

1.3 The supporting statement provided with the application explains the history of flooding in the Clementhorpe area. The existing defences comprise a flood wall installed after the 1982 flood. However there are not comprehensive formal defences which protect the area and a significant number of properties were effected in the 2015 flood event.

1.4 Following the 2015 flood the Environment Agency (EA) has been allocated funding for defences along the Rivers Ouse and Foss within the City of York. To facilitate delivery, York has been sub-divided into 19 “flood cells”. Clementhorpe is a priority area and is referred to as cell B8 and 135 properties are due to benefit from the proposed flood defence works.

1.5 Full planning permission is sought by the EA for the flood alleviation scheme works, which includes the following development requiring planning permission:

- a) A flood gate at the junction of Clementhorpe and Terry Avenue. The proposal is for a twin 2m high retractable steel bi-fold flood gate spanning approximately 11.2m across the carriageway of Clementhorpe at the Clementhorpe/Terry Avenue junction with associated storage cabinets and minor footpath/road realignment. The two cabinets will each be approximately 4.1m long, 2.10m high and 0.85m wide. They will be constructed of galvanised steel and have a non-painted finish. The gates are bi-folds that hinge in the middle and fold to fit into each cabinet. The gates will be contained within the cabinets unless required to be deployed during a flood event.
- b) a flood defence wall to Waterfront House. The wall will be approximately 2.5m in height and will extend across the full extent of the front elevation and will continue approximately 8m around the northern side elevation. On the front elevation, the wall will include glass panel insets where the Juliet balconies and windows are currently positioned. The wall will be constructed in concrete topped with coping stone and faced with brick.
- c) flood defence wall at Lower Ebor Street will be constructed at the north western corner of the Roomzzz Hotel development at Lower Ebor Street. The wall would total approximately 12.1m in length and would be around

2.45m in height. It would be constructed with masonry and would tie in with the existing wall at this location

1.6 The site of the temporary compound currently is an informal football pitch at the southern edge of Rowntree Park. These are proposed to be relocated temporarily, to the south in one of two locations, either directly to the south of the path with Butcher Terrace, or further to the south east, closer to the river. When the compound is removed the football pitch will be reinstated in its former location. Parking will be suspended on the northern side of Butcher Terrace with alternative car parking for residents provided near the compound for the duration of the works. The applicant has indicated that up to 30 construction vehicles a day will use the route to the site.

1.7 Butcher Terrace and Terry Avenue will be connected by way of a temporary access road for construction traffic, and for access to the Rowntree Park car park, the caravan park and the Roomzzz hotel.

1.8 The proposed development will be undertaken alongside other works that the Environment Agency are undertaking through their permitted developments (not requiring planning permission). Due to the constrained location of the site, including the access, there will be temporary disruption to the local highway network. The applicant submitted their latest Construction Traffic Management Plan (March 2020). This indicates the closure of Terry Avenue to vehicles, cycles and pedestrians from July 2020 to October 2021. These works are for the laying of an underground grout curtain along Terry Avenue, service diversions and the construction of the wall to Waterfront House.

1.9 Terry Avenue and Butcher Terrace are both popular cycling and walking routes for both leisure and commuting journeys. Given the level of disruption proposed there has been significant public interest in this application with a large number of objections to the proposed closure of Terry Avenue and also the potential for highway safety conflict in the area of Butcher Terrace. The applicant has produced several Construction Traffic Management Plans (CTMPs) that have evolved during the application process in response to comments from the public and Council officers that have set out how they attempt to mitigate these issues. The main elements of the mitigation measures include:

- relocating the site compound north of the cycle path connecting Butcher Terrace/Millennium Bridge
- inclusion of a turning circle in the compound
- provision of passing places along Terry Avenue
- speed restrictions along the access route
- pedestrian safety barriers
- banksmen directing/escorting construction vehicles
- abstract water directly from the Ouse to reduce the need to tanker in water for the grouting process

1.10 While the application was the subject of a member committee call in by Cllr D'Agorne, the application is required to be presented to Planning Committee due to the location of the temporary compound in the general extent of the Green Belt.

2.0 POLICY CONTEXT

The Development Plan

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for York consists of the saved policies of the revoked Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt and Neighbourhood Plans. The application site is not within a Neighbourhood Plan area.

Saved Policies of the Yorkshire and Humber RSS

2.2 The Yorkshire and Humber RSS was revoked in 2013 with the exception of the policies relevant to the York Green Belt. Policy YH9(C) states that the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth set out in this RSS and must also endure beyond the Plan period. Policy Y1(C1) states that plans, strategies, investment decisions and programmes for the York sub area should in the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre and the inner boundary in line with policy YH9C. Figure 6.2 of the RSS illustrates the general extent of the Green Belt.

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National Planning Policy Framework

2.3 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material planning consideration in the determination of this application

2.4 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives. Paragraph 11 advises that at the heart of the Framework there is a presumption in favour of sustainable development.

Publication Draft Local Plan 2018

2.5 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted 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).

2.6 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

2.7 Relevant Policies

SS2 The Role of York's Green Belt

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D4 Conservation Areas
D5 Listed Buildings
D8 Historic Parks and Gardens
GI5 Protection of Open Space and Playing Fields
GB1 Development in the Green Belt
ENV2 Managing Environmental Quality
ENV4 Flood Risk
ENV5 Sustainable Drainage
T1 Sustainable Access

2005 Development Control Draft Local Plan

2.8 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. However such policies have very limited weight.

3.0 CONSULTATIONS

INTERNAL

Flood Risk Engineer

3.1 Flood Risk Assessment: No objection to the proposed development provided the works are carried out in accordance with this FRA. The proposed development will only meet the requirements of the National Planning Policy Framework if the development is carried out in accordance with the FRA and it is listed as an approved plan/document if planning permission is granted.

3.2 Public Sewer and Water Supply Network: No objections subject to conditions.

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3.3 Underground Grout Curtain: Previous attempts to provide a flood gate at this location have failed due to inadequate 'management of ground water flux' and therefore this particular item of works is crucial to the success or in deed the failure of the scheme and we must be confident this underground grout curtain method as opposed to a steel sheet pile 'cut off' solution will work and therefore its detailed design is required and should be sought by way of condition.

3.4 Contractors Site Compound: In accordance with the Strategic Flood Risk Assessment (SFRA) the contractors site compound is in Flood Zone 3b (functional floodplain) and not as quoted in the FRA in flood zone 3a and although the works are temporary the compound should be designed in such a way that there is no loss of flood storage (ground levels to remain as existing) and to allow the free ingress and egress of flood flows.

Highways Network Management

3.5 The initial Environment Agency's (EA's) York Flood Alleviation Scheme Clementhorpe, Outline Construction Traffic Management Plan, March 2019 (OCTMP), set out the anticipated construction traffic and programme associated with the construction of a new flood defence in the Clementhorpe, at a time when the scheme was still at a relatively early stage of design and the proposed method for constructing the underground seepage cut-off wall hadn't been confirmed. Furthermore the OCTMP stated that final diversions and road closures had yet to be fully agreed a full CTMP will be prepared prior to commencement.

3.6 City of York Council's Highways Development Control (HDC) offered its representation to the application on 5 July 2019 and this raised three main issues that needed to addressed within the full CTMP.

- The duration of the works (which is dependent on the precise nature of the works required)
- Whether any suitable safe and acceptable alternative routes for cyclists and pedestrians who currently use Terry Avenue can be provided for the duration of the works.
- Whether suitable safe and acceptable access to those premises and businesses currently accessed via Terry Avenue can be maintained throughout the duration of the works

3.7 Since the submission of the OCTMP, the EA has submitted two full CTMPs setting out in more detail the anticipated programme, the means of access to the site and site compound and measures to reduce the risk of pedestrian/cycle and vehicular conflict for the envisaged method of works. The first CTMP, dated October 2019 envisaged that safe pedestrian and cycle access could be maintained past the works for the majority of the time. However, the second CTMP dated March 2020, resolved that it was not feasible to maintain safe access for pedestrians and cyclists along this section of Terry Avenue once the construction works are underway and that the section of Terry Avenue where the work are to be undertaken will be fully closed to pedestrians, cyclists and vehicles, with diversions put in place to minimise disruption.

3.8 Since the HDC's initial representation, it has been engaged in ongoing dialogue with EA to ensure the provision of a suitable CTMP that ensures

- the safe access to the site and site compound
- the safe access to premises currently accessed via Terry Avenue
- the safe passage of all road users, including pedestrians and cyclists, particularly along Butcher Terrace

3.9 As a result of this dialogue, HDC finds the CTMP to be broadly acceptable and have no objection to the development, provided that HDC recommendations made in its comments dated 8 April 2020 is incorporated into either a fully updated CTMP or a suitable Addendum to the CTMP dated March 2020, to be submitted to and approved in writing by the LPA.

Public Protection

3.10 The applicant has issued a revised Construction Noise Assessment dated 4/3/20. This noise assessment provides detail on the construction activities proposed and the resultant noise levels at the nearest residential dwellings, with Table 18 providing a comprehensive list of predicted noise levels with noise levels above those levels using the ABC method marked as amber and red. Some additional information within this table of the likely timescales for each of these works in these locations is required in order that a decision can be made regarding the communication that needs to be put in place for the affected residents.

3.11 In addition details of the predicted vibration levels have been provided by the applicant and these are likely to exceed 1mm/s PPV in some locations; resulting in

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the likelihood of complaints. The applicant has advised that some structural surveys will be undertaken however there have been no specific details of where the surveys will be undertaken. Construction and Environmental Management Plan condition required.

Ecology

3.12 An Ecological Impact Assessment dated October 2019 has been submitted with this application. This included a Phase 1 Habitat Survey extended to consider protected and notable species. The EclA concluded that following implementation of standard mitigation measures (as set out in Section 6 of the report) there is likely to be no residual impacts upon all ecological receptors. Having considered the submitted information The Ecologist supports this conclusion.

3.13 The Project is confined to terrestrial habitats and no in-channel or riverbank works are anticipated within the River Ouse but a Construction Environmental Management Plan (CEMP) should be employed, taking account of the proximity of the river. The CEMP should also provide for an Ecological Clerk of Works as proposed in the EclA and ensure the compound area is restricted to the mown area of the field only.

Conservation

Initial response June 2019

3.14 Waterfront House is a brick built building that has an industrial/ warehouse aesthetic with a prominent position on the river side and is adjacent to the New Walk and Terry Avenue Conservation Area.

3.15 The importance of maintaining the setting of the Conservation Area and, consequently, its character and appearance is the issue here. The significance of the Conservation Area is enhanced by the aesthetic values of Waterfront House. This aesthetic value is based on the industrial and warehouse character described above and this value relies heavily on the use of brick. The use of render, for any alterations or additions, would be an alien material in this particular location. Render would, therefore, have negative impact on the setting of the Conservation Area and, consequently, its significance.

3.16 They would not support the use of render for the new flood defences here for the reasons stated above. A brick finish is more appropriate and would maintain the setting and significance of the Conservation Area.

Further comments August 2019

3.17 The Conservation Architect is content to support the revised plans submitted in August 2019. They are content to support a stainless steel finish (if required) to the proposed storage cabinets for the flood gates at Clementhorpe.

Landscape Architect

3.18 The Arboricultural Impact Assessment (AIA) includes a detailed tree survey in accordance with BS 5837 and is very thorough in its assessment of the existing situation, and impacts of the development proposals, and recommendations for tree protection, and suitable mitigation.

3.19 To facilitate the proposed works, three trees (86, 125, 178) in the vicinity of Roomzzz/Dukes Wharf would be removed, where the access road to Dukes Wharf is to be raised and an additional length of flood wall, backing onto Lower Ebor Street, is to tie in with an existing flood wall which was constructed as part of Roomzzz Hotel's planning consent. The locations of the trees can be seen on Sheet 4 (of 20) Topographical surveys dwg. JNB-CT5493-04 P01.07 within the AIA.

3.20 Tree 86, a mature Rowan, is located at the west side of the Dukes Wharf. This tree has been categorised as Category B moderate quality. The construction will seriously compromise the root area of this tree making its retention unfeasible. On completion of the works the tree will be replaced with a tree of the same species, however no less than 2m from the defence. Trees 125 (young Cherry), and 178 (mature Sycamore) have been categorised as Category C low quality. The Environment Agency is willing to replace the trees at a ratio of 5:1 - the location of additional planting can be agreed at a later date.

3.21 Given the red line boundary includes one side of Terry Avenue and a significant area at the southern end of Rowntree Park, it should be possible to accommodate the replacement tree planting in locations within the red line boundary. There is an exemption from the requirement to seek consent to fell or

carry out works to trees where these works are strictly necessary to implement a scheme that has received full planning consent.

3.22 To facilitate the proposed works, crown lifting along Terry Avenue and in the area of the Millennium bridge will be required. The road between Millennium Bridge and Rowntree Park car park (currently closed to vehicles) will be used by a proportion of construction traffic from the compound, with the remainder continuing to use Bishopthorpe Road and Clementhorpe when possible. No trees will be removed, but some crown lifting to a maximum of 4m will be required to prevent any knocking and tearing of overhanging lower limbs from passing construction traffic.

3.23 The trees in this area have been subject to episodes of crown raising and pruning in the past, resulting in crowns with an average clearance of between 3 and 4 metres. Therefore, additional pruning will be small in scale and unlikely to cause any significant impact to the trees.

3.24 To allow safe passage of wider vehicles, there will be parking restrictions on Butcher Terrace, which will be mitigated by the provision of a temporary residents' parking area immediately outside the site compound within a currently grassed area. Tree 13, a mature Lime, subject to TPO 74, may need a minor crown lift to accommodate the passage of site vehicles down Butcher Terrace.

3.25 Due to the restricted width of the road between the river Ouse and Rowntree Park, a series of passing places will be installed to allow for two-way traffic. Three potential areas have been identified, two in the grass verge between trees, and one in front of the main gates to Rowntree Park. Trees adjacent to the passing places in the grass verges will have their roots protected by the use of geotextiles and be monitored on a regular basis by tree specialists. It may also be required to install a passing place on the Terry Avenue bend between the Caravan Park and Rowntree Park car park due to reduced line of sight.

3.26 Rowntree Park is a Grade II registered historic park. The informal football pitch is outside of the listing. The football pitch grass and earth is apparently 'low grade' due to its historic use as a landfill site. Chapter 3.7 of the Construction Compound Information November 2019 outlines the proposed procedure for the construction of the site compound, its removal, and the reinstatement and possible betterment of the land over the site compound area. Conditions recommended.

City Archaeologist

3.27 A watching brief took place in relation to this application during ground investigation works. The borehole data from December 2018 suggests that a dark soil layer featured at the base of most of the holes may be post-medieval in date and relate to previous flood defences although there was not enough data to support these theories.

3.28 As a result of the watching brief results the following elements of this application require further archaeological monitoring:

- The concrete foundation required for the wall at Roomzzz given that it is deeper than any of the boreholes monitored in December. It also appears that no boreholes were undertaken in this particular area. An evaluation close by in 2003 revealed medieval pottery and possible surfaces at 1.2m bgl.
- The proposed wall at Waterfront House should also be monitored if any trenches are to be opened which will be greater than 1m in depth. I assume any intrusion like this will be limited if using a pile foundation. Any gate/wall installation that are like for like and do not require any additional groundworks do not require monitoring.

3.29 Any other proposed works that fall outside of this planning application but are in the Area of Archaeological Importance (AAI) should be covered under an Operations Notice as a precautionary measure giving YAT the opportunity to attend to monitor any works they deem it necessary.

EXTERNAL

Micklegate Planning Panel response 10th March 2020

3.30 Do not object but wish to make comments or seek safeguards. The consideration of this application should be deferred until the Environment Agency produce a CTMP based on data associated with predicted, not historic, levels of traffic and risk.

Environment Agency

3.31 No objection to the proposal provided the proposed works are carried out in accordance with this FRA.

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3.32 We consider that the proposed development will only meet the requirements of the National Planning Policy Framework if the development is carried out in accordance with the above FRA and it is listed as an approved plan/document in any permission granted.

Yorkshire Water

3.33 No objection. The Flood Risk Assessment prepared by the Environment Agency Rev P01 (dated October 2019) is acceptable.

3.34 In summary, the report states that alterations to the public sewer network will be required to accommodate the safe operation of the flood defence system. On the Statutory Sewer Map, there is a large diameter combined sewer varying in size recorded to cross the site. The increased duration of groundwater infiltration may increase the risk of the sewer being overloaded. It has been agreed with the developer that the sewer will be surveyed to assess the risk and suitable mitigation proposed.

3.35 It has been agreed with the EA's contractors that they will ensure that the feed to taps at the water side which supply boats docking at the landing stages is maintained although minor works may be required. It has also been confirmed that a water supply pipe on Terry Avenue should be unaffected as the flood defence will be constructed beneath the asset with sufficient level of depth. Condition recommended.

Sports England

3.36 Following the submission of additional information by the applicant, Sports England has withdrawn its original holding objection to the temporary loss of the informal sports pitch, subject to the imposition of a condition covering details of the temporary relocated pitch and its retention during the works.

3.37 Sport England has sought the views of the Football Foundation (FF) on the additional information. The comments of the FF have been summarised as:

- The compound update document provided makes reference to the goalposts that are currently in situ on the proposed compound area either being taken

down and stored, or temporary relocated. As previously advised, we would ask that the goalposts are temporarily relocated.

- Of the two potential relocation options proposed, our preference given the proximity to the existing area and gradient of the land, would be for relocation to Option 1.
- Upon completion of the flood defence works, we are in full support of the suggestions made within Section 3.7 Reinstatement and Betterment that new goalposts and an improved playing surface are provided.

3.38 The compound update document proposes the option of erecting the pitch and goal posts in two alternative locations while the construction compound is in situ. The document proposes to reinstate that pitch in its current location following the demobilisation of the construction compound. The FF have commented that their preference would be for the pitch to be relocated to option 1 and that they are in full support with reinstating the pitch and the betterment that this will bring.

Historic England

3.39 On the basis of the information available to date, do not wish to offer any comments.

4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification, press notice and site notice in April 2019.

4.2 154 objections and several petitions were received from members of the public and groups including Friends of Rowntree Park, York Environment Forum Transport Group, York Cycle Campaign and on behalf of Knavesmire School.

4.3 The issues raised in the objections are summarised below.

- Visual impact of cabinet
- Flood money should be used more pro-actively for example on river management
- Insufficient consultation
- Loss of amenity
- Impact on property values
- Concern over design of alterations by Waterfront House

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- Queried why Roomzz hotel was granted if flooding was a concern
- Concern over erection of fence
- Closure of Terry Avenue
- Highway safety
- Damage to verges
- Safety of crossing bridge, particularly for school children
- Impact on wildlife including tansy beetle
- Impact on park from heavy traffic
- Loss of open space
- Impact on parking in Butcher Terrace
- Concerns over diversionary routes including the suitability of New Walk which is lower, the Blue Bridge which can be difficult to cycle over and safety concerns over use of St Georges car park and Skeldergate Bridge
- Air pollution impacts
- Loss of a footpath/bridleway
- Contrary to reputation as cycle friendly City
- Loss of trees in conservation area
- Won't guarantee route restored afterwards
- Terry Avenue a traffic free leisure route for children cycling and those with mobility issues
- Currently a safe route for commuters, school children, parents taking children to school or nurseries
- Suggested Clementhorpe and/or river as alternative routes
- Prioritising cars over cyclists and pedestrians
- Flood defence only helping a small minority
- Increase congestion elsewhere
- Adverse impact on businesses
- Accuracy of drawing
- Concern over noise impact and need for temporary accommodation
- Suggest enhancement of Bishopthorpe Road as cycle route.

4.4 It was noted that many of the objections mentioned that they either supported or did not object in principle to flood alleviation works.

4.5 9 letters of support were received raising the following points:

- supporting the flood gate
- hoping the access for riverboat residents is considered
- long term advantages far outweigh the short term disruption

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- high levels of flood protection to a significant number of properties
- a fair balance has been achieved between sustainable defence and good design
- Clementhorpe has flooded many times in the last 20 years and these flood gates are desperately needed
- Once in a generation opportunity to protect Waterfront House and Clementhorpe from the threat of flooding
- Welcome the plans and hope they are approved
- Welcome the consultation undertaken by the Environment Agency and that they are undertaken as soon as possible

4.6 General comments were also received making the following points:

- Concern over impact on wall and tree, but need to see detail of the plans

4.7 Following the high level of objections, many of which referred to the closure of Terry Avenue, the applicant submitted additional information and plans, including an alternative piling method, a revised traffic management plan, with re-routing of traffic via Butcher Terrace and preventing the full closure of Terry Avenue. The site compound is also proposed to be relocated to the northern side of Butcher Terrace.

4.8 There was a further re-consultation following the submission of this information in November 2019. The following number of responses were received.

4.9 32 objections as of 19th November were received from members of the public and from groups including Friends of Rowntree Park and York Cycle Campaign.

4.10 The issues raised in the objections are summarised below.

- Lack of consultation
- Significant impact but will benefit another area
- No risk assessment
- Not wanting to park car on field adjacent to compound
- Impact of construction vehicles and large volume of traffic on Butcher Terrace
- Alternate route over Skeldergate Bridge is not safe
- Welcome revisions but concern over impact on Butcher Terrace
- Suspension of parking insufficient
- Potential damage to trees
- How will parking changes be enforced
- Damage to properties and utilities

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- Impact on activities of Friends of Rowntree Park
- Impact on businesses
- Diversion route unacceptable
- Concern over increased traffic to Terry Avenue
- Compound changes nature of park
- Safe space for children to play lost
- Moving compound to north of path is an improvement
- Positive that cyclists and pedestrians can use Terry Avenue for much of the time
- Suggest 10 mph limit
- Failure to give due regard to vulnerable users contrary to Equality Act 2010
- Impact on health and well being
- Opening route to general traffic contrary to Council policies

4.11 Additional consultation of local residents on the eastern side of Terry Street was undertaken following the submission of further information into the location of the proposed temporary football pitch. No responses were received with regard to the issue.

4.12 Following discussions between the applicants and their contractors in late 2019 it became apparent that keeping Terry Avenue as previously suggested in the application documents was unachievable. Revised documentation was submitted in March 2020 showing an approximate 12 month closure of Terry Avenue including for pedestrians and cyclists. Therefore a further consultation was undertaken in March 2020.

4.13 7 objections were received 1 letter of support and 3 general comments. The issues raised were:

- Why can't the compound be located on the common rather than sports pitch
- Concerns remain regarding traffic at Butcher Terrace/Millennium Bridge
- Provision of banksman is welcome but still conflict between motor traffic and pedestrians/cyclists
- Towed caravans present danger to cyclists
- Cycle and pedestrian traffic is heavy across the bridge at certain hours, includes many school children. Safety should be paramount
- What is the bund in the playing field area? What will happen to it when work completed?

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- Why are their plans for speed bumps on Terry Avenue and not on Butcher Street? Imagine people will not take much notice of the 20 mph limit as the existing 20mph on Bishopthorpe Road is much ignored
- Support provision of permanent barrier
- Recent excellent prevention works carried out in February 2020 were much appreciated but should be aware how lucky we were that the river did not reach its predicted 5.2 m above normal as the temporary barrier was built to 4.8m. A pump failure would have seen the water enter Clementhorpe, Lower Darnborough, Colenso and River Street homes. New barrier will give protection to 5.7m, some 300mm above the current record of 5.4m in 2000.
- Clementhorpe already has the vehicular traffic that the alternative temporary route residents object to and will continue to do so once works are complete
- New plans show how Terry Avenue will be attempted to be made safe for residents and pedestrians/cyclists, issue of Butcher Terrace still not addressed
- Also object to football pitch being used as a site compound
- No recent surveys undertaken and routes/plans appear to be based on historic data. No impact assessment for Butcher Terrace and surrounding streets
- Concern over rat running on adjoining streets
- Parking displacement
- Siting of compound changes nature of park
- How will new football area be made safe for young children given dogs use the proposed area
- Friends of Rowntree Park had planned to improve the field/pond where the compound is proposed
- Loss of privacy and noise due to compound
- Terry Avenue was a critical location for people to exercise prior to covid-19.
- Terry Avenue is linear but can be combined with other routes to be a circular traffic free route
- Alternatives options such as floating or fixed towpaths

4.14 In April 2020 re-consultation was undertaken of properties on Butcher Terrace that had not been originally re-consulted on the subsequent changes to the CTMP, given the original consultation had been via site notice. The following responses were received.

- Swept path does not appear to consider junction properly
- Construction work will create a public nuisance and spoil enjoyment of residential properties
- 30 vehicle movements a days is totally unacceptable and dangerous

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5.0 APPRAISAL

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for York for the purposes of this application consists of the saved policies of the revoked Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt.

5.2 The application site is partly within the Terry Avenue/New Walk Conservation Area where Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. The general duty with respect to listed buildings in the exercise of planning functions is contained in Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.3 MAIN ISSUES

- flood risk
- impact on the designated heritage assets
- impact on the streetscene
- highway safety and parking
- impact on amenity and living conditions of adjacent occupiers
- trees
- ecological issues
- protection of playing field
- land contamination
- green belt
- very special circumstances

FLOOD RISK

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5.4 Paragraph 2.14 of the 2018 Draft Plan states that the plan will ensure development does not result in increased flood risk elsewhere and, where possible, achieves reductions in flood risk overall. In considering the flood risk implications of the scheme, it is important to consider whether the proposal has complied with the sequential test directing development away from areas that are at highest risk of flooding, as set out in chapter 14 of the NPPF. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding' (paragraph 158). If it is not possible for development to be located in zones with a lower risk of flooding, the NPPF allows the exception test to be applied to the development. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance (the NPPG). The application site is within Flood Zone 3b – functional flood plain. The NPPG requires therefore that the sequential test be undertaken. The type of development proposed is classed as water compatible and is therefore appropriate; the exception test is not required. However the guidance states that in Flood Zone 3b (functional floodplain) water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

5.5 The Sequential Test is passed on the following grounds -

- The proposed development is flood alleviation works designed to improve the level of protection to buildings in the Clementhorpe area.
- The works are required in Flood Zone 3b; they are location specific in order to provide better resilience to flooding locally and consequently pass the sequential test.

5.6 The application refers to flood risk AEP. AEP is the probability over the course of a year that there will be a flood event equal to or exceeding the indicated flood extent, depth or level. The submitted Flood Risk Assessment states that the proposal will improve protection to 135 houses in the Clementhorpe area and that no properties have been identified as being affected by a transfer of flood risk due to the construction of flood defences in Clementhorpe.

5.7 The proposed works have been considered by the Council's Flood Risk Management Engineer and also Yorkshire Water. There are no objections to the

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proposed development on flood risk grounds from these consultees subject to conditions. While the Council's Flood Risk Engineer has sought an additional condition seeking details of the design of the grout curtain, this work is being carried out under the Environment Agency's permitted development rights and a large portion of this work lies outside of the red line boundary of the application. As such the condition is not considered to meet all the necessary tests for the imposition of a planning condition.

IMPACT ON HERITAGE ASSETS

5.8 The NPPF defines listed building and conservation area as 'designated heritage assets'. Paragraph 192 of the NPPF states that with regard to heritage assets when determining applications local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

5.9 NPPF paragraph 190 advises that the particular significance of a heritage asset that may be affected by the development proposal should be identified and assessed.

5.10 Paragraph 193 of 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 states that any harm to the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

5.11 The NPPF sets out where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits that outweigh that harm or other specified factors apply (para 195). Paragraph 196 goes onto say that where a

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development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

5.12 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted.

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

5.14 Policy D4 of the 2018 Draft Plan states that proposals within or affecting the setting of a conservation area will be supported where they are designed to preserve or enhance the special character and appearance of the conservation area and would enhance or better reveal its significance. Harm to conservation areas will only be permitted where the public benefits outweigh the harm identified. Policy D8 of the 2018 Draft Plan states that proposals affecting a registered historic park and garden or their wider setting will be supported where they:

- i. do not harm the layout, design, character, appearance or setting of the park or garden, key views into or out from the park;
- ii. are sensitive to the original design intention and subsequent layers of design and the functional evolution of the park or garden and do not prejudice any future restoration.
- iii. would enhance or better reveal the significance of the Historic Park and garden or would help to secure a sustainable future for a feature within it.

5.15 The New Walk/Terry Avenue Conservation Area includes the public highway running along Terry Avenue, including for the most part the public footpath. Notably, the footpath in front of Waterfront House and at the junction with Clementhorpe is not included. The special character of the conservation area lies in the relationship between the natural form of the river and the planned landscapes which border it on each side, in this case along the riverside route of Terry Avenue. The northern part is bound by significant buildings now in residential use. Waterfront House itself is a

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prominent brick building with an industrial/warehouse aesthetic. Further south the conservation area runs alongside Rowntree Park and is characterised by the formal boundary with the park and a lack of housing. The proposed development due to the location affects the character of the conservation area with the addition of metal flood gates and equipment into a predominantly brick edge to the conservation area. There will also be minor temporary alterations to the cycle and foot path layout within the conservation area to facilitate the highway changes. Furthermore, Rowntree Park is a Grade II listed historic park. The boundary for the listing does not include the area where the temporary compound is proposed to be sited. The compound and highway alterations are temporary and will be removed in its entirety when the works are complete and subject to condition returning the compound site to its appearance as a grassed informal playing field there will be no harm to the setting of the listed park.

5.16 The proposed development would result in some modest harm to the setting of the Conservation Area through the introduction of new structures such as the flood gates and cabinet. The cabinet and gates are located outside of, but adjacent to, the conservation area. As such, the setting of the conservation area is relevant. As the Conservation Architect has noted, the structures are functional in their nature, cannot be located elsewhere and only limited design amendments can be made as a result. The harm to the conservation area and its setting is considered to be less than substantial and as per paragraph 196 of the NPPF there are significant public benefits in the form of flood protection measures for a large number of dwellings. As such the public benefits of the proposal are considered to outweigh the identified harm to the significance of the conservation area.

IMPACT ON THE STREETSCENE

5.17 Section 12 of the NPPF sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Policy D1 of the 2018 Draft Plan carries moderate weight and states that proposals 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. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

5.18 The proposed development will include over 20 metres of walls adjacent to existing buildings on Waterfront House and a further wall on Lower Ebor Street and also the new floodgates on Clementhorpe. The proposed walls are to be in brick to match the prevailing character of the area and existing buildings. The flood gate and associated infrastructure is to replace similar existing flood defences. Subject to appropriate conditions, the proposed development is considered to be acceptable with regard to the impact on the streetscene.

HIGHWAYS AND PARKING

5.19 Paragraph 108 of the NPPF states that applications for development ensure a safe and suitable access to the site can be achieved for all users. Paragraph 109 goes on to say that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. Policy T1 of the 2018 Draft Plan states that to provide safe, suitable and attractive access, development proposals will be required to demonstrate there is safe and appropriate access. Proposals should create safe and secure layouts for motorised vehicles (including public transport vehicles), cyclists, pedestrians that minimise conflict.

5.20 The main highway issues are the closure of Terry Avenue and the duration of the works, the impacts on highway safety as a result of the works and the proposed diversion routes.

5.21 Given the popularity of Terry Avenue as a quiet riverside route for cyclists and pedestrians to the centre of York the lengthy closure of the route has resulted in a substantial number of objections. It is acknowledged that there will be considerable disruption to users of this route both for leisure and commuting journeys (including to local schools) and that it will be for a considerable period of time. It also important to note that the route at the southern end of the site from west of Butcher Terrace to Millennium Bridge also forms a popular part of the pedestrian and cycle network and intersects with the north – south route from Terry Avenue.

5.22 The applicant and highways officers have undertaken a very thorough review and consideration of possible alternatives and mitigation measures such as diversion routes. The applicant has considered other options to reduce the impact on these routes. Changes have included altering the construction method for underground works along Terry Avenue to reduce the timescales of closure. Access

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to the site is heavily constrained with Rowntree Park and predominantly terraced housing to the west. To the east is the river. Access from the north is constrained by the height restriction under Skeldergate Bridge. While objections remain to the proposal, it is accepted that due to the nature of the works on Terry Avenue that the road is required to be closed temporarily.

5.23 The use of Butcher Terrace for an estimate of up to 30 construction vehicles per day and other vehicles such as towed caravan has also been the subject of multiple objections on highway safety grounds given the popularity of this route for cyclists and pedestrians.

5.24 The applicant has been required to undertake a road safety audit to demonstrate that the vehicles using the route can negotiate the turn from Bishopthorpe Road into Butcher Terrace and vice versa. The information submitted shows that access and egress between Butcher Terrace and Bishopthorpe Road will need to be to and from the north.

5.25 The compound at the eastern end of Butcher Terrace has been re-sited further to the north, on the site of the football pitch. This will reduce the highway conflict with other users as construction vehicles heading from the compound to the application site will be required to make less manoeuvres across the route connecting Butcher Terrace and Millennium Bridge. The proposed compound will include a turning circle within the compound design which will serve to reduce construction vehicle manoeuvres within the highway. While the applicant considered alternative compound sites such as Bishopthorpe Road car park and Rowntree Park car park, these have all been discounted as has the use of the river for water based transportation.

5.26 Due to the constraints of access to the site set out above it has been agreed with highways officers that access to the site and businesses on Terry Avenue should be via Butcher Terrace. Mitigation measures are set out in the CTMP, including speed restrictions and the use of banksmen for construction.

5.27 The applicants have proposed diversionary routes for pedestrians and cyclists and these are set out in the CTMP. These have been discussed with Council officers, and local groups. The diversion routes will be signed and their use encouraged. It is recognised that there are a number of potential other routes for

cyclists to use and these will vary depending on the locations of the start and end points of a cyclist's route.

5.28 Objectors have noted that Terry Avenue provides a leisure route for vulnerable cyclists to practice and gain confidence/proficiency. The closure will have an impact on this, but there are other local off road routes nearby such as the riverside path on the eastern side of the river and the route around the racecourse that are already used for the same purpose. To reduce the impact on school journeys, the Highways Officer has recommended that construction vehicles only travel to the site after 9am to reduce the impact in the Butcher Terrace area.

5.29 While the temporary disruption is acknowledged, subject to conditions, including a construction traffic management plan condition and restrictions on vehicle routing times, the proposal is considered to be acceptable when considered against national and draft local planning policies with regard to highway safety.

IMPACT ON NEIGHBOUR AMENITY

5.30 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policies D1 and ENV2 of the 2018 Draft Plan consider amenity.

5.31 It is acknowledged there will be temporary disruption to the residents of Butcher Terrace in terms of an increase in noise and the level of comings and goings from traffic due to the temporary siting of the compound and the diversion of additional traffic down the road. Conditions are proposed to minimise the impact by restricting working hours and restricting the speed of vehicles down the residential streets.

5.32 The Council's Public Protection Officer has considered the noise assessment supplied by the applicant and note that there will likely be an adverse impact with regard to noise and vibration for some residents of Waterfront House due to the necessary works. These residences have been consulted directly by the Environment Agency and temporary relocation for certain occupiers may be necessary. Given the location of the works adjacent to the building and their necessity it is considered that a planning condition

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5.33 The Council's Environmental Health Officer has raised the issue regarding the impact of vibration to residential buildings along Terry Avenue. The applicant has carried out some surveys and further surveys will be undertaken. If planning permission is granted, a construction and environmental management plan will be required to be submitted and agreed as a planning condition.

5.34 Concerns have been raised by the occupiers of 16 Cameron Grove with regard to an impact on amenity from the proposed compound. The applicant has advised that due to space constraints, the compound will be double stacked in height in terms of the cabins. They have noted that windows will not be to the west facing elevation or they will be glazed. To ensure residential amenity is protected a condition requiring this will be recommended.

TREES

5.35 Paragraph 170b) of the NPPF notes the benefits for the natural environment of trees and woodland. Policy D2 of the 2018 Draft Plan states proposals will be encouraged and supported where they recognise the significance of landscape features such as mature trees. Draft Policy GI4 is also relevant. The proposed development will result in the removal of three trees in the vicinity of the new Roomzzz hotel and Dukes Wharf. One is category B (moderate quality) Rowan tree and the other two are category C (low quality). The Environment Agency is willing to replace trees at a ratio of 5:1 with the location to be agreed. The works to trees along Terry Avenue is considered to be small scale and acceptable in principle to allow access. Additionally protection will be required for trees close to the proposed passing places. The Council's Landscape Architect has considered the proposals and has recommended a set of conditions to ensure that the works to the trees are acceptable. Subject to these conditions, the proposal is considered to comply with the relevant national and local policies.

ECOLOGY

5.36 Section 15 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment. Paragraph 170 e) of the NPPF states that planning decisions should contribute and enhance the natural and local environment by wherever possible helping to improve local environmental

conditions, such as water quality, taking into account relevant information such as river basin management plans.

5.37 According to Policy GI2 of the 2018 Draft Plan development should, where appropriate, ensure the retention, enhancement and appropriate management of features of biological interest and result in net gain to, and help to improve, biodiversity. The policy also states that development should, where appropriate, maintain and enhance the rivers, banks, floodplains and settings of the River Ouse for its biodiversity, cultural and historic landscapes, as well as recreational activities where this does not have a detrimental impact on the nature conservation value.

5.38 The proposed temporary compound will lie to the west of an existing pond located in the south eastern corner of the park. The proposed compound will be restricted to the existing mown area of the park. Public representations have also made reference to tansy beetles on the river bank of the Ouse in the location of the application site. Accompanying the planning application was an Ecological Impact Assessment. This has been considered by the Council's Ecology Officer who has no objection to the proposal, subject to planning conditions. The applicant has submitted a Water Framework Directive assessment given the proposal and proximity to the River Ouse which concludes that no the impacts on the waterbody were no greater than negligible.

PROTECTION OF PLAYING FIELD

5.39 Paragraph 97 of the NPPF states that existing open space including playing fields, should not normally be built on. One exception is the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Policy GI5 of the 2018 Draft Plan states proposals will not be permitted which would lead to the loss of, open space of recreational importance unless the open space uses can be satisfactorily replaced. The siting of the compound requires the temporary relocation of the informal football pitch. The applicant has suggested two locations in very close proximity to the south on existing public open space. Furthermore, the applicant has advised that when the compound has been removed, the original pitches will be reinstated with potential betterment. Sports England have removed their original objection to the proposal as a result. The proposal is therefore considered to comply with Paragraph 97 and draft policy GI5.

LAND CONTAMINATION

5.40 NPPF paragraph 178 requires that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

5.41 Ground conditions at the Roomzz site were investigated as part of the scheme to re-develop. It was deemed that the site would be fit for purpose and there would be no risk to human health without mitigation (see approval of details application AOD/17/00359). As such this element of the scheme requires no further investigation.

GREEN BELT

5.42 The exact boundaries of the York Green Belt are to be fixed during the Local Plan process. However, the proposals map accompanying the 2018 Publication Draft Plan shows a Green Belt boundary that includes Terry Avenue and Rowntree Park. As set out in the Green Belt Topic Paper (Addendum, Annex 3) the site is considered to fulfil two green belt purposes by assisting in safeguarding the countryside from encroachment and preserving the setting and special character of the city. Having considered the site this assessment is agreed with as the site is adjacent to the developed edge of Butcher Terrace and furthermore this land forms part of a green wedge that continues north through Rowntree Park and along the river. Therefore, for the purposes of this application, the site is considered to be within the general extent of the Green Belt.

5.43 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt. The NPPF goes on, in paragraphs 145 and 146 to set out what appropriate development in the Green Belt may be. Policy GB1 of the 2018 Draft Plan is also relevant, however only limited weight can be attached to this policy given the current stage of the Plan and the unresolved objections to the draft policy.

5.44 The proposed site compound is inappropriate development in the Green Belt, not falling within any of the exceptions set out in paragraphs 145 and 146. While it is noted the compound will be temporary in nature, there will be a change of use of the land to a use that does not fall within one of the green belt exceptions. Inappropriate

development is by definition harmful to the green belt. Due to the introduction of hardstanding, including for parked cars and a site office, there will be a visual and spatial impact on the openness of the green belt that will cause some very limited harm to openness albeit on a temporary basis. The proposed development will also conflict with the purposes of including the land within the Green Belt which serves to protect the special character of the city and prevents encroachment into the countryside. Substantial weight is to be given to these harms to the Green Belt. Whether there are any very special circumstances that clearly outweigh the harm to the Green Belt and any other harm resulting from the proposal that would justify the granting of permission for the proposed development is assessed below in this report.

VERY SPECIAL CIRCUMSTANCES

5.45 The proposed compound will be sited within the general extent of the Green Belt and constitutes inappropriate development. It is therefore necessary to consider whether there are any very special circumstances that would justify the approval of the application. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harms resulting from the proposal, is clearly outweighed by other considerations.

5.46 It is noted that the compound is temporary in nature and when the flood alleviation works are completed, the compound will be removed in its entirety. Furthermore, the proposed development would result in the considerable benefit of improved flood protection measures to 135 dwellings in the Clementhorpe area thereby markedly reducing the personal and economic distress and disruption caused when properties are flooded. These public benefits are considered to carry great weight in favour of the proposals.

6.0 CONCLUSION

6.1 Paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay. The proposed development does represent inappropriate development in the Green Belt. It will also cause very limited and temporary harm to the openness of the Green Belt and will conflict with two purposes of including the land within the Green Belt. Substantial harm is given to these harms to the Green Belt. While it is

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noted there will be temporary disruption to local residents and users of the affected public highways, this disruption has been reduced as much as realistically possible given the unavoidable constraints of access to the site. There will be less than substantial harm to the conservation area and considerable importance and weight is given to the desirability of avoiding harm to the heritage assets in accordance with the statutory duties. The proposal is considered to be acceptable in all other matters, including neighbour amenity, highway safety, trees, playing fields, archaeology and ecology subject to appropriate conditions. The temporary disruption to local residents and users of the affected public highways should also be considered against the long term personal and economic disruption that would occur if the flood defences are not installed and there is a flooding incident in Clementhorpe that otherwise would have been prevented. The substantial public benefits in favour of the proposal are set out in paragraph 5.40 above, namely the improved flood defences to 135 properties. In this case it is considered that those public benefits are of sufficient weight to clearly outweigh the harms identified to the Green Belt and the heritage assets. Therefore, very special circumstances necessary to justify the proposal exist.

6.2 In the light of these conclusions, there are no protective policies within the NPPF which provide a clear reason for refusal. The presumption in favour of sustainable development therefore applies and approval is recommended.

7.0 RECOMMENDATION:

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-00-4_BO8-DR-PL-37100 rev P01

ENV0002071C-JBAB-00-B08-DR-PL-37101 rev P01

ENV0002071C-JBAB-00-B08-DR-PL-37102 rev P01

ENV0002071C-JBAB-00-B08-DR-PL-57100 rev P01

ENV0002071C-JBAB-00-B08-DR-PL-57101 rev P01

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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.

The archaeological scheme comprises 2 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be approved.

A) A watching brief and any post investigation assessment shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation 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.

B) A copy of a report (or evidence of publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 2 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 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.

Reason: To protect the amenity of the locality

5 No construction works in the relevant area (s) of 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 infrastructure for the purposes of repair and maintenance by the statutory undertaker and the means of ensuring that the public sewer will be protected from the backflow of water from the river shall be retained at all times. If the required protection measures are to be achieved via diversion or closure of any sewerage, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

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

6 No construction works in the relevant area (s) of the site shall commence until measures to protect the public water supply 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 infrastructure 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 water supply.

7 No development shall take place until details of the proposed contractor's compound have been submitted to and approved by the Local Planning Authority. The information shall include site specific details of:

- i) The means to demonstrate that the proposal does not lead to an increase or exacerbation of flood risk to others;
- ii) The means of allowing the free access and egress of flood flows to and from the compound.

Reason: To ensure flood risk is not displaced onto others, and that existing flood flow routes are maintained.

8 No development shall take place until details of the Emergency Flood Evacuation Plan has been submitted to and approved by the Local Planning Authority

Reason: To ensure the safety of the site operatives at all time.

9 The development shall not commence until the developer has submitted and the Council has approved in writing either

o A fully revised Construction Traffic Management Plan (CTMP), based on the York Flood Alleviation Scheme Clementhorpe, Construction Traffic Management Plan, March 2020 (CTMP 03/2020), or

o The York Flood Alleviation Scheme Clementhorpe, Construction Traffic Management Plan, March 2020, with suitable addendum.

The revised CTMP (or CTMP 03/2020 plus addendum) shall include, but not be limited to, the following details:

a) estimates of the daily number, type and size of delivery, construction and employee vehicular movements expected to be generated during each month of the construction of the development;

b) proposals for the hours of working on site, for the delivery of materials and the movement of materials off site by heavy commercial vehicles and smaller commercial vehicles and arrangements for preventing the deposit (and removal, as necessary) of mud and/or other debris on roads used by such vehicles;

c) proposed vehicle routing and waiting arrangements for

i. construction, delivery and employee vehicles (including maximising the time the site remains accessible from the north end of Terry Avenue)

ii. vehicles (e.g. car & caravan combinations and mobile homes) accessing the York Rowntree Park Caravan Club Site

iii. vehicles accessing Rowntree Park Car Park, Roomzzz Hotel and other premises, including the boat moorings, on Terry Avenue;

d) proposed pedestrian and cyclist diversion routes, including any diversion signing and other mitigation measures required to enable the safe passage of pedestrians and cyclists between Butcher Terrace and the city centre;

e) indicative proposals for traffic management measures and mechanisms for their review/revision, for ensuring the safe passage of all road users, including pedestrians and cyclists, along Butcher Terrace and Terry Avenue, and ensuring that inappropriate routes are not used by construction traffic, with particular regard to

i. minimising the risk of vehicular and pedestrian / cyclist conflict at the Butcher

Terrace / Bishopthorpe Road junction and preventing damage to vehicles parked on Butcher Terrace,

- ii. minimising the risk of vehicular and pedestrian / cyclist conflict at Butcher Terrace / site compound entrance, and
- iii. minimising the risk of vehicles having to reverse on Terry Avenue
- iv. setting traffic speeds appropriate to the type and number of vehicles,
- f) the initial and subsequent regular clearance of debris from the existing footway on the west side of Terry Avenue to ensure pedestrians are not discouraged from using it in preference to the existing Terry Avenue carriageway.
- g) Arrangements whereby departures from the CTMP as approved by the Council may be permitted in emergencies
- h) Proposals for providing advance notice to residents of
 - i. traffic movements anticipated under the CTMP as approved,
 - ii. any changes to the approved CTMP which may be agreed by the Council, and
 - iii. any changes to the anticipated traffic movements that may be necessary in emergencies.

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

10 All demolition, excavation and construction works shall be confined to the following hours: 07:30 to 17:00 hours Mondays to Fridays and, in exceptional circumstances, 0900 to 1300 hours on Saturdays. There shall be no working on Sundays and Bank Holidays. Ancillary operations, including deliveries and dispatch from the site shall be confined to the following hours 09:00 to 17:00 Mondays to Fridays and, in exceptional circumstances, 0900 to 1300 hours on Saturdays, and none on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjoining occupants and other road users (all modes).

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

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

12 The development hereby permitted shall not come into use until the following highway works (Temporary Traffic Regulation Order required for the suspension of residents parking on the north side of Butcher Terrace and the replacement residents parking in front of the Site compound as a result of the development, and any agreed small scale infrastructure works required on the western cycle route diversion) have been carried out 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.

13 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council the details of which must be recorded prior to the access to the site by any construction vehicle and the results of which shall be agreed in writing with the Local Planning Authority.

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

14 A two stage road safety audit carried out in line with advice set out in GG119 Road safety audit (formerly HD 19/15), and guidance issued by the council, will be required for Terry Avenue and Butcher Terrace and the two proposed pedestrian / cycle diversion routes. Reports for Stages 1 and 2 must be submitted to and agreed in writing by the LPA prior to works commencing on site. The subsequent traffic management required for the safe operation of the site and all highway users shall be submitted to and agreed in writing by the LPA prior to commencement and subject to regular review (nominally every 3 months, or whenever particular issues of concern arise). These reviews and, and any amendment to the traffic management arising therefrom shall be submitted to and agreed in writing by the LPA.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

15 Prior to Terry Avenue being closed the existing footway on the west side of Terry Avenue shall be cleared of vegetation and debris from to ensure pedestrians are not discouraged from using it in preference to the existing Terry Avenue carriageway,

Reason: In the interests of the safe and free passage of pedestrians on Terry avenue for the duration of the works

16 Before the first passage of construction vehicles between the site compound /

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Butcher Terrace and Terry avenue the locations of the passing places on Terry Avenue and details of ground protection shall be agreed in writing with the local planning authority (LPA) and shown on the Tree Protection Plans including additional protective fencing to avoid direct impact damage to neighbouring trees.

Reason: To protect the ground from compaction and protect existing trees that make a significant contribution to the amenity and character of the conservation area.

17 Tree protection shall be carried out in strict accordance with the content and recommendations within the Clementhorpe B8 Tree Survey & Arboricultural Impact Assessment February 2020 by jba consulting, with particular reference to Appendix D Tree Protection Advice and Appendix A Tree Protection Plans. The approved tree works shall be undertaken strictly in accordance with the approved details, unless otherwise approved in writing by the local planning authority.

Reason: To protect existing trees that make a significant contribution to the public amenity of the area and the character of the conservation area

18 Within three months of commencement of development a detailed landscape scheme 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 position 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 disposition of species to mitigate the loss of trees resulting from the development.

19 All ecological avoidance and mitigation measures during construction shall be carried out in accordance with the details contained in Section 6 Mitigation of the York FAS Clementhorpe Ecological Impact Assessment and dated October 2019 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To avoid and mitigate negative impacts on ecological receptors during construction in line with NPPF Paragraph 175.

20 No development shall take place until there has been submitted to and approved

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in writing by the Local Planning Authority the construction details and methodology for the following:

- preparation and implementation of the site compound and its removal,
- the reinstatement of the grassland to an equal or better standard across the areas allocated for the site compound, temporary residents' parking off Butcher Terrace, and other temporary surfacing over existing grassed areas.

Amongst other details, the methodology shall include type of machinery to be used, permitting weather and ground conditions, depth to which soil will be stripped, height of top soil bund, method of de-compacting the ground, reinstatement of soil and grass sward of a quality at least equivalent to the quality of the playing field (including any necessary improvements to the goalposts and areas of grass around the goalposts) immediately before the construction compound was erected, and maintenance until the end of the first successful growing season (October). Following the removal of the construction compound and the area for temporary residents' parking off Butcher Terrace as detailed in the Construction Compound Information document, dated November 2019, in the first full planting season following removal, the football pitch and goalposts shall be reinstated.

Reason: To ensure the site is restored to a condition fit for purpose and to accord with Development Plan Policy GI5 of the 2018 Publication Draft Plan and Paragraph 97b) of the National Planning Policy Framework.

21 No works shall take place for the construction compound, as detailed in the Construction Compound

Information document, dated November 2019, until full details of site and location of the temporarily relocated football pitch have been submitted to and approved in writing after consultation with Sport England. The approved details shall be complied with in full before the construction compound is commenced. The temporary relocated football pitch shall be available for use until the existing pitch at the site of the construction compound is reinstated.

Reason: To ensure that the football pitch is not lost as a result of the construction compound and to comply with policy GI5 of the 2018 Publication Draft Plan and paragraph 97b) of the National Planning Policy Framework.

22 There shall be no windows or openings at first floor level of the site compound offices to the north, south and west facing elevation(s) of the structures.

Reason: To protect the privacy of the occupiers of neighbouring properties.

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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:

Revised plans for storage cabinet

Further information regarding highway closures and changes

Re-siting of compound

2. INFORMATIVE

It is recommended that a restoration scheme for playing field land is undertaken by a specialist turf consultant. The applicant should be aiming to ensure that any new or replacement playing field is fit for its intended purpose and should have regard to Sport England's technical Design Guidance Note entitled "Natural Turf for Sport" (2011) and relevant design guidance of the National Governing Bodies for Sport e.g. performance quality standards produced by the relevant pitch team sports, for example the Football Association.

3. INFORMATIVE

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence

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- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

4. 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

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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

Contact details:

Case Officer: Tim Goodall
Tel No: 01904 551103