK010 Rev P02 (Ground Floor Encroachment on Sewer Easement)
CM-BDP-SK011 Rev P02 (First Floor Encroachment on Sewer Easement)

Energy Strategy (Jan 2020) (CM-BDP-XX-XX-RP-MEP-22-PL-0001)
Drainage Strategy (70034291-DSR-002 Rev 002)
Design and Access Statement - Rev PO5 (Revisions to bridge design)
Flood Evacuation Plan (August 2020) Version 4 Draft
Statement of Heritage Significance Rev C (July 2020)
Flood Risk Sequential Test Rev A (August 2020)
Cycling Storage Design V6

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

3. Prior to the commencement of above ground development, 1:20 annotated and dimensioned drawings in plan, section, elevation and possible 3D (as necessary to describe complexity) for the following detail types, are to be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details;

- (i) (block A, B & C) Typical bay drawings for each wall type, where varying in design, and/or wall material. To include interfaces at ground level and upper parapet or roof level.
- (ii) All types of parapet, guarding and balconies.
- (iii) Any exposed soffits and their transitions.
- (iv) All external boundary treatment including treatment to riverside boundary.
- (v) Sample parts of the proposed bridge

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.

4. Brick window reveals are to be set back a minimum 200mm (approx. one full brick deep) before the plane of a window. Brick feature recessed wall planes are to be set back a minimum 100mm (approx. ½ brick deep) from the main wall plane.

Reason: To impart an overall high quality and robustness of construction systems and to provide visual relief on a façade.

5. On-site sample panels of bricks, in each type of brick, in each type of bond, including chosen mortar and pointing, and including any special brick features shall be erected on the site, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. The sample panel shall be 2x1.2m minimum overall. If multiple combinations of brick and/or bond are proposed each type to be 1x1.2m. The agreed panel is also to represent a minimum standard for the quality of workmanship that the development should achieve, and the panel shall remain on site for the duration of the brickwork package.

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

6. Notwithstanding any proposed materials specified on the approved drawings or other documents submitted with the application, samples of all proposed external building materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the commencement of the construction of the building envelope. For clarity, this includes vision and any non-vision glazing, flat or pitched roofs. The development shall be carried out

using the approved materials.

Note: Because of limited storage space at our offices, it would be appreciated if 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. Samples should be provided of sufficiently large size to be able to appropriately judge the material (including joints/fixings where an important part of the visual quality of the material), and to be provided together where materials are seen together.

Reason: So as to achieve a visually cohesive appearance.

7. On-site mock-up sample constructions for the following building parts shall be constructed, and subsequently approved in writing by the Local Planning Authority prior to their full construction. The mock up should be 1:1 scale but shortened overall sizes of elements can be included. The contents and size of the mock-ups shall be agreed by the Local Planning Authority in advance of their construction.

- (i) Riverside façade of block A in an area around a balcony.
- (ii) Piccadilly façade of block B in an area around a balcony.

Reason: To explain the construction interfaces in three dimensions and impart an overall impression of quality of the proposed construction systems at important locations and/or for highly repeated features, in order to ensure the achievement of an overall satisfactory standard of construction quality.

8. Prior to the commencement of above ground development, 1:20 drawings in plan and elevation for any external plant room enclosures shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details. This shall include a maximum height of any plant equipment within the enclosure.

Note:

For flat roofs, in situations without a solid roof parapet (1m or higher, as shown on permitted drawings): Service protrusions are not allowed within 2m of any building edge. Any service protrusions lower than 1m above roof finish level elsewhere are allowed. Any proposals for service protrusions higher than 1m above flat roof level elsewhere are to be submitted to and approved by the Local Planning Authority, but should generally be expected not to be permitted.

For flat roofs in situations with a solid roof parapet (1m or higher, as shown on permitted drawings): service penetrations should not be higher than top of parapet. Any such proposals above parapet level are to be submitted to, and approved in

writing by, the Local Planning Authority.

For pitched roofs: service penetrations are not permissible, unless subsequently agreed by the Local Planning Authority through submission of drawings.

Permanent external wall fixed equipment used to service the building are not permissible, unless subsequently agreed by the Local Planning Authority through submission of drawings.

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.

9 Before any landscape works proceed on site, a detailed hard and soft landscape scheme which shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; seeding mix, sowing rate and mowing regimes where applicable, shall be submitted and approved in writing by the Local Planning Authority. It will also include details of paving, surface finishes, street furniture, and raised planters. 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 substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing.

Note: As part of the landscape proposals the following water safety measures should be addressed;

- measures to reduce the likelihood people of being in the water e.g. fence or hedge. Where no barrier is present, there should be a strong demarcation of the water's edge,
- people in the river shall have the means to self-rescue, through the provision of ladder(s) or chains,
- people on the river banks shall have access to the necessary safety equipment to attempt a rescue e.g. life buoy(s). These such be located under street lighting,
- adequate safety signage advising of the dangers of the River.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, and the hard landscape details, since the landscape scheme is integral to the amenity of the development, to ensure features that provide ecological improvements are accommodated and to incorporate water safety measures.

10 Prior to the commencement of development, a complete and detailed Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement

shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, parking arrangements for site vehicles, locations for stored materials and means of moving materials around the site, locations and means of installing utilities, location of site compound and marketing suite. A copy of the document will be available for reference and inspection on site at all times.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

11 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority all tree planting details, to include: means of support, and irrigation; maintenance regime, and responsibilities; soil volumes and structural soil cell systems where applicable, and the corresponding paving detail, and locations of underground utilities. Where trees are to be located within paved areas, the surface area of soil cell systems, soil volumes, and tree species, and any utilities shall also be shown on a tree planting plan. The development shall be undertaken in accordance with the approved details.

Reason: Suitable detailing and maintenance will encourage the proposed trees to survive and thrive since they are a critical element of the approved landscape and setting of the development.

12 Prior to the development being occupied, a scheme for external lighting (building and open spaces) shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, angle, design and lux of all external lighting and shall include plans and elevations as necessary and technical and non-technical documentation, in order to explain the quality of the lighting proposal and to demonstrate non-intrusive impact of the proposal to both expert and non-expert. The development shall be carried out in accordance with the approved lighting scheme. Any subsequent revisions or alterations to the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

Note: The lighting scheme shall be informed and accompanied by a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for the appropriate Environmental Zone contained within the table taken from the Institute of Light

Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

Reason: So as to achieve a visually cohesive appearance. To ensure that the development is well lit, providing natural surveillance and make it safe for users. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. Night time illumination may potentially impact on the night time ambience of the conservation area. To ensure that the proposed development is not unduly prominent within the conservation area and wider views of the city. On ecology grounds - to limit excessive light spill over the River Foss.

13 The lighting illuminance levels for any external fascia signs or totem signs shall conform to the appropriate levels as prescribed in the Institute of Lighting Professionals in their Professional Lighting Guide 05:2014, "The Brightness of Illuminated Advertisements."

Reason: To protect the amenity of the nearby residents and the surrounding area.

14 All external lighting, other than that required for emergency or security purposes, shall be turned off by 23:00 on any day.

Reason: To protect the amenity of the nearby residents and the surrounding area.

15 Prior to the commencement of the use hereby approved, a servicing strategy to include measures to ensure no access on site by delivery / service vehicles shall be submitted to and approved in writing by the Local Planning Authority, and carried out as approved.

Note: The applicant will be required to fund the implementation of any Traffic Regulation Order / physical measures (such as bollards) required to implement the approved servicing strategy.

Reason: In the interests of highway safety.

16 Details of the highway works for the access layout and off-site improvements (layout and detailed design) to Piccadilly (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) and a timescale for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved. The approved highway works shall be carried out in accordance with the approved timescale and in accordance with the approved details, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users and to secure regeneration improvements to Piccadilly proportionate to the development

proposed in accordance with policy SS5.

17 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. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved management plan.

NOTE: For 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.

For 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).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For 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 and planning.enforcement@york.gov.uk

Reason: To protect the amenity of the locality

18 No part of Block's A and B shall be occupied until a pedestrian and cycle crossing across Tower Street has been provided in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users. In addition, the construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the improvement of pedestrian and cycle routes. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

19 Prior to the construction of any works above the ground floor slab, details of the secure cycle parking areas, including means of enclosure, position, design, materials and finishes, shall be approved in writing by the Local Planning Authority. The development shall not be occupied until the cycle parking areas and means of enclosure have been provided in accordance with the approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To ensure adequate space for such storage, and to promote sustainable modes of transport in accordance with policies GP4a and T4 of the City of York Draft Local Plan and the National Planning Policy Framework.

20 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the

findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:

- o human health,
- o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- o adjoining land,
- o groundwaters and surface waters,
- o ecological systems,
- o archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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.

21 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

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

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

24 Details of all machinery, plant and equipment to be installed in or located on any of the commercial premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. 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 of the relevant commercial premises first opens and shall be maintained thereafter.

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

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

25 Premises put to Class A3 use that have a residential unit above, shall be noise insulated in accordance with a scheme to be approved in writing by the local planning authority. Upon completion of the insulation scheme works, the A3 use shall not commence until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A).

Reason: To protect the amenity of people above the proposed use from internally generated noise and in accordance with the National Planning Policy Framework.

26 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required for any premises put to Class A3 use 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 maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the updated Guidance produced by EMAQ in September 2018 titled "Control of Odour and Noise from Commercial Kitchen Exhaust Systems (September 2018)" 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 APPENDIX 3 of the EMAQ 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 m³/s throughout the extraction system.

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

27 Prior to the construction of any works above the ground floor slab, a detailed scheme of noise insulation measures for protecting the approved residential units from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works, no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed

45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

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

28 A plan showing the areas to be used for external seating in association with the commercial uses hereby approved, to include numbers of tables and chairs and ancillary equipment, shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The external seating areas shall thereafter accord with the approved details.

Reason: To protect the amenity of nearby residents

29 The external seating areas associated with the commercial uses hereby approved shall only be used between 09:00hrs and 18:00hrs on any day and at no other times.

Reason: To protect the amenity of nearby residents

30 All equipment associated with the outdoor seating areas shall be removed from the pavement and the pavement left clear and free of obstruction between the hours of 18:00 and 09:00.

Reason: To protect the amenity of nearby residents.

31 Upon completion of the development, delivery vehicles and waste removal vehicles to the development shall be confined to the following hours:

Monday to Friday 08:00 to 18:00 hours

Saturday 09:00 to 13:00 hours and not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of occupants of the nearby properties from noise.

32 A programme of archaeological excavation of is required on this site for:

- the construction of the bridge abutment on Castle Riverside (to include community engagement)
- any significant deposits or features identified during any periods of archaeological watching brief which are safe to excavate

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority.

A) No development or excavation shall take place until a written scheme of investigation (WSI) for excavation, post-excavation analysis, publication, archive deposition and community involvement, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report (and copy of publication prior to submission to an approved journal if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

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.

33 A foundation design for the proposed building and bridge and a statement of working methods, which preserve 95% of the most significant archaeological deposits on the site is required.

A) No development shall commence until a foundation design for the building and bridge including a statement of working methods (and a methodology for identifying and dealing with obstructions to piles and specification of a level in mAOD below which no destruction or disturbance shall be made to archaeological deposits except for that caused by the boring or auguring of piles for the building foundation) which preserve 95% of the archaeological deposits on the site has been approved in writing by the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and City of York Historic Environment Policy HE10.

Reason: The site lies within an Area of Archaeological Importance which contains significant archaeological deposits. The development must be designed to preserve 95% of the archaeological deposits within the footprint of the building.

34 Watching brief:

A programme of post-determination archaeological mitigation, specifically an archaeological watching brief on any ground investigation work, remediation work generally deeper than 1.5m bgl, construction of foundations or drainage is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be approved.

A) No ground investigation, remediation work other than any associated with the initial site clearance or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no grubbing up of foundations, ground investigation, remediation work or development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report (and preparations for publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

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

35 Wet, organic archaeological deposits survive on this site which merit preservation in-situ. An archaeological programme of hydrological and water quality monitoring (2 monitoring points on Piccadilly) is required on this site prior to the installation of piles and associated structures to assess continued in-situ preservation. The archaeological programme comprises 4 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No development shall commence until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority

which sets out how appropriate hydrological and water quality monitoring will be re-introduced on the site prior to the installation of piles/foundations and how it will be assessed and reported at yearly intervals. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) Installation of hydrological and water quality monitoring devices shall be completed in accordance with the programme set out in the WSI approved under condition (A)

C) Evidence of provision for monitoring of and analysis and annual reporting on data from the hydrological and water quality monitoring devices for a period of 5 years shall be submitted to and approved by the Local Planning Authority on an annual basis.

D) A final copy of a report on the archaeological programme detailed in the WSI will be deposited with City of York Historic Environment Record within six months of the completion of the 5 year monitoring period or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and the latest guidance from Historic England on in-situ preservation of organic deposits and subsequent monitoring.

Reason: The site lies within an Area of Archaeological Importance which contains nationally significant undesignated heritage asset (waterlogged organic archaeological deposits) which will be affected by development. The effect on these deposits must be monitored.

36 The following pieces of further post-excavation work shall be completed during the mitigation phase of archaeological works. This shall be included in the final archaeological report, to be submitted to the HER which will cover watching briefs and excavation.

- Clay pipe analysis and recording (followed by discard) of the animal bone assemblage excavated during the archaeological evaluation.

This condition is imposed in accordance with Section 16 of NPPF.

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

37 Sustainable construction

The development hereby permitted shall achieve a reduction in carbon emissions of

at least 28% compared to the target emission rate as required under Part L of the Building Regulations.

Prior to first use, details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

38 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority .

Reason: To ensure that the site is properly drained and in order to prevent overloading; surface water is no to be discharged to the public sewer network.

39 No construction works on the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the protection measures are to be achieved via a formal building over agreement, the developer shall submit evidence to the Local Planning Authority that the building over of the sewer has been agreed with the relevant statutory undertaker.

Reason: In the interest of public health and maintaining the public sewer network.

40 No part of Block's A and B shall be occupied until Castle Car Park, identified on drawing number CM-BDP-ZZ-RL-DR-A-PL-1001 Rev PO3 (Site Location Plan with red and blue line boundary), has permanently closed with all ticket machines, and associated car park signs removed.

Reason: The construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the closure of the Castle Car Park and associated environmental improvements. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

41 No part of Block's A and B shall be occupied until the pedestrian and cycle bridge shown on drawings CM-BDP-ZZ-ZZ-DR-A-PL-1710 Rev PO6 / CM-BDP-ZZ-ZZ-DR-A-PL-1711 Rev PO4 and the associated cycle/pedestrian route detailed on drawing CM-BDP-ZZ-00-DR-L-PL-0001 Rev P06, have been completed in accordance with the approved details and brought into use.

Reason: The construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the improvement of pedestrian and cycle routes in the area through the erection of the proposed bridge. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

8.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- pre-application advice
- the use of conditions

2. Scheduled Monument Consent

Scheduled Monument Consent from Historic England will be required for any works for the bridge on the Castle Riverside and for landscaping proposals as this may impact on the setting of York Castle (Scheduled Listing No. 1011799). Consent will also be required for further ground investigation work and flood storage areas within the Scheduled boundary.

3. Bridge Technical Approval

All structural design and assessment is subject to Technical Approval (TA) in accordance with CG300 (previously BD2) Technical Approval of Highway Structures. All proposed structures must satisfy the Technical Approval Authority in terms of agreeing the principles on which a structural design is to be carried out.

4. Food Informative

Application Reference Number: 19/02415/FULM

Item No: 3c

As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should contact by email at public.protection@york.gov.uk or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc."

Contact details:

Case Officer: Rachel Tyas

Tel No: 01904 551610