

## COMMITTEE REPORT

**Date:** 15 November 2023      **Ward:** Fishergate  
**Team:** East Area                      **Parish:** Fishergate Planning Panel

**Reference:** 22/02613/FUL  
**Application at:** St Georges Field Car Park Tower Street York  
**For:** Flood mitigation measures within St Georges Field Car Park and Tower Street to include a new flood defence wall from car park to tie into abutment wall of Skeldergate Bridge, the strengthening of the abutment walls of the bridge, the raising and strengthening of existing walls attached to the pumping station, the raising of the access ramp into the car park and the installation of support post to bridge masonry wall to enable deployment of temporary flood barrier across Tower Street  
**By:** Environment Agency  
**Application Type:** Full Application  
**Target Date:** 17 November 2023  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 Following flooding in 2015 the Environment Agency has developed the York Flood Alleviation Scheme (FAS) which is intended to defend areas against anticipated increased flood risk up to 2039. The scheme is being implemented in phases and the flood risk areas have been divided into 19No. Flood Cells.

1.2 This application is for the scheme for works within Flood Cell F1 which covers the area of St George's Field car park and Tower Street. These proposals in St George's Field and Tower Street will complete the improved flood defence line from the Foss Barrier and will benefit 627 properties.

### APPLICATION SITE

1.3 The proposals are located on land around the confluence of the River Foss and the River Ouse. The first of the areas is within the St George's Field car park, adjacent to Skeldergate Bridge. The site comprises a hard surfaced car park with a utility compound comprising a sewage pumping station and toilet block. To the south of the site is the Foss Barrier flood defence. This site is within the New Walk

Terrace / Terry Avenue Conservation Area and the Area of Archaeological Importance with the archaeology preserved below the surface including a Knights Templar Chapel and Mill complex. The site is within Character Area 66 (Fishergate-River Ouse) as defined by the York Central Historic Core Conservation Area Appraisal (YCHCCA).

1.4 The second area is located approximately 50 metres to the north within the Central Historic Core Conservation Area and the Area of Archaeological Importance. It spans the width of Tower Street which runs along the western boundary of York Castle (Scheduled Monument) and falls within Character Area 13 (The Castle area) as defined by the YCHCCA, which includes, in addition to Clifford's Tower and the castle remains, the following designated heritage assets: The Crown Court and railings, Grade I, Castle Museum and Debtors Prison, Grade I, and Castle Museum and Female Prison, Grade I.

## PROPOSALS

1.5 Permission is sought for the following works –

### St George's Field Car Park

- Raising and strengthening part of the existing flood defence wall between Skeldergate Bridge and the Foss Barrier pumping station.
- Construction of a new section of wall, approximately 20 metres in length with a height of 11.08m AOD, to connect the edge of Tower Street to the corner of the existing flood wall and tying into Skeldergate Bridge.
- Strengthening of Skeldergate Bridge abutment walls.
- Increasing the height of the existing access ramp by a maximum of 0.65m (at its highest point) as the current ramp height is short of the target flood defence height of 10.85m AOD.
- The scheme would involve the loss of 9 parking spaces from within the car park.

### Tower Street

- Installation of framework for a demountable flood system across Tower Street to be erected when the forecasted flood level deems it necessary. Involves the strengthening of the existing abutment walls of Skeldergate Bridge.

- Construction of retaining wall in front of the embankment leading up to the Crown Court, within the scheduled area of York Castle to provide a structure to which the support post of the demountable barrier can be attached.
- Installation of a stop log involving the addition of two steel posts into the abutment walls of Skeldergate Bridge.

## **2.0 LEGISLATIVE / POLICY CONTEXT**

2.1 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas when determining planning applications. Section 66(1) 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.

2.2 The National Planning Policy Framework ('NPPF') key sections are as follows –

Achieving sustainable development (chapter 2)

Decision-making (chapter 4)

Meeting the challenge of climate change, flooding and coastal change (chapter 14)

Conserving and enhancing the historic environment (chapter 16)

DRAFT LOCAL PLAN (DLP 2018)

2.3 The Draft City of York Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in early 2024. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.4 Key relevant 2018 Draft Local Plan policies are as follows;

SS1 Delivering Sustainable Growth for York

D1 Placemaking

D2 Landscape and Setting

D4 Conservation Areas

D5 Listed Buildings

D6 Archaeology  
ENV4 Flood Risk  
T1 Sustainable Access  
GI2 Biodiversity and Access to Nature  
GI4 Trees and Hedgerows

### **3.0 CONSULTATIONS**

INTERNAL

Highway Network Management

#### **St George's Field**

3.1 The ramp providing access to the car park and the riverside paths does not comply with accessibility requirements. The proposed ramp is designed with a gradient of 1 in 10 over distances of 12m (southern section of the ramp) and 15.5m (northern section). Inclusive Mobility (page 29) states: "Generally, pedestrian environments should be level, which means that there should be no gradient in excess of 1 in 60. (...) If a level route is not feasible, then gradients should not exceed 1 in 20. (...) Gradients steeper than 1 in 20 can be managed by some wheelchair users, but only over very short distances (1000mm or less), for example on a ramp between a bus entrance and the pavement. Even over these short distances the maximum gradient used should be no more than 1 in 10. As a general rule, however, 1 in 12 should be the absolute maximum."

#### **Tower Street**

3.2 Additional information has been provided which satisfactorily responds to questions as to whether dropped kerbs would enable pedestrians and wheelchair users to cross Tower Street immediately south of the flood barriers when they are in place. The detail of these works can be conditioned.

3.3 Also to be conditioned, revised method statements / traffic management plans for both sites to include information on contractor parking, construction vehicle routes, revised diversion routes.

Design, Conservation and Sustainable Development (Conservation Architect)

## **Wall strengthening**

3.4 Support the proposed strengthening of the wall and although there would be some minor loss of original fabric and aesthetic interest the benefits outweigh the harm.

## **Stone clad retaining wall**

3.5 The revised drawings reflect pre-application advice and is considered to have a less harmful impact on the setting of the listed Crown Court. This option still results in considerable change to the setting of the historic structures and the character of the area but is significantly less harmful than the option originally presented. The “Rubberwall” connection for fixing the temporary barriers to the bridge abutment walls will also result in a degree of harm but again this is outweighed by public benefits.

3.6 Whilst the scheme overall results in harm to the historic environment, the degree of harm is low and would be regarded as at the lower level of “less than substantial”. Attempts have been made to reduce the harm and there is clear public benefit.

## Design, Conservation and Sustainable Development (Archaeologist)

3.7 An archaeological watching brief is required on works within the York Castle area relating to the installation of retaining wall and seepage trench. A watching brief is also required on works related to the construction of the new wall in St George’s Field car park. Condition recommended.

## Design, Conservation and Sustainable Development (Landscape Architect)

3.8 No objection to the proposed development. The applicant intends to provide five replacement trees for every one removed. The Sorbus T70, at the back of the Crown Court, has been in decline for several years. There is ample space here that would benefit from new tree planting. T52 is a nicely established young fastigate Hornbeam within the car park at the base of the wall. There would be no scope to replace a tree in the same or immediate place, so different locations for tree planting in the wider vicinity would have to be sought and agreed with the Council.

3.9 Provided great care is taken during demolition and construction in accordance with the recommendations of the Arboricultural Impact Assessment, the risk of harm to the remaining trees is acceptable.

#### Design, Conservation and Sustainable Development (Ecologist)

3.10 Construction Management: - Whilst most of the identified risks regarding ecology have been addressed in the Method Statement (MS), it is recommended that the MS be up-dated to provide the following additional information. If further details cannot be provided within the existing MS, it is suggested that a CEMP is conditioned.

- Pollution prevention measures to reduce impacts on Fulford Ings SSSI, the River Ouse and retained trees – pollution events via surface and ground water
- Reduction/directional temporary lighting for construction works to reduce impacts on bats
- Precautionary working methods for nesting birds – for both buildings and trees
- Pre-works checks of trees for bats.

3.11 Biodiversity Enhancements: The plans show an area of new turf / grass to the west of the site. In the interest of providing biodiversity net gain post construction, it is recommended that this area along with the existing verges to the west of the access road are improved for biodiversity. Enhancements could include a more diverse seed mix, such as a flower lawn mix, planting native bulbs and/or pollinator friendly shrubs.

#### Public Protection

3.12 The proposed works have the potential to cause disturbance to nearby residential dwellings on Terry Avenue and Fewster Way / Browney Court. As a result, recommend a condition requiring submission of a Construction Environmental Management Plan (CEMP).

#### Flood Risk Management Team

3.13 The modelling outcomes and conclusions are accepted in terms of fluvial impacts alone and the direct influence of river levels including exceedance flows overtopping the Peckitt Street wall. However, it is noted that the adjacent B15 flood cell which benefits from the Peckitt Street flood resilience measures is further

impacted by a complex interaction of surface and groundwater flooding and the Environment Agency should work closely with the community and City of York Council to ensure the operation of the demountable defence is considered alongside any future mitigation measures that are developed in B15.

3.14 It is essential that the Environment Agency provide detailed information for all flood plans – including those of the North Yorkshire Local Resilience Forum – before the scheme is in operation and all partners fully understand the triggers and decision processes that will initiate closure. A formal review process should also be put in place to ensure the operations remain effective and do not place undue pressure on access and amenity needs in Tower Street and the wider city centre.

3.15 In considering the Impact on Flood Storage (section 5.3 of the FRA) it is noted that the construction of a new 20m section of flood wall and the raising of the access ramp will lead to a total loss of 1.54% of the 1% AED flood storage area. The potential options to mitigate this loss are noted and the conclusions that the preferred scheme, notably to protect 'Strategically Important Assets', satisfies NPPF para 164 and should be approved.

3.16 In conclusion, no objections subject to conditions.

## EXTERNAL

### Environment Agency

3.17 On the basis that the FRA has taken a hierarchical approach to possible mitigation measures and whether or not they are feasible, and, on the basis that the proposed works will not result in an increase risk to others, but will provide a flood risk benefit to those properties protected by the proposals, we have no objections to the proposals.

## **4.0 REPRESENTATIONS**

4.1 Eleven representations have been received raising objections relating to this proposal increasing the flood risk to the community of Tower Street, Tower Place, South Esplanade, Friars Terrace, Peckitt Street and Tower Gardens. The objections are summarised as follows;

- This community is at risk of flooding at various river levels, starting at below 4.0m river level and is currently defended by temporary barriers and pumps at Tower Gardens and Peckitt Street which keep the river and ground water level under control up to 4.7m. We should be defended above 4.7m river levels. Previously, this area was defended to river levels up to 5.1 m by a combination of a permanent flood wall, temporary barriers and sewer pumping.
- This proposal puts our community on the unprotected (River Ouse) side of the flood barrier and therefore abandons our community at levels above 4.7m. The barrier across Tower Street will hold water within our community increasing flood risk to our properties and making existing flood worse, and of longer duration, for others. This is water that otherwise would escape from our community.
- The EA has declared no flood transfer risk by stating that our properties have always flooded. This is incorrect for several properties and ignores that the severity and duration of flooding is an important factor in the damage done.
- It may protect 627 properties but this is at the cost of sacrificing over 40 historic (many listed) properties in the City Centre. The new proposed flood defence should incorporate matching flood defences to our properties which is technically feasible.
- It is understood that properties identified as being at increased risk of flooding post FAS be provided where feasible with property flood resilience measures. The EA originally said that flood resilience would be offered to owners of properties within this area but have since refused this. Flood protection measures however (e.g. the use of pumps and barriers to help keep water out) are being offered. Use of these measures can lead to structural damage from hydrostatic pressure. Resilience should be included in the application to mitigate the risk.
- Flood resilience measures offered by the EA are basic and mostly useless.
- The consequences to those living on the River Ouse side of the barrier is unclear and described by the EA in unquantified terms such as "minimal" and formalising a sandbagging procedure within the existing flood plan. No one has seen sandbags used in this position before nor have we seen a flood plan. This procedure is entirely new to us and untested. There should be a full analysis of the potential negative impact on the properties in this catchment area which should include full consultation with residents.

- The FRA contains no assessment of ground water flooding and finds that the new flood defence will reduce available flood water storage in our locality.
- Ground floor level flooding to properties in Tower Place will restrict access to properties in Tower Place and South Esplanade via the Tower Place walkway.
- The proposed scheme would involve periodic closures of Tower Street which would cause disruption to residents in accessing car parking spaces.
- The submitted Method statement states that the barrier across Tower Street would be deployed at 9.1m AOD and that traffic diversion would have normally commenced and the lower level sections of Tower Street would be unpassable. This is incorrect as the pumping of Tower Place, which prevents Tower Street from being flooded, is not started until much higher than 4.1m.
- Public Protection considers the potential disturbance from noise and dust during the proposed works to the properties on Terry Avenue and Fewster Way / Browney Croft but Tower Place and adjacent properties have not been identified as at risk of disturbance. These locations should be included in the Construction Environmental Management Plan (CEMP).

## **5.0 APPRAISAL**

### **5.1 KEY ISSUES**

- Principle of the proposed development
- Flood Risk
- Impact on Heritage Assets
- Accessibility
- Impact on Trees / Ecology

### **PRINCIPLE OF DEVELOPMENT**

5.2 The proposed works are for flood defences, as part of an Environment Agency scheme (FAS), which is intended to defend areas against anticipated increased flood risk up to 2039. The York FAS focuses on 19 flood cells and the Flood Risk Assessment (FRA) associated with each flood cell will consider if there is a transfer

of flood risk elsewhere as a result of the new or improved defences. As works cannot be delivered simultaneously across all cells, there will be a phased approach to construction of flood defences.

5.3 In principle the FAS has Council support, given that it is intended to enhance flood resilience in the city. The works are in accordance with the NPPF overarching principle to reduce flood risk, and its environmental objectives which include to mitigate and adapt to climate change. They are also in accordance with 2018 Draft Local Plan (DLP) Policy SS1 which seeks to ensure flood risk is appropriately managed.

## FLOOD RISK

5.4 The site is within Flood Zone 3, where flood risk is high. The NPPF advice on flood risk, relevant to this application is as follows -

- Paragraph 159 - Where development is necessary in flood risk areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- The sequential test is applicable because of the flood risk classification of the site. The Exception Test is not applicable due to the type of development proposed.

5.5 The submitted FRA explains the extent of the proposed flood defence works and the city-wide project to reduce risk, taking into account anticipated climate change (and associated rise in water levels) up to 2039 and draws the following conclusions;

- 627 properties will benefit from the proposed improvements to the proposed flood defences
- no properties have been identified as being affected by a transfer of flood risk due to the raising in height of the flood defences in St George's Field car park, or by installing demountable flood defence framework across Tower Street
- The minor reprofiling of the access ramp into St George's Field and the realignment of an existing wall adjacent to the Pumping Station, will result in a minor loss of flood storage which is considered to have little or no impact on the existing flood risk.

5.6 In relation to the issue of the risk of increasing flood risk elsewhere and to specifically address the objections raised by the residents of Tower Street, Tower

Place, South Esplanade, Friars Terrace and Peckitt Street, the Environment Agency have provided an assessment of the cumulative impact of York FAS as follows;

Following the floods of 2015, the York Detailed Model was developed to provide the basis for the design of the improved defences. In order to assess the accumulative effect of such an extensive programme of work in such a relatively small geographical location, a series of 8 transfer of risk scenarios (TORS) were run through the model. In each scenario representations of the proposed new or upgraded defences were added to the model.

In the first scenario, TORS0, existing defences plus proposed works at Memorial Gardens and North Street (cell B4) were represented in the model. The outputs were then compared to the baseline, i.e. model outputs with only the existing defences represented. Hence the potential impact of the B4 works were quantified.

The scenarios relevant to this planning application are TORS6, which contains all the existing defences including those built as part of York FAS, and TORS7 which adds in the proposals at St Georges Field and the demountable defences at Tower Street. This analysis shows no impact on flood levels in the B15 (King's Staith) cell as a result of the F1 proposals in the 1%AEP plus climate change to 2039 and 1%AEP plus climate change to 2117 flood events.

The lowest point on Tower Street will be 9.87m AOD and it is only above this level that the demountable defence, once deployed, will start to retain water. In comparison, the Peckitt Street defence and the measures at Tower Gardens entrance are overtopped at 9.7m AOD. It is therefore inconceivable that it would be the Tower Street demountable defence that would be the determining factor in either the onset of flooding or the speed of flood water receding in the B15 cell.

The proposed works at St George's Field Car Park and Tower Street will extend the improved flood defence level at the Foss Flood barrier and provide the city with a means of preventing connectivity between the Rivers Ouse and Foss that has caused such devastation in the past.

5.7 The proposals include demountable defences in the same position and to be deployed in the same conditions as existing emergency response plans. Current flood defences arrangement at Peckitt Street and the entrance to Tower Gardens are deployed when flood levels are predicted to reach 9.6m AOD and 9.7m AOD respectively. The new Tower Street demountables will be deployed when a more

extreme flood of 10m AOD is predicted. Therefore the EA contend that the new demountables at Tower Street will have no impact on the operation and effectiveness of the existing Peckitt Street and Tower Gardens defences.

5.8 The Council's Flood Risk Management team (FRMT) accept the modelling outcomes and conclusions in terms of fluvial impacts alone and the direct influence of river levels including exceedance flows overtopping the Peckitt Street wall. It is recognised however that the adjacent B15 flood cell which benefits from the Peckitt Street flood resilience measures is further impacted by a complex interaction of surface and groundwater flooding and therefore Officers recommend that the EA work closely with the community and the Council to ensure the operation of the demountable defence is considered alongside any future mitigation measures that are developed in B15.

5.9 The FRA concludes that the EA will be responsible for the storage and for arranging deployment of the Tower Street demountables when levels on the River Ouse are forecast to reach 10m AOD. It also states that Emergency Flood Plans of both the EA and City of York Council will be reviewed and updated as necessary to reflect the new defences, and to ensure coordination with existing activities for lower order events. FRMT advise that it is essential that the EA provide detailed information for all flood plans before the scheme is in operation and all partners fully understand the triggers and decision processes that will initiate closure. It is also advised that a formal review process be put in place to ensure the operations remain effective and do not place undue pressure on access and amenity needs in Tower Street and the wider city centre.

5.10 In terms of flood storage, the construction of the new 20m section of flood wall and the raising of the access ramp will lead to a total loss of 1.54% of the 1% AED flood storage area. The conclusions drawn that the preferred scheme, notably to protect 'Strategically Important Assets', satisfies NPPF para 164, are accepted.

5.11 The Sequential Test is passed for each aspect of the scheme. The defence works are location specific due to their intended purpose and therefore must take place in areas at risk of flooding. The construction compound would be a temporary structure only and practically needs to be in close proximity to the planned works and in an area where it would have the least environmental effect. The car park area is appropriate in this respect. The entire car park is in flood zone 3, therefore the exact location within the car park would not materially affect flood risk.

Mitigation measures would be put into place to ensure the compound is not in use during times of flood.

## IMPACT ON HERITAGE ASSETS

5.12 As set out in paragraph's 1.3 and 1.4, the proposals are located on land around the confluence of the River Foss and the River Ouse in close proximity to a number of heritage assets and located within two Conservation Areas.

5.13 In accordance with Section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local Planning Authority to have special 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 duties mean that such harm should be afforded considerable importance and weight when carrying out the balancing exercise.

5.14 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 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 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.

5.15 Both areas (St George's Field car park and Tower Street) are highly sensitive and significant given their location within Conservation Areas and proximity to such heritage assets as Cliffords Tower, the Crown Court and the Castle Museum which together form part of an ensemble of buildings, spaces and sub-surface deposits which represent one of the most important heritage sites in the country. The archaeology preserved below the surface of St George's car park includes a Knights Templar Chapel and Mill complex. This significance contributes to the characteristic of the conservation area, the historic setting of the city as an area and the individual assets within it.

5.16 The NPPF continues by advising that local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to

sustain and enhance their significance. 2018 Draft Local Plan Policy D4 reflects legislation and national planning guidance and 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.

#### New wall to tie in to the Skeldergate Bridge abutment wall and strengthening of the abutment wall

5.17 It is proposed to build a new section of wall, approximately 20 metres in length with a height of 11.08mAOD, to connect the edge of Tower Street to the corner of the existing flood wall to tie into the Grade II listed Skeldergate Bridge abutment walls. The wall would be constructed of a concrete core clad with brickwork and coping to match that of the pumping station. The wall would attach to the abutment wall via three dowels that would be drilled into the masonry joints.

5.18 The scheme also involves the strengthening of a section of the abutment walls that runs along the north edge of the car park. The proposed works involve coring the wall vertically and inserting steel helibars, before covering the holes with a stone plug.

5.19 Officers are supportive of the proposals to tie the new wall in to the abutment wall and the wall strengthening works by the method proposed. It is acknowledged that there would be some minor loss of original fabric and the potential of a low degree of loss of aesthetic value. However, this would diminish over time with the development of patina and natural soiling of the stone and alternative methods such as external augmentation would result in considerably more harm. The potential benefits to result from the new section of wall and the wall strengthening are considered to outweigh the less than substantial harm which would result from this work.

#### Raising and strengthening of existing walls attached to the pumping station

5.20 The works to raise and strengthen existing walls attached to the pumping station comprise the removal of the existing brickwork, the buttressing of the walls and an increase in their height by approximately 400mm. The walls would be clad in brick to match existing. The walls would be seen in the context of the existing building and walls within the car park and would be considered to have a minimal

visual impact causing no harm to the character and appearance of the Conservation Area.

#### Alterations to access ramp to the car park

5.21 The access ramp to the car park from Tower Street would be increased in height by a maximum of 0.65m (at its highest point) as the current ramp height falls short of the target flood defence height of 10.85m AOD. The height would be raised over a length of 50m so the ramp gradient would not steepen with the increase in height. The increased height of the ramp would be mostly screened from nearby heritage assets by the pumping station and would match the existing in terms of materials. These works therefore would be considered to have a neutral impact on the character and appearance of the Conservation Area.

#### Tower Street demountable temporary flood barrier

5.22 It is proposed to install framework on each side of Tower Street and to strengthen the existing abutment walls of Skeldergate Bridge to allow the deployment of a demountable flood relief barrier across Tower Street. This is to prevent water from the Ouse flowing across Tower Street and entering the Foss Basin. The demountable flood defence would extend across Tower Street from the Skeldergate Bridge abutment walls to the embankment leading up to the Grade 1 listed Crown Court for a length of 30 metres.

5.23 The demountable defences would attach to the abutment walls via a support post that would be sealed to the wall via a rubber-wall connection during a flood event. The rubber seal would not permanently impact the abutment wall and would be removed once the demountable defence is not required. The east-most support post would be permanently attached to a new purpose-built retaining wall. This wall would be set to the rear of the pavement in front of the embankment leading up to the Crown Court, within the scheduled area of York Castle. A small amount of excavation of the embankment would be required to enable the construction of the retaining wall which would measure 6m in length and be clad in stone.

5.24 The method of wall strengthening associated with the proposal for the demountable flood barrier would be the same as detailed in relation to the strengthening of the walls that run along the north edge of St George's Field car park (see paragraph 5.16)

5.25 A stoplog would also be required at the entrance to Tower Park from Tower Street. This would result in a permanent change to the listed Skeldergate Bridge through the addition of two steel posts into the abutment at the top of the stairs that lead down to Tower Park into which the flood defence beams would be slotted.

5.26 The construction of the proposed stone clad retaining wall to the embankment and infilling behind to raise the level of the land would result in considerable change to the setting of the historic structures and the character of the area and would result in harm to the historic environment. The rubber-wall connection for fixing the temporary barriers to the bridge abutment walls and the wall strengthening works through some minor loss of original fabric and the potential of a low degree of loss of aesthetic value, would also result in a degree of harm. The stoplog would result in a permanent change to the Skeldergate Bridge, impacting on the evidential and aesthetic value of the abutment walls and therefore would also cause harm to heritage assets. The impact would be lessened by drilling into mortar joints and sympathetic positioning.

5.27 The degree of harm to result from the proposed works is considered low and would be regarded as “less than substantial”. Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship, would be secured by condition. There is a clear public benefit deriving from the scheme which is considered to outweigh the harm identified. The proposals therefore are in accordance with local and national planning policies including paragraph 205 of the NPPF and 2018 Draft Local Plan Policy D4.

## ARCHAEOLOGY

5.28 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.

5.29 The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. Archaeological impacts for work on Tower St relate to the installation of support posts, the lowering of the footpath, construction of retaining wall and a

seepage trench (within the York Castle scheduled area). This trench would be filled with a clay material to prevent seepage around the demountable flood defence during a flood event and would be 7 m in length by 0.8 m wide. At St George's Field Car Park, impacts relate to the strengthening of the existing and the creation of new flood walls.

5.30 Most of the intrusive works required for this scheme are shallow and are not expected to disturb significant archaeological features or deposits. The deeper works relate to the creation of the seepage trench to depths of 9m aOD (2m bgl) and for the construction of the new wall within St George's Field car park. Scheduled monument consent (SMC) will be required for elements of this scheme within York Castle area. To mitigate against the impact on remaining archaeology, there will be a requirement for an archaeological watching brief.

5.31 The evaluation carried out to date and the watching brief are in accordance with Paragraph 205 of the NPPF which requires developers to record and advance understanding of the significance of any heritage assets to be lost in a manner proportionate to their importance and the impact. The proposal will cause harm to locally significant archaeological resources. This harm is considered to be less than substantial, outweighed by the clear public benefit deriving from the scheme and would be mitigated by the programme of post determination archaeological mitigation. The proposals therefore are in accordance with local and national planning policies including paragraph 205 of the NPPF and 2018 Draft Local Plan Policies D6 and D7.

## ACCESSIBILITY / HIGHWAY IMPACTS

5.32 Paragraph 92 and paragraph 130 (f) of the NPPF seeks to ensure planning decisions achieve healthy and inclusive places which are safe and accessible by all. This is supported by Policy DP3 of the Draft Local Plan (2018) which seeks to ensure new development provides accessible facilities and services in a planned manner which complements and integrates with existing facilities.

5.33 The current gradient of the access into the car park from Tower Street is an average of 1 in 10. The proposed works would increase the height of the access ramp by a maximum of 0.65m with the height raised over a length of 50m in order for the gradient to not steepen with the increase in height. Despite this, the proposed ramp, designed with a gradient of 1 in 10 over distances of 12m (southern section of the ramp) and 15.5m (northern section), is not in accordance with the

gradients recommended by Inclusive Mobility for people using a wheelchair or mobility aid.

5.34 S.149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics included disability, sex, age and pregnancy and maternity. The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.35 In the context of the Equality Act, the applicant has been asked to address this issue and provide justification for not providing a ramp with a gradient suitable for people using a wheelchair or mobility aid. The Executive summary of this statement is as follows;

As part of the St George’s Field and Tower Street Flood Defence improvement works, we will be able to even up the gradient at 1 in 10 but not provide betterment beyond this. As part of project development we considered options for slackening the gradient of the access ramp, including discussions with the Local Authority regarding the provision of additional funding to support the accessibility betterment as this subsequent betterment would fall outside of the remit for the current funding allocation.

All options resulted in a requirement to reprofile the carpark, a loss of carparking space and of flood storage capacity, in addition to significant increase in construction time and cost. Public funding for the Foss Basin Project is allocated for the provision of improved flood protection. While York FAS is open to providing additional benefits within our schemes where possible, this cannot be at the detriment of flood protection or the economic viability of the flood scheme itself.

The existing access ramp into SGFCP has an average gradient of 1:10, but this does vary due to the unevenness of its vertical geometry. There are sections which increase to a gradient of 1 in 7. Through our planned work, we intend on smoothing out the undulations within the access ramp to ensure that the maximum gradient at

any point will be 1:10. This will result in a small betterment to what is currently in place.

There is an existing access under Skeldergate Bridge, via New Walk, which is fully compliant with the Inclusive Mobility requirements. This is the preferred access from SGFCP into Central York, as highlighted by the signage within SGFCP.

5.36 In making its recommendation, Officers have given due regard to the aims of the Act. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

### Tower Street

5.37 To create an even surface for the installation of the barrier, the pedestrian footway would be lowered and road resurfaced. Removable guardrails would be installed along the edge of the footway to prevent pedestrians crossing and would only be removed during the installation of the barrier. Additional information has been submitted demonstrating that the dropped kerbs are of a sufficient width to enable pedestrians and wheelchair users to cross Tower Street immediately south of the flood barriers when they are in place. The detail of these works would be conditioned. Others matters to be conditioned would be the requirement to submit revised method statements / traffic management plans for both sites to include information on contractor parking, construction vehicle routes and revised diversion routes.

### ECOLOGY / IMPACT ON TREES

5.38 The NPPF states decisions should contribute to and enhance the natural and local environment by minimising the impacts on and providing net gains for biodiversity. Part (iv) of Policy GI2 (Biodiversity and Access to Nature) of the 2018 Draft Plan states that where appropriate, any development should result in net gain to, and help to improve, biodiversity.

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.

5.39 To enable the flood defence works, two individual trees would be removed together with pruning works to 11No. trees. Subject to the adherence to the

arboricultural method statement, the risk of harm to the remaining trees is deemed acceptable. The applicant advises that 5no. replacement trees would be planted for each one removed. The Sorbus at the back of the Crown Court, has been in decline for several years and there is ample space in this location that would benefit from new tree planting. Different locations for tree planting to replace the young fastigate Hornbeam, would be agreed via a condition. Providing biodiversity enhancements post construction through the provision of a more diverse seed mix, planting native bulbs and/or pollinator friendly shrubs in the existing verges and on the area of new turf, would also be agreed via a condition.

## **6.0 CONCLUSION**

6.1 In principle the proposals are consistent with the environmental objective within the NPPF of adapting to climate change and given that the proposed flood defences will increase protection for an urban area, there are consequential economic and social benefits. The scheme is in accordance with flood risk policy in the NPPF, in section 14.

6.2 The proposals are located in close proximity to a number of heritage assets and located within two Conservation Areas and the Area of Archaeological Importance (AAI). Only a low level of harm to heritage assets has been identified as a consequence of the works to tie the new wall to the bridge abutment walls, the strengthening of the abutment walls the rubber-wall connection for fixing the temporary barriers to the bridge abutment walls, the stoplog at the entrance to Tower Park and through the new purpose-built retaining wall and associated infilling within the scheduled area of York Castle. Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship and the requirement for an archaeological watching brief, would be secured by condition. The public benefit in improving the flood resilience of this area out-weights the harm even when giving considerable importance and weight to the harm to heritage assets, in accordance with the statutory duties.

6.3 Other matters, such as replacement tree planting and the provision of biodiversity enhancements post construction, would be agreed via a condition.

6.4 In making this recommendation, Officers have had due regard to the aims of the Equality Act 2010 and whilst noting that the proposed works provide no betterment

to the gradient of the access ramp, it is not considered that this outweighs the material planning considerations.

## **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:-

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01001 Rev P03 (Site Location Plan)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01002 Rev P03 (Foss Basin Wall Raising General Arrangement)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01003 Rev P02 (Foss Basin Tower Street Cross Sections North West Facing)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01004 Rev P02 (Foss Basin Tower Street Cross Sections South East Facing)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01005 Rev P02 (Foss Basin Tower Street Cross Sections SouthWest & NorthEast Facing)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01006 Rev P02 (Foss Basin Tower Street Stop Log Details)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01007 Rev P02 (Foss Basin Tower Street Wall Strengthening Details)

ENV0002071C\_JBAB-00-3\_FBT-DR-C-01107 Rev P02 (Foss Basin Wall Raising - Existing & Proposed Wall Elevations)

ENV0002071C\_JBAB-00-4\_B08\_DR-C-01601 Rev P03 (Highway Access Design Options)

Method Statement JBA Project Number 2019s0876 Project Clementhorpe B8: Foss Basin Works P01.02 dated 08/09/2022

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

3 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief is required on this site.

A) No ground disturbing work within the Scheduled area or for the construction of the wall within St George's Field Car Park shall take place until a written scheme of investigation (WSI) for a watching brief 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 LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post-investigation assessment shall be completed in  
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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 shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 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.

4 A detailed method statement for the works to strengthen the Skeldergate Bridge abutment walls shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of these works and shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of safeguarding the fabric and appearance of the listed bridge.

5 Large scale drawings of the proposed retaining wall, to include the coping and "Rubberwall" connection, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of this element of the scheme and the works shall be carried out in accordance with the approved details.

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.

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

Note: Because of limited storage space at our offices sample materials should be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: In the interests of safeguarding the character and appearance of the

Conservation Area and the listed Skeldergate Bridge.

7 Sample panels of the brickwork to be used for the new flood wall within St Georges Field Car Park and for the new retaining wall (Tower Street) shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. The panels shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: 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.

8 Before the commencement of development (including demolition, excavations, and building operations et al), a finalised Arboricultural Method Statement (AMS) in accordance with the content of the Arboricultural Impact Assessment submitted with the application, and a scheme of arboricultural supervision regarding protection measures for existing trees shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. The content of the approved document shall be strictly adhered to throughout development operations. A copy of the document shall be available for reference and inspection on site at all times. A qualified arboriculturalist shall carry out regular inspections during the development, especially during site preparation and excavations. Before works start on site, the name and address of the appointed arboricultural consultant shall be supplied to the local authority.

Reason: To ensure every effort and reasonable duty of care is exercised during the development process to protect existing trees that are considered to have a significant public amenity value.

9 Within three months of commencement of development a scheme of tree planting shall be submitted to and approved in writing by the Local Planning Authority. Any trees that are felled as part of the approved development shall be replaced on a ratio of five new trees for every one felled. The landscape scheme shall include the species, stock size, and locations of trees. The scheme shall be implemented within a period of six months of the substantial completion of the development. Any trees which within a period of five years from the completion of the planting 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.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and positioning of species to mitigate the loss of trees resulting from the development.

10 No development shall take place (including ground works, demolition works and vegetation removal) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved CEMP: Biodiversity.

The CEMP: Biodiversity shall include (but not be limited to) the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) Details of pollution prevention measures to avoid harm and potential mortality to fish species from pollution
- e) Details of biosecurity measures to stop the spread of waterborne diseases and Invasive Non-Native Species,
- f) Use of directional lighting during construction and operation, which will not shine upon bat roosts, and forage and commuting routes.
- g) The location and timing of sensitive works to avoid harm to biodiversity features.
- h) Programme of pre-commencement checking surveys, such as Otters and nesting birds.
- i) Responsible persons and lines of communication.
- j) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- k) Use of protective fences, exclusion barriers and warning signs.

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area.

11 The development shall be carried out in accordance with the submitted flood risk assessment (Environment Agency & JBA Consulting, Cell F1 - Clifford's Tower St George's Field flood defence improvements and Tower Street demountable flood defences Flood Risk Assessment, Version P03 dated June 2023), and the following mitigation measures detailed:

- (i) Raise the height of part of the existing flood defence wall between Skeldergate Bridge and the Foss Barrier pumping station building by a maximum of 0.65m at wall section A, between the existing building and the access ramp. The location of the wall will remain as existing,
- (ii) Construct a new section of flood wall, approximately 20m in length with a defence height of 10.85m AOD which will connect the abutment wall of Skeldergate Bridge to the corner of the existing flood wall which surrounds the YWS pumping station. (Figure 6),
- (iii) Strengthening work on the stonework of the Skeldergate bridge abutment wall

and on a section of wall around Tower Gardens in order for them to be able to accommodate the increased forces that the additional height will exert on them. (Figures 6 & 7)

(iv) Increasing height of the existing access ramp by a maximum of 0.65m (at its highest point) as the current ramp height falls short of the target flood defence height of 10.85m AOD.

(v) Install the framework for a demountable flood system across Tower Street that will be manually erected when the forecasted flood level on the River Ouse reaches 10m. (Figure 7).

These mitigation measures shall be fully implemented prior to deployment and operation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk and impact of flooding to the proposed development and future occupants and to reduce the risk of flooding elsewhere.

12 No construction works on the site shall commence until measures to protect the public sewer/s infrastructure that is laid within the site boundary have been implemented in full accordance with details that shall have been first submitted to and approved in writing by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that the public sewer/s will be protected from backflow of water from the river and access to the system for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

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

13 No development shall take place until details of the means of deployment, operation, management, repair and maintenance of the flood defence works, and associated apparatus have been submitted to and approved in writing by the Local Planning Authority. Details to include; plans and schedules showing the flood defence works and associated apparatus to be vested with the relevant Statutory Undertaker/s, land owner and highway authority with a clear understanding of who will deploy, operate, manage, repair and maintain at their expense, and any other arrangements (to include deployment trigger points) to secure the deployment, operation, management, repair and maintenance of the approved scheme. The development shall be carried out in accordance with the approved details.

Reason: To ensure the effective deployment, operation and maintenance of the strategically important assets and to prevent the increased risk of flooding to the proposed development and future occupants throughout the lifetime of the development.

## **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:

- the use of conditions

#### **Contact details:**

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