



## Notice of a public meeting of Planning Committee

- To:** Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Perrett, Warters and Widdowson
- Date:** Thursday, 16 January 2020
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

#### Site Visits

Would Members please note that the mini-bus for the site visits for this meeting will depart from Memorial Gardens at 10:00am on Tuesday 14 January 2020

#### 1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### 2. **Minutes** (Pages 5 - 10)

To approve and sign the minutes of the last meeting of the Planning Committee held on 14 November 2019.

#### 3. **Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5:00pm on Wednesday 15 January 2020**. Members of the public can speak on specific

planning applications or on other agenda items or matters within the remit of the Committee.

To register, please contact the Democracy Officer for the meeting on the details at the foot of this agenda.

### **Filming or Recording Meetings**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at

<http://www.york.gov.uk/webcasts>.

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The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at

[http://www.york.gov.uk/download/downloads/id/11406/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

## **4. Plans List**

This item invites Members to determine the following planning applications:

**a) Frederick House, Fulford Road, York YO10 4EG [19/00603/FULM] (Pages 11 - 62)**

Erection of 6 purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM) [Fishergate Ward]

**b) Naburn Lock, York Road, Naburn, York, YO19 4RU [18/02552/FUL] (Pages 63 - 86)**

Hydroelectric generation plant and associated infrastructure including turbine house, hydraulic channels, intake screen, crane pad and electrical substation [Wheldrake Ward] [Site Visit]

c) **Proposed student accommodation - vacant site, Eboracum Way, York, YO31 7RE [19/01467/FULM]** (Pages 87 - 108)

Erection of 5 storey apartment building with basement comprising 62 residential units (Use Class C3), associated car parking and landscaping works [Guildhall Ward] [Site Visit]

d) **Smith And Nephew Plc Research Centre, Innovation Way, Heslington, York YO10 5DF [19/02011/FULM]** (Pages 109 - 122)

Change of use of former research centre (Use Class B1) to non-residential institution for academic use (Use Class D1) with associated external works [Hull Road Ward] [Site Visit]

## 5. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

### Democracy Officer

Angela Bielby

Contact details:

Telephone: 01904 552599 Email: a.bielby@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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**Abbreviations commonly used in Planning Reports**

(in alphabetical order)

AOD	above ordnance datum
BREEAM	building research establishment environmental assessment method
BS	British standard
CA	conservation area
CIL	Community Infrastructure Levy (Regulations)
CEMP	construction environmental management plan
CYC	City of York Council
DCLP	Draft Development Control Local Plan 2005
DCSD	Design Conservation and Sustainable Development team
dB	decibels
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EDS	ecological design strategy
EIA	environmental impact assessment
EPU	Environment Protection Unit
FRA	flood risk assessment
FTE	full time equivalent
FULM	major full application
GCN	great crested newts
HGV	heavy goods vehicle
IDB	internal drainage board
IPS	interim planning statement
LBC	listed building consent
LGV	large goods vehicle
LPA	local planning authority
NERC	Natural Environment and Rural Communities Act (2006)
NHBC	National House Building Council

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
OAN	objectively assessed need
OUTM	major outline application
PROW	public right of way
RAM	reasonable avoidance measures
RTV	remedial target value
RSS	Regional Spatial Strategy
SHMA	Strategic Housing Market Assessment
SINC	Site of Interest for Nature Conservation
SHLAA	Strategic Housing Land Availability Assessment
SFRA	Strategic Flood Risk Assessment
SPD	Supplementary Planning Document
TPO	tree preservation order
TRO	Traffic Regulation Order
VDS	village design statement
WSI	written scheme of investigation
VAS	vehicle activated signage
VOA	Valuation Office Agency
WHO	World Health Organisation

**PLANNING COMMITTEE**

**SITE VISITS**

**Tuesday 14 January 2020**

**The mini-bus for Members of the sub-committee will leave from  
Memorial Gardens at 10.00**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	Vacant site, Eboracum Way, YO31 7RE	4c
10:40	Innovation Way, Heslington, YO10 5DF	4d
11:15	York Naburn Lock , Naburn, York YO19 4RU	4b

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	14 November 2019
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Widdowson, Melly (Substitute for Cllr Perrett) and Rowley
Apologies	Councillor Perrett

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**25. Declarations of Interest**

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda.

**26. Minutes**

Resolved: That the minutes of the last meeting held on [Date] be approved and then signed by the chair as a correct record.

**27. Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

**28. Plans List**

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

**29. Whitehall Grange, Wigginton Road, York [19/00855/REMM]**

Members considered a major reserved matters application from Autohorn Fleet Services for the Approval of two reserved matters (appearance and landscaping) of planning permission

18/01110/OUTM for use of land as a car storage facility for up to 2000 cars. The consent includes the erection of a 2-storey office building at the north-west corner of the site, a gatehouse and associated infrastructure. The consent is a hybrid in that it granted:

- i. Full planning permission for the change of use of the 10ha site to a car storage facility, alterations to an existing access from Wigginton Road, the laying out of car parking across most of the site and the construction of other associated infrastructure;
- ii. Outline planning permission for the 2-storey office building and the security gatehouse. Condition 2 of the approval specifies the reserved matters as being the appearance and landscaping of the approved office building and security gatehouse, including a schedule of all external materials.

The Development Manager gave an update, explaining that site fell within strategic employment allocation ST37 of the emerging plan and comprised the whole of the ST37 allocation. The policy position was noted. It was noted that the reserved matters application complied with the approved outline planning permission site masterplan, Policy SS24 and allocation ST37. Members were advised that the additional information had been assessed and the planning balance and the recommendation were unchanged from the published report.

Paul Butler, the agent for the applicant, spoke in support of the application. He explained that there were very special circumstances for the relocation of Autohorn and he listed the reasons why. He outlined the design of the buildings noting the photovoltaic roof and electric charging points for vehicles. He was asked and explained why part of the roof was photovoltaic rather than a green roof as had been originally planned. In response to a question about the inclusion of a cycle track he noted that condition 9 referred to the travel plan.

It was then:

Resolved: That the application be approved subject to the conditions listed in the report.

Reason: The application is solely for the approval of the design and landscaping of the office building, which already has planning permission, as has the use of the rest of the site for the storage of cars. The proposals are acceptable in design and landscaping terms and are in accordance with the approved hybrid consent. The application complies with paragraph 127 (Achieving well-designed places) of the NPPF and policy D2 (Landscape and Setting) of the emerging plan.

**30. Poppleton Bar Park And Ride, Northfield Lane, Upper Poppleton, York [19/01754/GRG3]**

Members considered a General Regulations (Reg3) application from City of York Council for the erection of canopy shelter for the installation of 8no. ultra rapid charging hubs and 5no. fast dual charging units for electric vehicles, solar photovoltaic (PV) modules mounted on canopies (maximum height 5.1m) over existing parking bays and charging units, battery storage unit with associated transformer and control unit, a 2.4 metre high security fence. Officers advised that there was an additional condition concerning the canopies.

The Development Manager outlined the application explaining that it was an inappropriate development in the Green Belt and that in officer's opinion very special circumstances had been demonstrated.

Stuart Andrews, the Project Manager for the application was in attendance to answer questions. He was asked and clarified:

- Why there was a canopy over the charging points.
- That the angle of the PV panels would not impact trees.
- The measures in place to stop owners leaving their cars to charge for extended periods of time.
- Why the battery charger was above ground.

It was then:

Resolved: That the application be approved subject to the conditions listed in the report and the additional conditions as set out below:

Additional Condition 4

Scale drawings (1:100) of the canopy for the ultra fast charging hub and the single and double solar panel canopies shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The works shall be carried out in accordance with the approved details.

The height of the canopies shall not exceed 5.1m unless otherwise approved.

Reason: In the interests of the visual amenity of the area and the openness of the Green Belt.

Additional Condition

The development shall not be brought into use until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme for the battery storage and transformer compound which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are approved in writing by the Local Planning Authority.

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

Reason:

- i. The proposed hyper hub comprise of an ultra rapid charging station; a fast charging station; solar PV panels mounted on canopies over existing parking spaces; a battery storage unit and associated transformer/control unit at an existing Park and Ride facility is considered inappropriate development in the Green Belt by definition. Substantial weight is to be given to any harm to the Green Belt. In accordance with the NPPF, inappropriate



development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. There is harm on the openness of the Green Belt and limited harm to the green belt purposes.

- ii. Very special circumstances relating the need to support next generation charging infrastructure and the barriers to this in York and its role in reducing emissions as part of a local and UK wide strategy of the proposal have been put forward. Support is outlined in paragraphs 110(e) and 148 of the NPPF for the scheme as well as policies DP2 and CC1 of the emerging Local Plan. The very special circumstances are considered cumulatively to be afforded significant weight in the decision making process.
- iii. The proposal is considered to be acceptable on the other relevant matters including design, drainage, environmental impacts, lack of conflict with the operation of the existing park and ride and compliance with the Upper and Nether Poppleton Neighbourhood Plan. Moderate weight is considered to be applied to these matters.
- iv. Weighing up the planning balance, it is considered that with regard to this proposal, the very special circumstances are sufficient to clearly outweigh the harm through inappropriateness and identified further harm and the proposal is recommended for approval subject to relevant planning conditions.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 4.55 pm].

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**COMMITTEE REPORT**

**Date:** 16 January 2020      **Ward:** Fishergate  
**Team:** East Area              **Parish:** Fishergate Planning Panel

**Reference:** 19/00603/FULM  
**Application at:** Frederick House Fulford Road York YO10 4EG  
**For:** Erection of 6no. purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM)  
**By:** Summix FHY Developments Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 21 January 2020  
**Recommendation:** Approve

**1.0 COMMITTEE UPDATE**

1.1 The planning application was taken to Planning Committee in October 2019 and was deferred at the request of members for further investigation of revisions to cycle access, sustainability measures, car parking restrictions, design, and impact on neighbouring properties.

1.2 Following the deferral meetings have taken place with the applicant involving the Council's Planning, Design and Highways Officers. The applicant has undertaken further work on the proposal and has also presented their application to a Design Review Panel for feedback and has been in discussion with the University of York and North Yorkshire Police.

1.3 As a result, the additional information has been submitted and revisions to the scheme have been undertaken which comprises:

Cycle access

1.4 The cycle access to the site is proposed to be through the Guard House with a shared foot and cycle path heading south from the site on the eastern side of Fulford Road to the existing shared path which is south of the police station exit. Staggered barriers are proposed to slow cyclists down and will allow space for cyclists with trailers to negotiate them. The proposal also allows for provision to be made for cyclists within the Guard House building along with other opportunities for encouraging cycling, walking and other sustainable travel modes. Following committee, the proposal to upgrade the kissing gate at Low Moor Allotments has been removed to discourage additional cycle usage on this route.

### Sustainability measures

1.5 The applicant has highlighted that the proposed development meets the Council's draft policy with regard to BREAMM 'excellence'. Furthermore, the proposed improvements with regard to cycle access and encouraging cycling are intended to improve sustainability of the scheme.

### Car Parking Restrictions

1.6 A car parking survey was undertaken in November 2019 and the applicant has considered the University of York's travel survey of 2018 which was not previously considered. Levels of car use by York University Students, as shown by the University's 2018 student travel survey, has confirmed that only 1% of students travelling from off-campus accommodation undertake trips by car.

1.7 Accessible car parking spaces have been relocated further into the site, improving their proximity to buildings within the site.

### Design and impact on neighbouring properties

1.8 The applicant has engaged with a Design Review Panel, who were supportive of the design and the relationship with existing properties. The applicant has made revisions to the area between the Guardhouse and the first new building within the scheme. This area has been revised, following rearrangement of the cycle access and reducing the number of cars parking in this area. No further revisions to the design have been made but further information has been supplied in terms of the detailed design.

## **2.0 CONSULTATION RESPONSES**

### Design and Sustainable Construction (Design)

2.1 Concerning our meeting with the applicant on 15<sup>th</sup> November 2019 and subsequent receipt of revised design information uploaded on record 2nd December 2019, particularly document "Additional Design Support Document, Nov 2019", please note brief design/architecture comments on the changes below:

- Changes to facilitate cycles entering the site via the former guard house are supported. The doors will need to be automatic-opening to enable this to be practical and I understand this is the intention, but perhaps consider adding this to a condition to ensure it happens and is maintained.
- Changes to the landscape design to the rear of the guardhouse are supported.

- The additional detailed wall bay section/elevation details are as I anticipated and demonstrate a suitable chunky/robust nature to the construction which should impart a desirable degree of visual texture/substantiality/quality to the appearance.

2.2 As discussed, I previously weighed in the balance (marginally, rather than resoundingly) of supporting the proposal on design grounds. The above material adds further minor architectural design improvements. I do not recommend removing the pitched roofs of buildings E-F-G to reduce their height. Whilst I have (& would) recommend/welcome further design measures that reduced massing through a comprehensive review approach, I don't think tinkering with E-F-G will help: To recap, I originally recommended a more orthogonal and less casual site arrangement and floorplan for proposed buildings on site, which I thought would reflect the historic military characteristics of the site whilst also reduce overlooking. However, the applicant has developed their own approach, and this includes differentiating the building set B-C-D from E-F-G by giving them pitched roofs and generally smaller footprints and sometimes a townhouse rather than a flats-type floorplan. Removing the pitched roofs here would negatively water down their design idea and make the buildings less interesting. This is undesirable, given the marginal bulk reduction benefits.

### Highways Network Management

2.3 The applicant has submitted additional information that:

- evidences a demand for car parking that is lower than that previously advised by CYC;
- evidences that there is some capacity on some of the streets in the vicinity of the development to accommodate some additional car parking;
- proposes a means for providing a suitable safe access from the site to the shared path on the east side of Fulford Road;
- sets out the amount of cycle parking to be provided and how this is to be provided;
- sets out a range of sustainable transport measures to be implemented;
- states that students will not be permitted to bring cars and park them in the vicinity of the development under the terms of their tenancy agreement (area defined in a map as necessary) and sets out the range of sanctions that will be applied if the tenancy agreement is breached;
- accepts a planning condition to actively monitor on-street parking, and implement enforcement measures if a significant increase in on-street parking is found to occur; and
- accepts that if the level of on-street parking increases above a threshold trigger, funding (secured via the Section 106 Agreement) will be released to contribute an agreed sum towards the introduction and enforcement of a residents parking zone (RPZ) within the study area.

2.4 The applicant's calculation for the likely demand for student car parking needs to be explored further to confirm its veracity, as the survey relates to travelling to the UoY by car rather than car ownership and use per se. However, until this has been confirmed, or otherwise, it can be reasonably assumed that the demand for car parking arising from the development will be less than that previously advised by CYC and may even be in the range 2-8 cars, which is not likely to have a significant on highway safety and residential amenity.

2.5 Although it has not yet been possible to confirm whether the applicant's calculations for the theoretical number of additional cars that can be accommodated are correct, it is reasonable to concur that some of the streets have some capacity to accommodate additional parking and this capacity is likely to exceed the demand.

2.6 The proposed means for providing a suitable safe access from the site to the shared path on the east side of Fulford Road needs to be developed further (i.e. extending the shared use path to the existing pelican crossing north of Kilburn Road) to provide a safer means for cyclists to join / exit the on-road cycle lanes either side of Fulford Road north of the Guardhouse.

2.7 On site cycle parking (183 spaces) is very slightly underprovided overall (184 spaces) required. However, a substantial proportion of this provision is unsuitable (vertical storage racks) for development of this type and scale. Furthermore there is an under-provision in Sheffield-type stands (5 provided, but 10 required to provide 20 parking spaces). This needs to be remedied.

2.8 There is little scope to enhance existing bus services or provide additional services to improve public transport services between the proposed development and the UoY. Furthermore, the provision of a free one-month 'taster' bus pass to all students that apply for one is insufficient and a longer lasting incentive (e.g. free travel (bus) passes in perpetuity) should be provided.

2.9 It would appear that suitable terms can be set within a tenancy agreement, backed-up with escalating sanctions if and when the tenancy agreement is breached to restrict occupants from bring their cars to the development or the area around it. However, the success of this approach is very much dependent on effective liaison between the on-site staff and residents to correctly report students parking in residential areas and for the necessary enforcement actions to be undertaken.

2.10 CYC welcomes the applicant's acceptance of a planning condition to actively monitor on-street parking (through annual beat surveys), and implement enforcement measures if a significant increase in on-street parking is found to occur; and if this exceeds a threshold trigger, funding (secured via the Section 106 Agreement) will be released to contribute an agreed sum towards the introduction and enforcement of a residents parking zone (RPZ) within the study area. However,

Further work will need to be undertaken by CYC to establish the baseline, triggers and extent of the RPZs to be introduced, to finalise such a condition (including the sum to be sought in a S106 Agreement).

2.11 Notwithstanding the above, City of York Highways Development Control objects to this application on the grounds of deficient on-site cycle parking provision for a development of this type and scale.

### Design and Sustainable Construction (Ecology)

2.12 As highlighted during the pre-application stage I would not be supportive of a new additional access across Walmgate Stray from the from the proposed development site towards the university.

2.13 Part of the woodland to the rear of the site (outside the red line boundary) is identified on the National Priority Habitat Inventory by Natural England as Deciduous Woodland. Priority Habitats are defined in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, which means they are a conservation priority. No ecological assessment of this area of woodland has been undertaken. The creation of an access through this woodland may require the removal of trees, loss of ground flora and compaction of root zones. It is highly likely that a new path through the woodland would require lighting that would further impact the habitat.

2.14 Walmgate Stray is currently under a Higher Level Stewardship agreement with Natural England and the Rural Payments Agency. The land is managed by a tenant farmer through grazing cattle and sheep and annual hay cutting. This management is essential to helping maintain lower nutrients in the soil and increase species diversity. The introduction of a new surfaced path would be classed as an 'ineligible feature' and CYC would be required to remove the area from the HLS agreement and repay funding received since 2010 for the area. Although this is estimated to be relatively small (<£500) there is also a risk of incurring a financial penalty. Dependant on the location an additional hard surface could disrupt the grazing, hay cutting and other management. For example, paths alongside hedgerows deter can stock from grazing to the field edges, resulting in a degradation of the grassland in these areas and pressure to manage hedgerows more intensively. As well as the direct loss of an area of grassland the construction of a new path could cause long term damage to the surrounding grassland.

2.15 A new path would also create a pressure, or future pressure for lighting across Walmgate Stray which would detrimental to the wildlife of the area; the Stray and surrounds are an important dark space within the urban area.

2.16 I am aware that there are also areas of Archaeology on Walmgate Stray including ridge & furrow and Second World War military features, which would need to be considered.

#### North Yorkshire Police Designing Out Crime Officer

2.17 Having reviewed the documents submitted and liaised with the police traffic management officer regarding changes to the road layout at the access and egress points to Fulford Road Police Station, we have no further comments to make regarding the proposal.

### **3.0 REPRESENTATIONS**

3.1 An additional consultation of neighbours was undertaken following the submission of the revisions and supplementary information in December 2019. Six objections were received from local residents and an objection on behalf of the Low Moor Allotments Association. The following matters were raised.

- Note addition of garden office into drawings again
- Concern over accuracy of the sustainability transport measures document including car ownership levels and that this will likely attract students who will bring their cars to have these near their living quarters
- Concern over university future student number projections and whether there is need for student accommodation
- Increase in footfall and cycling on Kilburn Road
- Design too tall and close to gardens, loss of light and noise pollution
- Scale of development will affect Kilburn Road residents and wider area
- Inadequate response to avoid Kilburn Road/allotments
- Concern over visitor parking
- Concern over Edgware Road as it is a private road and a parking zone may not be feasible
- Highway safety along Kilburn Road
- Concern over impact of increased cycle traffic through allotments
- Building heights should be reduced to no higher than existing building

### **4.0 SUMMARY**

4.1 On the matter of a potential new access route across Walmgate Stray, the Council's Ecology Officer is not supportive. In planning policy terms, paragraph 175 of the NPPF seeks to avoid significant harm to biodiversity resulting from development and also the protection of ancient and veteran trees. The 2018 Publication Draft Plan seeks to protect York's strays for biodiversity purposes and their importance as part of the landscape setting of York. Furthermore, Walmgate Stray lies within the general extent of the York Green Belt and the construction of a



new route for walkers and cyclists would constitute inappropriate development if there were an impact on the openness of the green belt.

4.2 The revisions and the supplementary information to the scheme have been considered, as have the consultation responses. The officer recommendation remains one of approval subject to the proposed conditions set out in the committee report, including additional conditions to cover a road safety audit, automatic doors to the Guard House and off site highways works including the pedestrian refuge improvements and the shared cycle path. A Section 106 agreement covering the following is also recommended:

- a Student Management Plan showing details of tenancy restrictions on student tenants being a keeper of or in control of a car within 400m of the accommodation and measures taken to enforce such restriction, including annual parking surveys in the surrounding area, to be agreed by Local Planning Authority;
- secure contributions for the introduction and enforcement of a residents parking zone (RPZ) in the surrounding area, should agreed threshold levels for increases in parking in the local area be exceeded – note further work to be undertaken to establish the thresholds and quantify the amount of contributions required toward a RPZ;
- Provision of an extension to the existing off road shared cycle path along the eastern carriageway of Fulford Road to the entrance of the site with appropriate safety measures at the existing exit of the police station onto Fulford Road.

**OCTOBER 2019 COMMITTEE REPORT  
(PREVIOUSLY PRESENTED TO COMMITTEE)**

**Date:** 17 October 2019      **Ward:** Fishergate  
**Team:** East Area      **Parish:** Fishergate Planning Panel

**Reference:** 19/00603/FULM  
**Application at:** Frederick House Fulford Road York YO10 4EG  
**For:** Erection of 6no. purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM)  
**By:** Summix FHY Developments Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 17 September 2019  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The site is a roughly rectangular parcel of land located off Fulford Road (A19), approximately 1.2 kilometres south of York city centre. The site contains the former Shepherd Homes office known as Frederick House and the accompanying building to the west known as the Guard House. The existing vehicular access for Frederick House is via a one way loop road off Fulford Road which is shared with North Yorkshire Police who are located directly to the south of the site. To the north of the site, Kilburn Road runs parallel with the site.

1.2 To the east of the site lies an area of woodland and Walmgate Stray. The University of York's Heslington West campus lies beyond the stray to the east. Areas to the north and west of the site are predominantly residential but there are a number of local services and bus stop on Fulford Road. There is an existing cycle and footpath that runs from Fulford Road south of the site towards the university. There is also a footpath running from Kilburn Road through the allotments towards the university.

1.3 The western part of the site, including the Guard House lies within the Fulford Road Conservation Area. Two trees within this area are also subject to a tree preservation order. These are a Horse chestnut (TPO46 –T1) and a Sycamore

(TPO46-T2). Frederick House itself is a monolithic three storey flat roof office building of 1960s or 1970s construction measuring approximately 110 metres in length on an east-west axis and 10.4 metres in height.

1.4 The site is unallocated on the Proposals Map accompanying the 2018 Publication Draft Local Plan. The site also lies within Flood Zone 1.

1.5 Full planning permission is sought for the erection of 6 no. purpose-built 4 storey student accommodation buildings providing 368 bedrooms. Permission is also sought for the associated change of use of, and alterations to, the existing Guard House building which fronts Fulford Road to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping

1.6 The six student accommodation buildings will be 4 storeys in height. The proposed plans refer to the buildings as A through to G with A being the refurbished Frederick House and B to G being the new buildings running from west to east. For clarity they are referred to as such in this report.

1.7 The form and dimensions of the proposed buildings are as follows:

Building B is roughly L shaped with a flat roof measuring 12.2 metres in height. The maximum length is 32.1 metres and the width is between 12.4 metres and 28.0 metres.

Building C is rectangular in shape, 12.2 metres high, 14.4 metres wide and 28.0 metres in length

Building D is L shaped 12.2 metres high, 32.1 metres in length and between 14.4 metres and 26.4 metres in width.

Building E is staggered with a maximum height of 13.2 metres, and maximum width and length of 24.4 metres.

Building F is roughly rectangular and is up to 13.4 metres in height, 25.2 metres in length and 15.7 metres in width.

Building G is also roughly rectangular and includes a single storey projection at the northern end. The maximum height is 12.8 metres, the length is 25.1 metres and the width is 13.2 metres.

1.8 The materials proposed for the buildings are a mix of red, light red and bronze brick cladding with detailing including timber ribs and cladding, full length windows to a number of rooms and aluminium frames to windows.

1.9 There are also two further single storey buildings proposed to the northern boundary, an energy centre to the east of the Guard House and a further building containing a sub-station, water tank and Lv room.

1.10 Waste and cycle storage is proposed integrated to the proposed buildings. The proposed lighting is a mix down lit columns, amenity light posts, vandal resistant bollards and down lit wall luminaires mounted to buildings. Surface water drainage is proposed via soakaway.

1.11 Cycle storage is proposed at a rate of 0.53 cycle parks per room, with the potential to increase to 0.66 parks per room. 9 car parking spaces are to be provided for staff and disabled users, with a further 22 temporary parking spaces for use during beginning and end of term drop offs and picks ups.

1.12 Pedestrian access is proposed to be through the Gate House, which fronts Fulford Road. Cycles and cars will access and exit the site via the existing loop road.

1.13 This application is a resubmission of application 18/02797/FULM which was withdrawn following concerns raised by officers with regards to design and highways.

### Planning History

1.14 There is extensive planning history relating to this site, the relevant applications are summarised below;

7/15/4149B/PA - Outline application for three storey extension to existing office block – Permitted 16.02.1989

7/15/4149C/PA - Formation of car park – Permitted 12.05.1989

7/15/4149D/PA - Erection of two storey office block – Refused 02.08.1990

7/15/4149F/PA - Erection of 3 storey office block together with modified parking arrangement (reserved matters) – Permitted 02.08.1990

7/15/4149H/PA - Two storey extension to unused building for use as offices – Permitted – 10.06.1993

7/15/4149M/PA - Extension of car parking area – Permitted 09.02.1994

7/015/04149N/OUT - Renewal of outline planning permission 7/15/4149b/pa for 3 storey office block with modified parking – Permitted 06.09.1995

7/015/04149P/FUL - Provision of additional parking space – Refused 28.02.1996

98/01937/REM - Three storey office block extension to rear – Permitted  
23.11.1998

03/02202/REM - Renewal of planning permission 98/01937/REM for erection of three storey office block extension to rear - Permitted 12.08.2003

14/00922/CLU - Certificate of Lawful Development for use of land as a car park for employees of Frederick House – Granted 02.06.2014

18/02797/FULM - Erection of 7 purpose-built student accommodation buildings ranging in height between 3 - 5 storeys (providing 440 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping -  
Withdrawn

## **2.0 POLICY CONTEXT**

### National Planning Policy Framework

2.1 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.

2.2 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.

2.3 Paragraph 14 advises that at the heart of the Framework there is a presumption in favour of sustainable development. Paragraph 11 states planning decisions should apply a presumption in favour of sustainable development and that for decision taking this means where there are no relevant development plan policies, granting permission unless i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or  
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

### Publication Draft Local Plan 2018

2.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. 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).

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

## 2.6 Relevant Policies

- DP1 York Sub Area
- DP2 Sustainable Development
- DP3 Sustainable Communities
- SS1 Delivering Sustainable Growth for York
- SS3 York City Centre
- EC2 Loss of Employment Land
- H2 Density of Residential Development
- H7 Student Housing
- HW7 Healthy Places
- ED1 University of York
- D1 Placemaking
- D2 Landscape and Setting
- D4 Conservation Areas
- D6 Archaeology
- D11 Extensions and Alterations to Existing Buildings
- GI2 Biodiversity and Access to Nature
- GI4 Trees and Hedgerows
- CC1 Renewable and Low Carbon Energy Generation and Storage
- CC2 Sustainable Design and Construction of New Development
- CC3 District Heating and Combined Heat and Power Networks
- ENV2 Managing Environmental Quality
- ENV5 Sustainable Drainage
- T1 Sustainable Access
- DM1 Infrastructure and Developer Contributions

### 2005 Development Control Local Plan

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

### 3.0 CONSULTATIONS

#### INTERNAL

##### Design and Sustainable Construction (Design)

3.1 Comments on revised scheme (August 2019):

3.2 Design revisions have improved the scheme but not to the degree recommended on numerous occasions. The main shortcomings are:

- Generally the proposal is not in character with the neighbourhood for bulk and typology.
- Although it is acknowledged that the former cavalry barracks site-use gives opportunities for a different typology and character to be proposed (compared with the adjacent suburban residences), this opportunity has not been convincingly explored.
- The site layout is a highly informal composition of buildings and this is at odds with the likely-and-evident formal characteristics of a former military barracks site.
- The proposed dead-end nature of such a large redeveloped site is at odds with normal good planning for networked connectivity- especially for cycle/pedestrians

However, the design is now to a standard that is just above the threshold for planning support on design grounds. Some of the benefits are:

- It is not very viewable from public streets and the parts that are viewable do not sufficiently cause detriment to the characteristics of the area to warrant further changes.

- Opportunities are limited to improve connectivity (new connectivity and routes from the site through the stray are problematic for natural environmental reasons, and elsewhere where there are possibilities not impacting the natural environment, such as making a new connection into the existing cycle/pedestrian route to the south, the land is outside the applicant's gift to enact).

- Retention of the “Guard House” (an older but much altered boundary building) and its likely improvement through design changes.
- Whilst the site layout is informal (and this has drawbacks- see above) the architecture is simple and consistent between buildings, adding just enough textual variety to the elevations to avoid it being bland. It is possible to make a virtue out of this simplicity if it is built to a high quality standard with a high quality landscape scheme, and is then carefully maintained. If this happens it could be a successful new place. Refer to recommended conditions to help secure this.

### Design and Sustainable Construction (Landscape Architect)

3.3 With the exception of a proposed footpath near the horse chestnut tree, there is objection and the proposed landscaping scheme is good. A no dig footpath may be feasible to mitigate damage to the horse chestnut tree but no formal details have been submitted. Conditions regarding the trees and landscaping scheme have been recommended.

### Design and Sustainable Construction (Ecology)

3.4 An Ecological Appraisal by Encon Associates Limited and dated December 2018 has been submitted to support this application. In particular this includes an assessment of the buildings for their potential to support roosting bats. The buildings were considered to be of very low potential and no further surveys were recommended. Protected species will not be impacted by the re-development of this site.

3.5 Some of the vegetation on the site is suitable for nesting birds and therefore mitigation is required to ensure these are not disturbed during site clearance/construction.

3.6 Although situated in a built up urban area the site is close to good bat foraging habitat adjacent to Walmgate Stray. The increased structural integrity of modern developments reduces the potential for bats and birds to utilise modern buildings for roosting and nesting therefore any new developments should integrate a variety of bird and/or bat boxes. A condition is recommended to enhance the development in line with the National Planning Policy Framework.

### Design and Sustainable Construction (Archaeology)

3.7 The site lies in an area of archaeological interest due to its location just off a potential Roman thoroughfare and its use over the last 150-200 years as a military site.



3.8 A desk-based assessment has been submitted. It confirms the high likelihood for archaeological deposits to exist across the site dating from the Roman-modern periods including the potential for Roman roads and burials. However, it is anticipated that the most extensive and significant remains will relate to the 18<sup>th</sup> and 19<sup>th</sup> century cavalry and infantry barracks. The assessment also includes reference to built heritage including the 19<sup>th</sup> century elements of the Guard House, brick structures possibly related to the barracks and gates/piers. These above ground heritage assets will need to be photographically recorded and presented with any archival material relevant to the structures.

3.9 In terms of below ground heritage assets the proposed new build will be constructed on the site of the current building as well as the vacant land to the east. This may potentially destroy or disturb archaeological deposits/features as outlined above.

3.10 An archaeological evaluation is required to assess the survival and character of any deposits or features relating to the historic military use and potentially earlier uses of the site which may be destroyed by the proposed development. The evaluation and building recording can be carried out post-determination with the caveat that the final amount of archaeological work required cannot be estimated at this stage without the evaluation results. Relevant barrack plans listed in the DBA will need to be accessed to inform the evaluation and any further mitigation work.

3.11 A watching brief should be maintained during smaller scale works and the grubbing up of foundations of the existing structure following demolition as a precaution given that we do not know anything about the make-up of this site.

3.12 Archaeology on this site may provide an opportunity for community engagement. Some form of plan for public engagement should be included within the WSI for this site. This may be through social media, information on public display, or should it be feasible, an opportunity to see the revealed archaeology on site through an open day arrangement.

### Public Protection

3.13 The Public Protection Officer has no objection in principle and has considered air quality, contaminated land, lighting and noise. A summary of the comments on these matters is set out below.

#### Air Quality

3.14 The proposed living accommodation is set well back from Fulford Road and the site is unlikely to generate significant amounts of additional traffic due to the low level of parking proposed. Public Protection has previously been consulted on the

proposals and it was not considered that an air quality assessment would be required.

3.15 Within the site, the vehicular access leads to a proposed forecourt area to the rear of the guard house and includes parking for 7 vehicles. Three of these parking spaces are intended for staff and disabled use. The remaining four spaces will be for flexible use. In line with paragraph 110 of the NPPF, developments should be designed to incorporate facilities for charging plug-in and other ultra low emission vehicles in safe, accessible and convenient locations. Developments that include less than 50 parking spaces, at least one parking bay should be marked out for use by electric vehicles only, together with charging infrastructure and cabling. Spaces should be for the exclusive use of low emission vehicles.

### Contaminated Land

3.16 The report identifies that the site historically formed part of the Cavalry Barracks and various phases of development and demolition appear to have occurred within the site boundary. Given this identified historical use, the report identifies potential contaminants of concern to include asbestos, heavy metals, PAHs and hydrocarbons. The report also identifies potential PCBs associated with the electrical substation located 10m south of the site. The report recommends that site investigation is undertaken to assess the potential contamination present at the site. The report also identifies the need for an Unexploded Ordnance (UXO) risk assessment to be completed at the site given that the site is in an area which is at moderate risk of UXO.

3.17 The Phase 1 report and the proposal to carry out site investigation works are acceptable. Appropriate conditions are recommended

### Lighting

3.18 The external lighting has been reviewed with the CIE/ILP (International Institute On Illumination/Institute of Lighting Professionals) guidance on reduction of obtrusive light.

3.19 The CIE/ILP set maximum recommended luminance levels in various types of areas. This takes into consideration the size of the light fixture proposed and how much light already exists in the development location. These zones range from Zone E0 which is classified as a dark zone that should be protected from light being present, for example reserves and dark sky parks to Zone E4, urban areas with high district brightness, town/ city centre areas with high levels of night time activity where light levels can be a lot brighter.

3.20 The site is on the edge of an urban area of the city of York with high lighting to the west side of the site and Fulford Police station to the south. There are residential

dwelling to the north with back gardens backing onto the site which would be classified as sensitive darker locations and an intrinsically dark area to the east with the Walmgate Stray.

3.21 This would place the planned site in either the E3 or more appropriately the E2 zone. (The guidance does state that where an area sits adjacent to a lower level light area the more stringent of the two control zones should be imposed).

3.22 The highest levels of illumination are to the west side of the site which is already illuminated by high light levels from other sources and the scheme is designed so that the lighting is away from the residential dwellings to the north with the majority of lighting below the perimeter wall height and there is a lesser level of lighting to the east.

3.23 The E2 zone criteria is met for the sky glow levels, intrusion into the windows and gardens to the north and the design scheme is sensitive to the protection of the darker area to the east and Public Protection are satisfied that the lighting levels will be appropriate for the planned location.

#### Noise

3.24 The Noise Impact Assessment considers the existing noise climate and identifies the current main noise source as traffic, mainly on Fulford Road. It also identifies considerable siren noise from police vehicles that operate day and night and could lead to sleep disturbance.

3.25 The precise type of combined heat and power plant is unknown at this stage and several pieces of plant with various sound levels are considered and suggestions are made as to how these noise levels can be attenuated. A condition is recommended to include details of noise insulation measures and a maximum noise level for plant and machinery. Restrictions on working hours during construction and a Construction and Environmental Management Plan are recommended.

#### Highways Network Management

3.26 Examination of the University of York 2014 staff and student Travel Questionnaire states that only 7% of students own or have access to a car. However, this is likely to apply to students in on-campus halls of residence where the need to travel by car is much reduced. The same document also states that that [the car alone] mode share for those [students] living off-campus only is 24%.

3.27 If this latter figure is applied to this development of 368 student beds, would result in the potential number of students driving to the UoY being 81, allowing for the 7 spaces on site.

3.28 A similar survey – the University of Sheffield Student and Staff Travel Survey 2012 – showed that 38% of students had access to a car and of these 25% parked on street overnight. Applying these figures to this development of 368 student beds, would result in the potential number of students driving to the UoY being 36.

3.29 It is likely that, in the absence of any measures to deter car use, the actual potential number of students driving to the UoY and parking their vehicles on street in the local area will be between 36 and 88.

3.30 The developer is proposing to incorporate a 'no-car ownership' ownership restriction within the tenancy Agreement for Students residing at the Frederick House development to eliminate displaced parking onto nearby residential streets.

3.31 The developer has submitted several examples of 'car-free' student accommodation where 'no-car ownership' restrictions have been included in Tenancy Agreements deter students from bringing their cars to the town or city where they are studying, or to deter parking in residential areas around the student accommodation in the absence of a town or city-wide restriction. Many of these have been included in S106 Agreements.

3.32 In some cases, such proposals have been deemed acceptable by the planning officer considering the planning application, and in other cases Planning Inspectors have considered them sufficient at appeal (APP/Z0116/A/08/2090892 Manor Scrap Yard, Bristol). Further details pertaining to some of these are given below.

3.33 Cambridge City Council City Council 14/1496/FUL, Land At 315 - 349 Mill Road Cambridge, Student housing development consisting of 270 rooms [...]. This is a development of similar size and location to Frederick house. Cambridgeshire County Council (as Local Highway Authority) raised concerns about whether there would be sufficient 'Proctorial Control' by the Universities to ensure adequate enforcement of the no car restrictions in tenancy agreements, adding that this was for the LPA to consider. The Planning Officer recognised that residents have concerns regarding the impact of 270 students on the amenity of the area but was satisfied that issues of noise and disturbance and car parking can be mitigated through the appropriate management of the accommodation. It should also be noted that this application was refused on grounds other than car parking by was allowed on appeal.

3.34 Appeal APP/Z0116/A/08/2090892, Manor Scrap Yard, Bristol. This development, allowed on appeal, is a smaller development than Frederick House. Its surroundings are also different, being mainly a low-medium density residential area where residences have a mixture of off-street and on-street parking. Therefore, this area is not equivalent to the Frederick House application.

3.35 With regard to this application, any restriction on no-car ownership needs sufficient monitoring and enforcement. Ideally, this should be undertaken in conjunction with the UoY. However, the applicant has advised CYC that is his understanding that the UoY no Proctorial Controls in place pertaining to enforcing no car ownership in York. Furthermore, the University of York has a web page showing car parking charges at its campuses. This page shows that students can park at the UoY, so the deterrents here are the price of and availability parking.

3.36 CYC Highways DC remain to be convinced that the applicant's proposals to include restrictions within students' tenancy agreements not to allow or permit the keeping of a private motor vehicle in either the City of York, or more precisely, within a specified distance of the accommodation at Frederick House will be effective.

3.37 The applicant has stated that the Council's requests in respect of cycle provision are proposed to be met, in terms of numbers of spaces, location and quality of cycle stands. The horizontal and vertical clearances for tiered cycle parking proposed by the applicant should be in accordance with CYC's latest guidance (overall aisle width of 3500mm where frequent two-way movements are likely within an aisle with stands on either side, and an unobstructed ceiling height of 2800-3000mm).

3.38 Examination of the latest drawings submitted by the applicant, appears to show an under provision of cycle spaces (183 spaces at 0.5 per room). Furthermore, although the cross section through Block G shows vertical clearance in the 'bin store' (and presumably the cycle store) to be 2775mm, thus, being close to CYC guidance, the cross sections for the other buildings appear to show a much reduced vertical clearance. It is also unclear from the drawings whether the required aisle width will be provided between opposing tiered cycle parking racks.

3.39 City of York Highways Development Control objects to this application on the grounds of significant cumulative impact on residential amenity and highway safety. Cycle parking provision also appears to be deficient.

### Transport Planning

3.40 A query was raised as to how cyclists exit the site, whether via the existing loop road past the police station or via creation of a shared path by the entrance to the loop road.

3.41 Anyone wishing to cycle into the city centre would probably use New Walk which can be accessed via the ramp at the end of Alma Terrace. Bearing that in an improvement should be sought to make the central refuge in front of Sainsburys larger so more students can cross at a time and it is also wide enough to get a bike across safely (angled).

3.42 Suggestions were also made for creating shared cycle footpaths along the eastern side of Fulford Road.

3.43 The Kilburn Road allotments route is the shortest to the University, improvements are recommended to the barrier at the stray end to make it more cycle and disabled-friendly. There are existing issues for cyclists at this barrier.

#### Housing Strategy and Development

3.44 A condition is required to ensure the proposal is for student accommodation. Otherwise affordable housing contributions are required.

#### Forward Planning

3.45 Response to withdrawn application 18/02797/FULM: Key policy issues include a) the loss of employment use and b) the need for additional, purpose built, student accommodation. In relation to a), the principle of the loss of the site's existing employment use remains undetermined, and is subject to the views of colleagues in Economic Development. They would however reiterate that the site was previously allocated in a draft Local Plan, and as such the loss of the site from the City's employment land supply was accepted at that stage. In relation to b), within the context of submitted analysis and current evidence (SHMA, 2016) they would concur that need for the accommodation exists.

#### EXTERNAL

#### Fishergate Planning Panel

3.46 We believe there is a fundamental problem with this application, which is the lack of direct access to The Stray. It is obvious that students will use the route along Kilburn Road and through the allotment site, which is entirely inappropriate. The additional cycle traffic would be particularly damaging for the allotment site and users. We believe that it should be an absolute precondition that there must be direct cycle and pedestrian access to The Stray and without such guaranteed access the application should be refused.

#### Yorkshire Water

3.47 Condition recommended to ensure separate systems for foul and surface water drainage on and off site to protect the local aquatic environment and Yorkshire Water infrastructure.

#### North Yorkshire Police

3.48 No objection.

North Yorkshire Fire Service

3.49 No objections at this stage, further comments would be provided at Building Regulations approval stage.

York Civic Trust

3.50 No objection to revised design and recognises improvements compared to withdrawn scheme. Concerns over the transport plan and cannot support application due to the lack of accessibility to and from the back of the site, via Walmgate Stray.

Conservation Area Advisory Panel

3.51 The new scheme appeared to retail the original elements of the Guard House proposals. The large residential block had however been replaced by a series of individual units generally four storeys in height. Whilst the Panel welcomed the breaking up of the block however it was felt the elevations treatment could be improved. (Officer comment: These comments were made on the originally submitted plans for 19/00603/FULM, not the revised plans that were subject to re-consultation in August 2019).

## **4.0 REPRESENTATIONS**

4.1 The application has been advertised by neighbour notification, press notice and site notice. 39 objections were received from local residents.

4.2 The issues raised in the objections are summarised below.

- Impact of lighting
- Parking and access via Kilburn Road
- Suitability of the path via the allotments
- 1 general comment was received requesting a separate access to the site to avoid Kilburn Road.
- Scale compared to low rise residential area
- Danger to pedestrians and cyclist
- Noise and light pollution
- Parking on local streets
- Design could be more interesting and innovative
- Height and proximity to dwellings on Kilburn Road
- Overlooking of gardens on Kilburn Road
- Concern that objections to previous application will be ignored
- No oversight or management once development completed
- Edgware Road is a private road so permit parking is not feasible
- Buildings closer to northern boundary than before
- Suggest trees to northern boundary to reduce light pollution

- Out of character and over bearing
- No objection in principle to the change of use
- Reduction in scheme from withdrawn application welcomed but still a large scheme
- Use of allotments for cycling is not suitable
- Concerns over the level of demand for student housing citing the recent application (18/02819/FULM) for demolition of student accommodation at York St John and ongoing political uncertainty.
- Concern over levels of sewage
- Affordable housing should be encouraged at the site
- Do not want Fulford Road to become overwhelmed by student accommodation like Hull Road has.
- Concern over environmental impact of a path through the Stray
- Majority of concerns have not been addressed from withdrawn application
- Concern over bats roosting nearby
- Only beneficiaries would be the University
- Not appropriate location
- Concern over the impact on local services such as shops and GP surgery.
- Concern over transient nature of students and potential vandalism
- Increase in traffic on Fulford Road at the beginning and end of term
- Loss of light
- Impact on wildlife
- Would change the dynamic of the area
- Increase in traffic to Kilburn Road would be an impact to children playing outside
- Developments are highly profitable and pay neither business rates or council tax
- Questioning the claims of student housing need
- Buildings closer to Kilburn Road than existing

4.3 1 letter of support was received stating the proposals are high quality and sympathetic response to regeneration of derelict site and will support local commerce and employment while reducing the strain on the housing market

4.4 Revised plans were submitted on 1<sup>st</sup> August 2019 altering the layout of the site and reducing the total number of student bedrooms from 393 to 368. A 14 day re-consultation was undertaken on the revised plans. Six objections were received making the following comments.

- Remain disappointed at the lack of a pedestrian/cycle exit to the east
- 16% reduction in bedrooms is welcome
- Still overbearing
- Parking is an issue unless restrictions are proposed
- Number of pedestrians and cyclists on Kilburn Road is an issue as well as for allotment holders



- Bin and cycle storage may encourage noise and pests unless carefully controlled
- Possible radiation on site as a former barracks
- Request for on-site parking for contractors during building works
- Concern over potential light spill from lamp posts to residential gardens to north
- Lighting will impact on local wildlife
- Too tall, resulting in a loss of light
- Concerns over sustainability,
- the omission of a detached office in the rear garden of 32 Kilburn Road from the revised site plan (Officer note – the applicant has provided a revised site plan including the office)
- Contesting level of anticipated demand for student places at University of York and whether there is a proven need for further
- noting that the Forward Planning Officer comments regarding student housing need appear to be assertions, are over 8 months old, and the situation may have changed.
- Querying benefits of application
- Policy H7 has not been met.
- the opinion of Fishergate Planning Panel does not appear to be addressed
- the impact of the proposed lighting
- lack of connectivity to the east
- Concern over the impact on the allotments in terms of increased usage of the access route and highway safety
- Concern over the enforceability of no car ownership clauses and monitoring of the on street parking
- Scale of development is huge
- Noise, particularly energy centre
- Commuter parking is an existing problem

## **5.0 APPRAISAL**

### **5.1 Main Issues**

- principle of development
- loss of employment land
- justification for student housing
- impact on the character of the conservation area
- design
- impact on amenity and living conditions of adjacent occupiers
- highways and parking
- drainage
- trees
- ecological issues
- sustainability

## LEGISLATIVE CONTEXT

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

5.3 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 the area.

## PRINCIPLE OF DEVELOPMENT

5.4 Paragraph 118 of the NPPF states that substantial weight should be placed on the value of using brownfield sites within settlements for homes. In land use planning terms, the principle of development at this site rests on the acceptability or otherwise of the loss of the land for employment uses, the proposed use for student housing and the impact on the Fulford Road conservation area. These are explored in greater detail below.

## LOSS OF EMPLOYMENT LAND

5.5 Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 121 of the NPPF lends support to alternative uses of land which is currently developed but not allocated for a specific purposes in plans, where this would help to meet identified development needs. This includes the use of employment land for homes in areas of high housing demand provided this would not undermine key economic sectors or sites and would be compatible with other NPPF policies.

5.6 Policy EC2 of the 2018 Draft Plan is relevant and states that the applicant will need to provide a statement to the satisfaction of the Council demonstrating that:

- i. the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- ii. the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

5.7 The site was subject to consideration as an allocation through the Local Plan site selection process. Following the 2014 consultation, a further request was made to amend the allocation to include B1a, C3, C2, D1 and C1 uses, which was not supported by the Council. At Preferred Sites consultation (2016) the allocation was removed due to deliverability issues, as follows:

*(extract from Preferred Sites consultation (CYC, 2016))*

*“Further consideration of the site has highlighted issues regarding the site layout and physical constraints which would limit its development potential. The site contains a wooded area at the eastern end of Kilburn Road which would need to be protected. In addition the site is located within the Fulford Road Conservation Area so development would need to ensure that elements that contribute to the significance of this area are not harmed. The wall that runs along the frontage would need to be retained meaning that access to the site would need to share the current access into the Police headquarters. All these factors would require detailed masterplanning and would affect the development capacity of the site.”*

5.8 From the above it is apparent the Council had accepted the loss of the site for employment land in 2014 during the Local Plan process and the reason for its removal as a possible allocation was due to the site layout and physical constraints and not concerns over the loss of employment land.

5.9 The applicant has stated in their planning statement that under permitted development rights office buildings can be converted to dwellinghouses in use class C3 (dwellinghouses) subject to prior approval. While this is a material consideration, it must be noted that:

- The prior approval process includes consideration of transport and highways impacts, contamination risks and flood risks on the site and must also have regard to the NPPF so far as relevant to the subject matter of the prior approval.
- The current proposal is for the demolition of Frederick House, rather than its change of use. The applicant has not gone through the process of submitting a prior approval application to the local planning authority for consideration.
- Furthermore, student accommodation such as the current proposal normally falls within a wholly different use class to dwellinghouses: C2 (residential institutions).

5.10 As such, only limited weight can be afforded this assertion.

5.11 With regard to the marketing of the site, the applicant states in section 5.18 of their planning statement that:

“Information supplied by commercial specialists confirms the following in terms of the condition, viability and market attractiveness of the land and buildings at Frederick House in relation to part ii) of 2018 Draft Plan Policy EC2:

- The site is not attractive as an existing employment site:
  - The existing buildings are aged and are not in a condition that occupiers require and demand;
  - The existing buildings are poorly performing in terms of energy efficiency.

- The site was subject to open market sale. There were no expressions of interest from the market to retain it in its current use.”

5.12 While it is noted that the applicant referred to “information supplied by commercial specialists”, this assertion was not accompanied with supporting evidence. However, given the comments of the Forward Planning Officer with regard to the one time inclusion of the site in the Local Plan process for a period, it is not considered reasonable to refuse the application on this basis as the Council’s own evidence suggests the loss of employment land at this site would not conflict with the NPPF or Policy EC2 of the 2018 Draft Plan.

## JUSTIFICATION FOR STUDENT ACCOMMODATION

5.13 Policy H7 of the 2018 Draft Plan states that proposals for new student accommodation will be supported where:

- i. there is a proven need for student housing; and
- ii. it is in an appropriate location for education institutions and accessible by sustainable transport modes; and
- iii. the development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area.

5.14 Emerging Policy ED1 states that the University of York must address the need for any additional student housing which arises because of its future expansion of student numbers. Provision will be expected to be made on campus in the first instance. In assessing need, consideration will be given to the capacity of independent providers of bespoke student housing in the city and whether it is economically prudent to provide additional student accommodation.

5.15 In terms of part i. of policy H7, the applicant has submitted evidence to show the proven need for student housing. The Council’s Forward Planning Officer in their consultation response to application 18/02797/FULM in January 2019 stated that with regard to the proven need for student housing, the SHMA (2016) notes that number of planning permissions for student accommodation have been granted in recent years. Whilst it is not anticipated that there will be as significant levels of growth in student numbers over the plan period as have been experienced through 10 year trends, it is acknowledged that the student rental market remains strong and that the demand for purpose built student accommodation is high, particularly from international students.

5.16 While concerns have been raised during the consultation process by local residents over the evidence provided and the accuracy of the projected numbers, on the evidence available the proposal complies with part i. of Policy H7. Parts ii.

(appropriate location) and iii. (amenity) of the policy will be considered in the relevant sections below.

## IMPACT ON THE CHARACTER OF THE CONSERVATION AREA

5.17 Paragraph 192 of the NPPF states that with regard to heritage assets, (which include conservation areas) 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.

5.18 Paragraph 190 advises that the particular significance of a heritage asset that may be affected by the development proposal should be identified and assessed. Paragraph 193 advises 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). 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.

5.19 Policy D4 of the 2018 Draft Plan 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. Emerging Policy GI4 seeks to retain trees that make a positive contribution to a conservation area.

5.20 Part of the site lies within the Fulford Road conservation area, which is a designated heritage asset. This part of the site includes the 'Guard House' which fronts Fulford Road. This building was included within the conservation area as it makes a positive contribution to the character of the area through sympathetic architectural language and by reinforcing the wall like characteristic of the barrack's boundary. The retention of this building is supported as it makes a positive contribution to the conservation area. The proposed design response locates communal uses in the guard house building, and creates a prominent new pedestrian entrance from the street. Despite weakening the boundary "wall" through these changes, given the limitations of the guard house's historical significance, this is supported as it is the primary means of making a vital connection with the street scene.

5.21 The existing Frederick House is utilitarian in design and does not have a positive impact on the character of the conservation area. The proposed new

buildings would be outside of the conservation area but due to its proximity building 'B' would affect the character of the conservation area. The design of Building B has been revised to produce a narrow western elevation not dissimilar to the existing office building, only somewhat higher. The two protected trees sited between the Guard House and Building B are to be retained. Given the building will sit outside of the conservation area and will be of a similar massing to the original but with greater design detail. It is considered that subject to appropriate conditions such as materials and soft landscaping details the character and appearance of the conservation area shall be preserved in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF.

## DESIGN

5.22 Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.23 Policy D1 of the 2018 Draft Plan 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. Emerging Policy HW7 encourages design principles including well designed streetscapes, foot and cycle paths, spaces for communities to come together and considerations of how design impacts on crime or the perception of safety. Policy D11 provides further details on alterations to existing buildings to ensure they are acceptable in design, heritage, setting and amenity.

5.24 Planning permission was originally sought in late 2018 through application no 18/02797/FULM which was withdrawn by the applicant following fundamental concerns expressed by Council Officers in relation to the proposed design. The current application was submitted in March of this year with revisions submitted in August. The revisions have resulted in the number of student beds reducing from approximately 450 to 368, representing a decrease in numbers of nearly 20%. The decrease in numbers has allowed for design improvements including an increase in open space and a reduction in both the number of storeys from a maximum of 5, to no more than 4 for each building. The buildings have also been reduced in scale, particularly towards the western end of the site which will increase the sense of openness of the site. The application site is for the most part obscured from public view on Fulford Road due to its shape stretching back from the highway and from existing buildings and structures.

5.25 The Council's Design Officer has considered the proposal and notes the reduction in length of Building B and the narrow gable elevation to the Fulford Road aspect which is an improvement on previous iterations of the scheme. The revised scheme has slightly improved the functionality of the open spaces and will allow for greater sunlight. Other improvements include clarification that there are now no proposed windows in sensitive areas directly overlooking the gardens of Kilburn Road.

5.26 It is noted the proposal is not generally in character with the neighbourhood, the site layout is highly informal which is at odds with the formal characteristics of a former barracks site and also the dead end nature of the site in terms of connectivity. The alterations to the prominent Guard House are noted as an improvement. Furthermore, the existing appearance of the site is of a monolithic utilitarian building with extensive hard standing. The proposed architecture, while informal, is simple and consistent and there is the potential for a successful place if high quality materials and landscaping schemes are enacted.

5.27 Overall, the layout and design of the buildings are considered to comply with Paragraph 127 of the NPPF and the relevant policies of the 2018 Draft Plan that consider design. Conditions for materials and large scale details are recommended. Landscaping is considered further below.

## TREES AND LANDSCAPING

5.28 Emerging Policy D2 considers landscaping and setting for design proposals. The Policy states that proposals will be supported where, amongst other things, they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities. Proposals should create opportunities to enhance the public use and enjoyment of existing and proposed streets and open spaces. They should recognise the significance of landscape features such as mature trees and other important

character elements, and retain them in a respectful context where they can be suitably managed and sustained. Proposals should include sustainable, practical, and high quality soft and hard landscape details and planting proposals that are clearly evidence based and make a positive contribution to the character of streets and spaces. Emerging Policy GI4 seeks to ensure that proposals do not create conflict between existing trees to be retained and new buildings, their uses and occupants, whether the trees or buildings be within or adjacent to the site.

5.29 The proposed development seeks the retention of the two protected trees within the conservation area and also includes a proposed landscaping scheme that concentrates on the proposed amenity spaces between the various buildings. It is noted that due to the location of the site and its relationship with surrounding buildings, there will be limited public view of the landscaping scheme. As a student housing scheme with restricted public access, one of the main functions of the space will be to provide an attractive setting for the buildings and one that provides outdoor amenity space for residents. The Council's Landscape Architect has considered the submitted information and has no objection subject to recommending appropriate conditions with regard to a no dig path near the protected trees and the landscaping scheme. The proposal is considered to enhance the existing character of the site and to provide landscaping of a sufficient quality to meet the requirements of draft Policy D2 and D1.

#### 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. The key issues with regard to amenity that concerns this application are noise, light and the levels of comings and goings associated with the development. A number of objections to the application have been regarding potential noise and anti-social behaviour.

5.31 With regard to noise, the use will be residential, albeit for student housing which has raised concerns with local residents with regard to late night noise in particular. There is also a proposed energy centre on the northern boundary of the site. In mitigation, the proposed management plan submitted in March 2019 states that the site will be staff 24 hours a day, 365 days a year and that the site is fully equipped with direct access to CCTV equipment. The management plan states that the site operators would work with the university and student union to ensure managing student behaviour is a priority. Staff and security will monitor excessive noise and raise issues with residents directly. Tenancy agreements will include clauses regarding anti-social behaviour. The management plan is considered to undertake reasonable measures to manage potential noise complaints and a condition is recommended in this regard.



5.32 A noise impact assessment has been submitted which recognises the main impacts with regard to existing noise as traffic and also considers potential noise generated by the energy centre. Conditions are suggested with regard to maximum noise levels for any plant equipment for student residents and for the occupiers of nearby dwellings such as those on Kilburn Road. A condition for noise insulation measures for residents of the student accommodation to protect against traffic noise is also recommended.

5.33 There have been public representations, including objections to the application concerning the potential loss of daylight, sunlight and outlook to existing residents on Kilburn Road. It is noted that the closest northern elevations of the proposed accommodation blocks are in excess of 36 metres from the rear elevations of dwellings on Kilburn Road. The detached home office in the rear garden of no 32 would be 20 metres to the north and 10 metres to the north east of the closest accommodation block (Building D).

5.34 Concerns have been raised by residents of Kilburn Road to the north regarding the proposed lighting strategy. The lighting strategy is considered to be reasonable for the proposed use and acceptable subject to recommended condition covering the final design of the lights and also curfews for the lighting. Conditions are also recommended with regard to land contamination remediation measures.

## HIGHWAYS AND PARKING

5.35 Paragraph 108 of the NPPF states that when assessing applications for development, it should be ensured that

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.36 Para 109 goes onto say development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.37 Para 110 expands on this, stating that applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to

- high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
  - c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
  - d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
  - e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.38 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 to the adjacent adopted highway. Development proposals should also create safe and secure layouts for motorised vehicles (including public transport vehicles), cyclists, pedestrians that minimise conflict. Emerging Policy H7 notes that student housing should be in an appropriate location for educational institutions to be accessed by sustainable transport means.

5.39 The application site lies, on the face of it, in what appears to be a sustainable location and would be considered as such were non student housing proposed for the site. It is approximately 800 metres south of Fishergate Bar and on the A19 (Fulford Road) with good bus links to the city centre and railway station. There are also cycle paths along Fulford Road, the river bank and across Walmgate Stray. Residents at the site would be able to access the city centre, supermarkets to the south on Fulford Road (Aldi, Iceland) and the Designer Outlet by sustainable transport measures. There are further local amenities on Fulford Road close to the site including a Sainsbury's Local, café, pharmacy, doctor surgery and public house. The surrounding area contains a number of residential streets with unrestricted parking on either side of Fulford Road.

5.40 Some weight should be afforded to the location of the proposed development in terms of its sustainability with regard to the fact that student occupiers would use local amenities and the city centre. However, as the site is proposed to house 368 students and is to be a car free development, it is of greater relevance as to whether the site is in an appropriate location for access to the University of York by sustainable transport measures.

5.41 Access to the University's Heslington West campus would be on foot or via cycle across Walmgate Stray with an alternative route via Heslington Road to the north. The route onto Walmgate Stray from the application site is either via Kilburn Road to the north or the cycle path to the south of the barracks. It is noted that the surrounding area of the application site is already popular with students and

employees of the University, many of whom will commute via the Stray. The applicant intends to encourage usage of the route via the Barracks, to reduce the impact on Kilburn Road. This is the existing route for vehicles, including cyclists, to take from the office at Frederick House. There is a give way marking on the road at the entrance to Frederick House, but it is worn out and it is recommended that the applicant provide improvements to the road marking and signage. The proposed layout of the site is such that a potential future access to the south east of the site towards the police station has been included to allow for an improved potential access if that site were ever to be redeveloped.

5.42 The proposal is to be car free and the applicant has proposed tenancy agreements to restrict car ownership. This is in line with student housing schemes elsewhere in the country that have included similar tenancy clauses.

5.43 The Transport Statement, dated March 2019, submitted with the application refers to walking and cycling distances to the University of York (UoY) of between 1.5 km to 2km. However, these distances are for routes that cross Walmgate Stray and are, therefore, not lit. The walking and cycling distance to the UoY West Campus along routes that are illuminated is approximately 2.5km. This distance is close to the maximum distance that people would be willing to walk for travel to work (or study) purposes.

5.44 The Council's Highways Officer has objected to the application on the evidence available as they have concluded that there is likely to be an increase of between 36 and 88 cars parked on the public highway as a result of the proposed development. This is considered to be a possibility due to the lack of a direct bus service and the unattractiveness of Walmgate Stray at certain times of day/year for walking and cycling with the increased distance via alternative routes. The Highways Officer noted that there is car parking at the University of York. The main deterrent being the cost of parking and the number of spaces and also the restrictions to tenancy agreements.

5.45 Concerns have been expressed by the Highways Officer regarding the enforceability of the tenancy restrictions for on street parking. The alternative sites have been considered and the Highways Officers notes that there are differences with the individual cases such as the scale and public transport options.

5.46 Several planning appeal decisions have considered whether parking restrictions tied to tenancy agreements can be controlled via conditions or legal agreement. These include appeals dealt with by way of hearing (appeal reference 3178946, Chester, 2017) or public inquiry (appeal reference 2090892, Bristol, 2009) and have found that these restrictions do meet the necessary tests.

5.47 The proposal includes for 0.53 cycle parking spaces per room, rising to 0.67 cycle parking spaces per room, should the need arise. This level of provision has

been agreed following discussions with the Council's Highways Officer although there is a lack of detail in the submitted plans. Conditions are recommended to provide further details and to allow future additional cycle parking provision should this be warranted.

5.48 The previous application for redevelopment of the site (18/02797/FULM) included an indicative route from the application site heading east through the woodland and onto Walmgate Stray. The purpose of this route was to provide a shortcut to the University and reduce movement on alternative routes such as Kilburn Road. Several consultation responses referred to this potential route. The Council's Ecology and Countryside Officer did not support the proposed link to the east for the following reasons:

- The Stray is managed by grazing cattle and/or sheep and hay cutting. A new access point will increase the maintenance costs to the council or tenant farmer in insuring it remains stock proof.
- Walmgate Stray is managed under a Higher Level Stewardship agreement with Natural England. If land were to be removed from this to create a surfaced foot/cycle path the council would incur a financial penalty. A surfaced path would be an additional hazard/barrier for the agricultural management of the land.
- If a new footpath was un-surfaced it would create a new, or multiple, 'desire lines' which will cause long term damage to the grassland sward.
- There is already pressure to introduce artificial lighting across the Stray which would have a negative impact on wildlife, and this proposal would add to this pressure.
- There will be pressure either at construction stage or through future use, to remove trees and introduce lighting within the woodland on site on the grounds of safety/feeling of security.

5.49 Given these fundamental concerns and noting that part of the indicative route would be outside of the applicant's control, this was removed from the current application.

5.50 It is agreed with the Council's Highways Officer that there is the potential for an adverse impact to highway safety as a result of the proposed development. However, it is also a material consideration that planning inspectors have consistently found that the use of restrictive tenancy agreements meet the 6 tests required for the use of planning conditions. It is considered with this in mind that the impact on highway safety as a result of the proposed development would be acceptable, if tenancy restrictions were applied and properly enforced via a Section 106 agreement to cover the following, which the applicant has agreed in principle to:

- Management agreement to include the restriction on residents' cars through the tenancy agreement

- Monitoring of current on-street parking and future surveys to monitor, with provision for funding a residents parking zone if it proves that this is required in future – completion of the S106 would be subject to a reasonable cap on the funding of the RPZ and clarification on the phasing and triggers for surveys and any payments.
- Widening of the pedestrian refuge on Fulford road outside the site, to better accommodate increased numbers of pedestrians and cyclist crossing movements arising from the development – YCC cost estimate capped at £15,000
- Replacement of the kissing gate along the pedestrian route between Kilburn Road and the Stray to facilitate cyclists using this route. YCC cost estimate capped at £10,000.
- Funds for a Travel Plan Officer. This is estimated to cost approximately £5,000 per annum for 5 years. The applicant has agreed in principle to reasonable costs in this regard.

## ECOLOGY

5.51 Policy GI2 of the Draft Plan seeks to conserve and enhance York's biodiversity. Where appropriate, any development should result in net gain to, and help to improve, biodiversity. The proposed development includes the demolition of the existing office building known as Frederick House. The Ecological appraisal submitted by the applicant has been considered by the Council's Ecologist who concurs with the assessment in that the existing buildings on site are of very low potential for the potential to support roosting bats. It is also noted that the two single storey buildings will have green roofs and there will be an increase in soft landscaping and tree planting when contrasted with the existing extensive hardstanding at the site.

## DRAINAGE

5.52 The application site lies wholly within an area at low risk of flooding (flood zone 1). It is relevant that the site is currently a brownfield site contain buildings and extensive hardstanding in the form of car parking. There is currently limited soft landscaping which would allow for surface water drainage. As a result of the development, 6 new residential buildings will be erected with ancillary buildings such as the energy centre.

5.53 The applicant's drainage strategy states that there is a public foul water sewer in Fulford Road, at a point to the west of the site. There is no public surface water sewer shown within the vicinity of the site and this suggests that surface water discharges to a soakaway (assumed to be at the eastern end of the site). The proposed strategy for surface water drainage is by soakaway. Foul water drainage is proposed to be via an underground gravity pipe network discharging to a package

pumping station. As per the sustainable drainage hierarchy this method is acceptable in principle. Relevant conditions are recommended.

## SUSTAINABILITY

5.54 Policy CC1 of the 2018 Draft Plan states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. Emerging Policy CC2 states that proposals for new residential buildings will be supported where they achieve the following at least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate and a water consumption rate of 110 litres per person per day. Emerging Policy CC3 strongly supports the development of decentralised energy, including both combined cooling, heating and power (CCHP) and combined heating and power (CHP) distribution networks

5.55 The highest energy demand for this type of development is hot water. The energy strategy for the development is for a central energy centre, incorporating natural gas fired boilers, with a natural gas fired combined heat and power (CHP) plant. Efficiency measures include high efficiency condensing boilers, variable speed fans and pumps, energy efficient lifts and lighting controls. The applicant's sustainability statement shows that the new blocks will achieve between a 26% and 34% carbon emissions saving against the target emission rate and the BREEAM pre assessment report demonstrates the proposed development will achieve a prospective BREEAM 2018 new construction rate of 'excellent', which accords the emerging policy requirement. A condition is recommended to require measures to be incorporated to ensure that the BREEAM level is met.

## 6.0 CONCLUSION

6.1 Paragraph 11 of the NPPF states that where there are no relevant development plan policies planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this case, there are no restrictive NPPF policies that give a clear reason for refusing the proposals and the proposed development is considered to be acceptable in principle with justification for the student housing provided. It is also noted that the provision 368 student housing beds is positive with regard to the national and local policy requirements for new housing. A condition is recommended that the site be restricted to student housing, otherwise affordable housing contributions would be required. With regard to the loss of employment at the site it is noted there is a permitted development fall back to convert the existing building to a residential use.

Furthermore it is noted that the existing building due to its scale and age is unlikely to be attractive to potential commercial operators.

6.2 The revised design of the site is considered to be an improvement to both the original submitted scheme in 2018 and also the initial resubmission in 2019. It is noted that there is relatively limited public view of the site and that some of the design constraints of the site such as the 'dead end' nature and the lack of access to the south and east are outside of the applicant's control to remedy. The landscaping scheme is considered acceptable and the TPO'd trees on site can be retained. Conditions are proposed with regard materials, landscaping and tree protection.

6.3 The proposed development, including the erection of new buildings, the alterations to the Guard House and the retention of the protected trees are considered to preserve the character of the Fulford Road conservation area.

6.4 The proposed development is also considered to be acceptable with regards to ecology, noise, light, privacy, contaminated land and also archaeology subject to recommended conditions.

6.5 It is recognised that there are concerns with regard to parking and highway safety that include an objection from the Highways Officer and also from local residents. This is primarily due to the distance of the site from the University of York, particularly during inclement weather or poor light which will reduce the appeal of travelling via Walmgate Stray to the university. The resultant concerns are that this will lead to increased use of Kilburn Road both by cyclists and also for on street parking. The applicant has proposed measures to restrict private car usage including subject to a legal agreement covering car ownership in student tenancies, parking surveys and if deemed contributions towards permit parking for residents of nearby streets.

6.6 In the planning balance it is considered that the identified benefits of the site, including the re-use of brownfield land for residential use and the sustainable transport measures proposed. Significant weight should be given to the acceptable design and the positive landscaping scheme in favour of granting planning permission, as should the sustainable design and construction measures. Limited weight should also be attached to the proposed ecological enhancements. While the objection from Highways is acknowledged and this should carry appropriate weight in the decision making process, moderate weight should also be attached to previous appeal decisions that have indicated that the principle of using planning conditions or obligations to control student parking via tenancy agreements is acceptable. Overall, the proposal is considered to comply with Paragraph 11 of the NPPF in that the adverse impacts do not significantly or demonstrably outweigh the identified benefits.

**7.0 RECOMMENDATION:** Approve subject to Section 106

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:-

- (415)1808-GWP-00-XX-DR-A-(PA)-0057-P05
- (415)1808-GWP-01-GF-DR-A-(PA)-0030-P06
- (415)1808-GWP-01-GF-DR-A-(PA)-0031-P06
- (415)1808-GWP-01-GF-DR-A-(PA)-0048-P06
- (415)1808-GWP-01-GF-DR-A-(PA)-0049-P02
- (415)1808-GWP-01-ZZ-DR-A-(PA)-0035-P06
- (415)1808-GWP-01-ZZ-DR-A-(PA)-0045-P06
- (415)1808-GWP-01-ZZ-DR-A-(PA)-0046-P02
- (415)1808-GWP-01-ZZ-DR-A-(PA)-0047-P06
- (415)1808-GWP-04-00-DR-A-(PA)-0036-P06
- (415)1808-GWP-04-00-DR-A-(PA)-0037-P06
- (415)1808-GWP-04-E-DW-A-(PA)-0058-P05
- (415)1808-GWP-04-GF-DR-A-(PA)-0055-P06
- (415)1808-GWP-04-GF-DR-A-(PA)-0056-P06
- (415)1808-GWP-XX-00-DR-A-(PA)-0007-P10
- (415)1808-GWP-XX-00-DR-A-(PA)-0008-P04
- (415)1808-GWP-XX-00-DR-A-(PA)-0009-P04
- (415)1808-GWP-XX-00-DR-A-(PA)-0010-P03
- (415)1808-GWP-XX-00-DR-A-(PA)-0075-P01
- RFM-XX-00-DR-L-0001-S1-PL03
- RFM-XX-00-DR-L-0003-S1-PL04
- (415)1808-GWP-XX-00-DR-A-(PA)-0017 P05
- (415)1808-GWP-XX-00-DR-A-(PA)-0018 P05
- (415)1808-GWP-XX-00-DR-A-(PA)-0019 P05
- (415)1808-GWP-XX-00-DR-A-(PA)-0020 P05

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

3 No Development other than demolition to present ground level shall begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority.-Those works shall be carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.



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

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

Reason: So as to achieve a visually cohesive appearance.

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

Detailed bay elevations and sections for all fenestration types including ground to roof level parts to demonstrate interfaces at scale 1:20

Window reveals and wall pane recesses at scale 1:10

Details of all fixed equipment to the exterior of the proposed buildings.

The Guard House window reveal at scale 1:10

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

6 Sample panels of all the types of brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. These panels shall be retained until a minimum of 2 square metres of wall of the relevant building has been completed in accordance with the approved samples.

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.

7 The development shall not be occupied until a detailed landscaping scheme in accordance with the approved General arrangement and Planting strategy has been submitted to the Local Planning Authority for approval in writing. This shall include

the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation; tree planting details; paving, and street furniture. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme as approved shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the amenity of the development.

8 Before the commencement of development including demolition, excavations, building operations, an up to date detailed Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials and means of moving materials around the site, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material is proposed within the root protection area of existing trees. A copy of the document will be available for reference and inspection on site at all times. The development shall be carried out in accordance with the approved Arboricultural Method Statement.

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

9 The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, in accordance with Policy H7 of the 2018 Draft Plan.

10 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-5 stages of work. Every stage shall be completed and approved by the Local Planning Authority (LPA) before the condition can be discharged.

A) No archaeological evaluation, grubbing up of foundations or development (other than demolition to present ground level) shall take place until a written scheme of investigation (WSI) for evaluation and watching brief has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

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

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

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

E) No development (other than demolition to present ground level) shall take place until:

- details in D have been approved and implemented on site

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part D should be

deposited with City of York Historic Environment Record 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 interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

11 A programme of archaeological building recording, specifically a written description and photographic recording of the Guard House and any other historic structures on site to Historic England Level 2 is required for this application.

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

A) No demolition/ alteration of the Guard House or other associated historic structures shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The programme of recording and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and digital archive deposition with ADS 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 and digital archive images with ADS 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 buildings on this site are of archaeological interest and must be recorded prior to alteration or removal of fabric.

12 No development (other than demolition) shall take place until a detailed

scheme of noise insulation measures for protecting current and proposed residents from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

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

13 No above ground construction work shall take place until details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

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

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

14 The lighting levels achieved at the development shall not exceed those stated in the lighting report by Desco dated: 1 September 2019 reference: 1809-60-RPT-01-External Lighting Assessment Report.

Reason: To protect the amenity of the surrounding area.

15 There shall be no external lighting between the hours of 23:00hrs and 07:00hrs by obtrusive lights (as defined in the External Lighting Assessment Report by Desco dated 3<sup>rd</sup> September 2019 as A1 and C1) at the site, other than those necessary for emergency and security lighting. A scheme outlining which lights will be switched off between these hours shall be submitted to and agreed by the Local Authority in writing before use of the site commences and the curfew implemented in accordance with the said scheme as approved thereafter.

Reason: To protect the amenity of the surrounding area

16 VISQ4 Boundary details to be supplied

17 Prior to first occupation or use of the development hereby approved four integrated features providing a roosting crevice for bats must be constructed across the site within the fabric of the new buildings, and four Swift nest boxes.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 d) of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

18 No development (other than demolition) shall take place until details of the cycle parking areas, including means of enclosure, have been submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles

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

19 HWAY19 Car and cycle parking laid out

20 Before the occupation of the development 1 Electric Vehicle Recharging Point shall be provided and retained in a position and to a specification to be first agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this. The charge points should include sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing an Electric

Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years. The approved Electric Vehicle Recharging Point Maintenance Plan shall thereafter be implemented in accordance with its terms

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

21 Details of the reduction in carbon emissions the development hereby approved would achieve when compared against Part L of the Building Regulations (the notional building) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the building and the development shall be carried out in accordance with the approved details.

The details shall demonstrate a reduction in carbon emissions of at least 28% through the provision of renewable or low carbon technologies or through energy efficiency measures and at least a 19% reduction in dwelling emission rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations).

Details shall also be submitted that demonstrate that the development shall also achieve a water consumption rate of no more than 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: In the interests of sustainable design and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

22 LC1 Land contamination - Site investigation

23 LC3 Land contamination - remedial works

24 LC4 Land contamination - unexpected contam

25 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason: To protect the amenity of local residents

26 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.

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

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

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

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as



restrictions in hours of operation, location and angling of lighting.

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

Reason: To protect the amenity of the locality

27 No part of the development shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

28 The area shown as 'potential future cycle storage' on drawing no (415) 1808-GEP-XX-00-DR-A-(PA)-0007 -P09 shall be reserved for cycle parking only at all times throughout the lifetime of the development unless it is first agreed in writing with the local planning authority that it is no longer necessary for this purpose.

Reason: To encourage the use of sustainable transport modes.

29 A full 3 stage road safety audit carried out with advice set out in the DMRB HD19/03 and guidance issued by the Council, will be required for the internal highway layout and all off-site works requiring alteration, stage 1 of which must be submitted to and agreed in writing by the Local Planning Authority prior to works, other than demolition, commencing on site.

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

30 The front and rear pedestrian/cycle access doors to the Guard House shall be automatically operated.

Reason: To encourage the use of sustainable transport.

31 The development hereby permitted shall not come into use until the following highway works ((a) creation of shared use footway cycleway on east side of Fulford Road and (b) extending the length of the central refuge situated on Fulford Road south of Wenlock Terrace) have been carried out in accordance with the approved plans, or arrangements entered into which ensure the same.

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

## **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

#### **2. INFORMATIVE:**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b)The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for

"Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

### 3. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

4. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

#### **Contact details:**

**Case Officer:** Tim Goodall

**Tel No:** 01904 551103

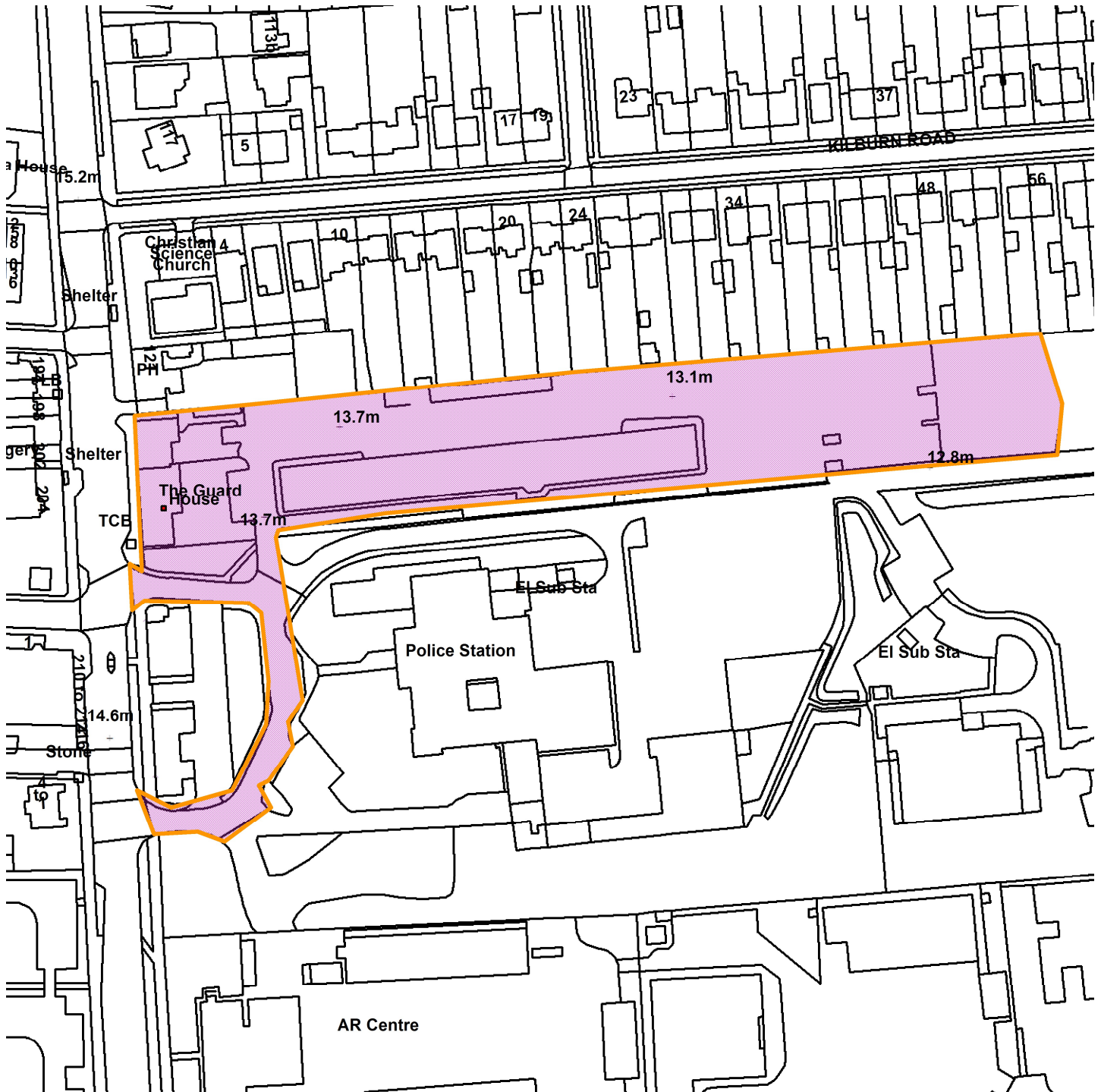
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19/00603/FULM

Frederick House, Fulford Road, York



GIS by ESRI (UK)



Scale : 1:1560

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	08 January 2020
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 16 January 2020      **Ward:** Wheldrake  
**Team:** Major and      **Parish:** Naburn Parish Council  
Commercial Team

**Reference:** 18/02552/FUL  
**Application at:** Naburn Locks York Road Naburn York  
**For:** Hydroelectric generation plant and associated infrastructure including turbine house, hydraulic channels, intake screen, crane pad and electrical substation  
**By:** Ewan Campbell-Lendrum  
**Application Type:** Full Application  
**Target Date:** 1 October 2019  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Naburn Lock is located on the River Ouse in a rural location to the south of Naburn village. The construction of the locks took place in 1757 and 1888 and has created an island upon which is located the workshops, stores and offices associated with the operation and maintenance of the lock. There was formerly a water mill on the island (constructed between 1813 and 1817) which fell out of use around 1955 and was demolished in 1958. The locks themselves are listed at Grade II (“Old and New Lock”). Directly to the east lies the Naburn Banqueting House, a vacant Grade II listed building, together with the lock keeper's house. Access to the site is along a single track road from Naburn Lane, which also serves the Naburn Lock caravan park, located to the east. Naburn Lock is accessible to members of the public and there is a car park and information board at the end of the access road.

1.2 Planning permission is sought for construction of a hydro electric generating plant together with associated infrastructure including a reconstructed weir on the western side of the island. The site forms a habitat for the ocean and river lamprey, both of which species are identified as being critically endangered species and forms a principal feeder area for the Humber Estuary Special Area of Conservation (SAC), Special Protection Area and RAMSAR site. Since submission the proposal has been amended in respect of the design of the proposed fish pass and the operation of the plant in order to address ecological concerns.

1.3 The proposal comprises two Archimedes screw turbines, a multi-species fish pass, a turbine house building, hydraulic channels, trash screening and access improvements. The scheme is expected to generate a peak power output of less than 500kW and an average annual energy production of 1.2 GWh. The applicant states that this is sufficient to power around 310 homes and provides an effective CO<sub>2</sub>e saving of around 620 tonnes per year. The intake would be situated within the island

bank just upstream of the weir, with water passing through coarse trash screening before arriving at the sluice gates and turbine house. The screw turbines would discharge into an outfall channel that re-joins the main river just downstream of the weir. A new fish pass will be constructed along the left-hand side of the hydropower scheme.

1.4 Above ground, a powerhouse and substation would be erected with intake and outlet channels formed below ground level. The turbine house will consist of a building measuring 11 x 8.1 x 5.2 (maximum height) metres above bank level. A grid connection would be formed by a new length of buried cable from the turbine house to the nearest suitable connection pole. The cable will be buried in order to minimise visual impact. The applicant estimates that the hydro-electric generating station with the turbine and associated infrastructure, would have a minimum life of 40 years.

## **2.0 POLICY CONTEXT**

### **2.1 Development Plan Allocation:**

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodzone 2 GMS Constraints: Floodzone 2

Listed Buildings GMS Constraints: Grade 2; Old And New Lock, Naburn

### **2.2 Publication Draft Local Plan (2018):**

CGP15A

Development and Flood Risk

CYGB1

Development within the Green Belt

CYHE4

Listed Buildings

CYNE6

Species protected by law

## **3.0 CONSULTATIONS**

INTERNAL:-

PUBLIC PROTECTION



3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned in terms of the provision of a Construction Environmental Management Plan, the provision of appropriate noise insulation and the remediation of any land contamination.

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY)

3.2 The Council's Ecologist initially objected to the proposal by reason of the impact upon the habitat of the ocean and river lamprey, both of which species are critically endangered, with associated impacts on the Humber Estuary RAMSAR site. However, it is considered that the revised application details and Habitats Regulations Assessment are acceptable and that the habitat of other protected species within the wider area such as the Sand Martin and the Tansey Beetle would not be adversely affected by the proposal subject to any permission being satisfactorily conditioned to address the design of the proposed fish pass, the habitat of the sand martin and to provide for submission and approval of a biodiversity and habitat Construction Environmental Management Plan (CEMP).

## EXTERNAL:-

### NABURN PARISH COUNCIL

3.4 Naburn Parish Council do not object but make the following comments: The land on the island where the proposed plant is to be sited belongs to the Canal and River Trust, Naburn Parish Council assume the Trust are in negotiations with the applicant about their proposals.

According to the plans, the plant will cover a large part of the island up to the banks of the river and the Parish Council are concerned about safeguarding the lock and weir during construction and long term.

Although the proposed construction period is anticipated to be carried out during the summer (because of low river levels) the Parish Council are concerned about the through construction traffic effecting the caravan site. Summer is their busiest time and the safety of their visitors is paramount to their business.

### CANAL AND RIVER TRUST

3.5 The Canal and River Trust object to the proposal on the grounds that the proposal would give rise to significant harm to the openness of the Green Belt and it may lead to land instability and pollution during the course of construction. Concern is also expressed in terms of the impact of the proposal upon setting of Naburn Banqueting House a Grade II Listed Building and the site of Naburn water mill, a Non Designated Heritage Asset.

## ENVIRONMENT AGENCY

3.6 The Environment Agency initially objected to the proposal on the grounds that the proposed works lie within the functional flood plain of the River Ouse and the submitted Flood Risk Assessment fails to demonstrate that the proposal would not increase flood risk to other properties in the locality. The objection was subsequently withdrawn subject to any permission being satisfactorily conditioned.

## OUSE AND DERWENT INTERNAL DRAINAGE BOARD

3.7 The Ouse and Derwent (2008) Internal Drainage Board raise no objection in principle to the proposal but express concerns in respect of the impact of the proposal on water flows upstream of the proposed apparatus and the potential for increases in flood risk to Naburn village.

## NATURAL ENGLAND

3.8 Natural England initially objected to the proposal on the grounds that it could give rise to substantial harm to the habitat of the river and ocean lamprey both of which are critically endangered species by virtue of the engineering works themselves, alterations to the levels of dissolved oxygen in the river and the use of a fish pass design whose efficacy in these circumstances is untested. Following submission of further detailed information to address the issues the objection was withdrawn subject to any permission being conditioned to require monitoring of dissolved oxygen levels at critical points within the river within the environs of the scheme and to require that the scheme is closed down temporarily in the event that levels drop to unsafe levels.

## 4.0 REPRESENTATIONS

4.1 Six letters of objection have been received in respect of the proposal. The following is a summary of their contents:

- The adverse impact on the river Ouse system as a salmon fishery with far reaching effects on the rivers Ure and Swale - both short and long term disruption would occur.
- noise and vibration connected to the building works would result in fish building up down river and being predated by seals
- The scheme would channel all of the river flow during low water conditions resulting in salmon being more prone to predation, stress and infections
- No indication of how the facility would be connected to the National Grid
- There would be heavy construction traffic along a narrow access road and disruption to the caravan park
- Loss of parking to anglers during construction phase
- Flood water would reduce the operational window of the scheme
- Security fencing would be visually intrusive
- The turbines have no screens fitted to prevent fish and other wildlife being drawn into the system

- No cost benefit analysis to demonstrate that the project is worthwhile
- The impact of the scheme on anglers has not been assessed
- Concern that oxygen levels in the river will be reduced
- There has been little assessment of the impact on otters and other wildlife
- The consideration of the adjacent SSSI has not been suitable or sufficient
- Concerns are raised regarding the stability and maintenance of the island during construction works
- The time frame of six months for construction is optimistic – the installation of a single turbine at Linton Lock has taken two years
- Consultation with other interested parties (e.g. Yorkshire Dales River Trust), Ure Salmon Group and Salmon and Trout Association) should take place
- The negatives of the scheme do not outweigh the positives
- The proposed fish pass facilities are inadequate
- Loss of amenity and access to anglers
- Reduction in the area available for fishing resulting in loss of income from reduced membership and permits.

## **5.0 APPRAISAL**

### **5.1 KEY ISSUES**

- Assessment of harm to the Green Belt
- Whether the development is inappropriate development
- Impact on the openness of the Green Belt
- Impact on Green Belt purposes
- Impact on the visual amenity of the area
- Impact on the setting of Naburn Banqueting House, a Grade II listed building
- Impact on the habitat of species protected by law
- Impact on flood risk
- Impact on the functionality of the coarse fishery
- Impact on the amenity of neighbouring properties
- Consideration of very special circumstances

### **POLICY CONTEXT**

National Planning Policy Framework (NPPF) (February 2019)

5.2 The revised National Planning Policy Framework (NPPF) (2019) was published on 19 February 2019 and sets out the Government's planning policies and how these are expected to be applied.

5.3 The NPPF states that 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. The NPPF sets out in paragraph 11 the presumption in

favour of sustainable development which applies unless the application of specific policies in the NPPF indicate development should be restricted.

## Development Plan

5.4 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 mainly 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.

## Saved Policies of the Yorkshire and Humber RSS

5.5 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 (10km) 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. The application site is located approximately 7km from the city centre and thus is considered to fall within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

## Publication Draft Local Plan (2018)

5.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted to the Planning Inspectorate for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. It is a material consideration in the determination of planning applications. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

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

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

#### Development Control Local Plan (2005)

5.8 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 and can be afforded very little weight in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

#### ENVIRONMENTAL IMPACT ASSESSMENT

5.9 Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 includes development for hydroelectric energy production and indicates that if the installation is designed to produce more than 0.5 megawatts, the proposal needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required.

5.10 A separate application for a screening opinion as to whether an Environmental Impact Assessment would be required (application ref: 18/01606/EIASN), was submitted in July 2018. Such applications fall to be considered against the relevant criteria set out in the Regulations, which are the characteristics of the development, the location of the development and the characteristics of impacts of the proposed development, along with any cumulative impacts. The proposal envisages the construction of a turbine house containing two Archimedes Screws, a substation a moveable weir boom and associated supply channels within the existing alignment of the western channel of the River Ouse and within the western section of the island. The nature of the impact would be restricted to a localised area around the location of the existing weir. However, it was considered that the proposal, by virtue of its nature and design, would require formal Environmental Impact Assessment by virtue of potential impacts upon the ecology of the river system.

5.11 Subsequently, a revised application (Ref: 19/00029/EIASN) was submitted which sought to address concerns in respect of the potential biodiversity impacts. Having assessed the scheme against the relevant criteria set out in the Regulations, it was considered that the amended details were such that the previously identified concerns in respect of the design of the fish pass and the associated impact of the scheme upon the habitat of the ocean and river lamprey had been satisfactorily addressed, and that an Environmental Impact Assessment would not now be required.

#### PRINCIPLE OF DEVELOPMENT - ASSESSMENT OF HARM TO THE GREEN BELT

## WHETHER THE DEVELOPMENT IS INAPPROPRIATE DEVELOPMENT

5.12 The application site lies within the general extent of the York Green Belt and therefore Section 13 (Protecting Green Belt Land) of the NPPF is applicable. Policy GB1 of the 2018 Draft Plan is also relevant.

5.13 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. Para 144 goes on to state 'substantial weight' should be given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate unless they fall within certain exceptions.

The exceptions are set in Paragraph 145 of the NPPF and are as follows:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

5.14 Paragraph 146 adds that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or

recreation, or for cemeteries and burial grounds); and  
f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

5.15 The proposal would involve the construction of a substantial concrete structure which would make a significant incursion into the western island, together with the erection of a single storey pitched roof brick building. The building would have a footprint of approximately 11 metres x 8.1 metres with an eaves height of 3.2 metres and a height to the ridge of 5.1 metres, and would house the generating equipment and switchgear associated with the scheme. As such, the proposal would consist of new built development together with engineering operations which in combination would not preserve openness, and thus would constitute inappropriate development which is, by definition, harmful to the Green Belt. It is necessary, therefore, to consider whether there are any very special circumstances that would outweigh the harm to the Green Belt.

#### IMPACT ON THE OPENNESS OF THE GREEN BELT

5.16 The NPPF advises that the essential characteristics of Green Belts are their openness and permanence. There is no definition of 'openness' in the NPPF, but it is commonly taken to mean the state of being free from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site.

5.17 Policy GB1 of the 2018 Draft Plan states that permission will only be granted for development in the Green Belt where:

- i. the scale, location and design of development would not detract from the openness of the Green Belt;
- ii. it would not conflict with the purposes of including land within the Green Belt; and
- iii. it would not prejudice or harm those elements which contribute to the special character and setting of York.

There are unresolved objections to Policy GB1 that will be considered through the examination in public of the Local Plan and therefore it should only be afforded limited weight in the decision making process for the purposes of this application.

5.18 The proposed development would reduce the openness of the Green Belt through the introduction of additional built development and associated engineering works into an area which largely retains its rural character. However, the proposed engineering works and the associated building housing the generating equipment and associated switchgear site are low level and, in the context of the riverside location, are not considered to be unduly intrusive from a visual amenity perspective. In addition, the immediate area is already characterised by man-made structures, engineering works and low rise buildings associated with Naburn Lock, thus the proposal would not be located within a wholly natural environment. Indeed, the island

itself is not a natural feature and was formed by the construction of the construction of the lock channels in 1757 and 1888. Clearly, the number of locations where such a facility could be located are limited and the proposed location adjacent to Naburn Weir, the associated island and Naburn Lock has a uniqueness which is not repeated elsewhere in the locality. As such, it is considered that the impact of the proposal on the openness of the Green Belt would be significantly mitigated by the characteristics of the locality and its setting adjacent to Naburn Lock.

## IMPACT ON THE GREEN BELT PURPOSES

5.19 The proposed development would be inappropriate development in the Green Belt. It would lead to limited harm to the openness of the Green Belt. Paragraph 134 of the NPPF goes onto state that the Green Belt serves five purposes. These are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.20 The primary purpose of the York Green Belt is to safeguard the special character and setting of the historic city as referred to in Policy YH9C of the RSS and Policy SS2 of the 2018 Draft Plan, although limited weight can only be attached to the latter. It is considered that the proposal would constitute a form of encroachment into the open countryside and thus would conflict with one of the purposes of the Green Belt as set out in the NPPF. However, the proposal would consist of relatively low level works along the already heavily engineered river bank, forming an incursion into the island which, by its nature, is isolated from the surrounding countryside by the river and water channels associated with Naburn Lock. Thus, once again, any harm arising from encroachment would be mitigated by the unique characteristics of the site and its setting. It is not considered that there would be any conflict with any of the other four purposes of including land in the Green Belt.

## IMPACT ON THE VISUAL AMENITY OF THE AREA

5.21 The site is already characterised by significant engineering works including the buildings, man-made water channels, lock gates, bridges and walkways associated with Naburn Lock, in addition to the Naburn Banqueting House and Lock Keepers Cottage which front onto the river. The pitched roof building that would house the generating equipment would be functional in appearance and would have smaller footprint than the existing workshops, stores and offices which already occupy the island site. With an eaves height of 3.2 metres and an overall height of 5.1 metres, it is not considered that the building would appear unduly intrusive in relation to other buildings in the vicinity of the site. Having regard to the character of the surroundings,



it is considered that the building and associated engineering works would be absorbed into the landscape without appearing unduly incongruous or intrusive.

5.22 The site is visible from the public footpath which runs along the western bank of the river Ouse, to the south of Acaster Malbis. However, from this location, the visual impact, which would in part be mitigated by bankside vegetation, would be seen against the backcloth of the existing buildings which already occupy the island and the riverbank beyond. In the wider landscape, there is also significant tree cover which would provide screening from longer views of the site from the surrounding area. Given the characteristics of the locality, it is concluded that the impact of the proposal on the visual amenity of the area would be acceptable.

## IMPACT UPON THE SETTING OF NABURN BANQUETING HOUSE

5.23 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a statutory duty for Local Planning Authorities to have special regard to the safeguarding of the setting of listed buildings. 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 adds that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The NPPF goes on to state, in paragraph 195, that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.24 Naburn Banqueting House is listed at Grade II as an example of the work of the early 19th Century Greek Revival Architect J T Atkinson. It was built as a corporate entertainment venue for the Ouse Navigation Company in 1822 closely to the banks of the River Ouse with gently sloping well landscaped pasture fields to the rear. The locks themselves form a pair and are separately listed at Grade II. They were constructed in 1757 and 1887-89 with timber and cast-iron gates, bridges and winding gear. Each lock has ashlar sides with two pairs of plank gates surmounted by walkways. To each bank there is a cast-iron swing bridge.

5.25 The application site is removed from the Hall and separated from it by the buildings of Naburn Lock itself. Whilst the proposals envisage the construction of substantially engineered structures they are relatively low rise and do not readily

appear within the public view points of the Hall or its wider context. Likewise, the locks themselves are considered to be sufficiently separated from the proposed works for there to be no impact on their setting. In assessing the proposal, officers have considered the impact on the significance and setting of these heritage assets, as required by paragraph 193 of the NPPF, and have judged that there is no harm. As it is considered there is no harm, there is no requirement to weigh the proposal against the public benefits as outlined in paragraph 196 of the NPPF.

## IMPACT UPON THE HABITAT OF A SPECIES PROTECTED BY LAW

5.26 Central Government Planning Policy as outlined in paragraph 175(b) of the NPPF indicates that development on land within or outside of a Site of Special Scientific Interest which is likely to have an adverse effect upon it either singly or in combination with others will not normally be approved except where the benefits of the development in that location would clearly outweigh both its likely impact upon the features of the site that make it of Special Scientific Interest along with the network of Sites of Special Scientific Interest more generally. Paragraph 177 of the Framework also makes clear that the presumption in favour of sustainable development does not apply where the project would have a significant effect upon a habitats site either alone or in combination unless an appropriate assessment has concluded that the project would not adversely affect the integrity of the habitats site. Policy G12 of the Publication Draft Local Plan (2018) indicates that in order to conserve York's biodiversity any development where appropriate should maintain and enhance the banks, flood plain and setting of the River Ouse for its biodiversity and historic landscape whilst maintaining water quality and protecting the aquatic environment.

5.27 The development relates to a feeder area for the Humber Estuary Special Area of Conservation (SAC), Special Protection Area, and RAMSAR site and forms a habitat for the ocean and river lamprey, species which have been identified as critically endangered and are internationally protected. The provisions of the 2018 Conservation of Habitats and Species Regulations therefore apply. The local planning authority is the duly competent authority within the terms of the Regulations to secure their effective implementation. The onus of the Regulations and associated case law further leads to a requirement that the applicant demonstrate an absence of harm from the development and not simply that the harm may be mitigated. The applicant has submitted a screening assessment of compliance for the proposed apparatus and notably the proposed lamprey pass in order to comply with the requirements of the Regulations. The submitted report contends that the existing eel/lamprey pass at Naburn Lock is sufficient to allow for both species of lamprey to pass up river to spawn and to forage. The applicant initially proposed the use of a lariner fish pass with lamprey tiles whose effectiveness in the current situation had not been established. The application details were subsequently amended to allow for the construction of a more traditional type of vertical slot fish pass for which data as to its effectiveness is readily available.

5.28 The precise details of the proposed lamprey pass have now been put forward

subject to final design adjustments to fit the precise location for the apparatus. Sufficient information has now been forthcoming for it to be judged that the revised design of fish pass would not lead to demonstrable harm to the lamprey habitat and that the requirements of the Habitats Regulations can be complied with. Further concerns also arose in respect of the impact of the proposed apparatus upon river flow and the associated volumes of dissolved oxygen. In common with other species significant falls in volumes of dissolved oxygen will cause harm to the river and ocean lamprey leading to them ceasing to use the area for spawning and foraging. The applicant has submitted further information in terms of dissolved oxygen levels. The operation of the apparatus can be tailored to ensure that if dissolved oxygen (DO) levels within the immediate area become critical then it can be shut down in order to allow levels to recover. However, a condition is not required in this respect as the Environment Agency have confirmed that impacts on DO levels will be addressed as part of a water abstraction/transfer licence.

## IMPACT UPON FLOOD RISK IN THE LOCALITY

5.29 Central Government Planning Policy as outlined in paragraph 163 of the NPPF indicates that where determining planning applications for development, local planning authorities should ensure that flood risk is not increased elsewhere. At the same time Policy ENV5 of the Publication Draft Local Plan (2018) indicates that new development should not be subject to unacceptable flood risk and shall be designed in such a way that mitigates against present and future flooding events.

5.30 The application site lies within Flood Zone 3(a) being the functional flood plain of the River Ouse and is subject to flooding on a regular basis. Thus the proposal needs to be assessed against the Sequential and Exception tests as set out in paragraphs 158 – 161 of the NPPF. The aim of the Sequential test is to steer new development to areas with the lowest probability of flooding. However, as set out in National Planning Practice Guidance, it is considered that the proposed development falls within the category of “Essential utility infrastructure” (which includes electricity generating power stations), which has to be located in a flood risk area for operational reasons. Thus it is not considered necessary to carry out the Sequential test in this case. For the Exception test to be passed it must be demonstrated that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

5.31 It is considered that the proposal is a water compatible engineering project, which has wider sustainability benefits through the production of electricity from a sustainable source. The Environment Agency initially objected to the proposal on flood risk grounds but subsequently withdrew their objection following the submission of a revised Flood Risk Assessment which indicated that all waste materials and soils generated through the construction process would be removed from site. This would ensure that there is no displacement of flood flows downstream of the application site and thus should not increase flood risk elsewhere. In addition the power plant would

be located above 9.37 AOD with the surrounding building designed to withstand inundation. Thus it has been demonstrated that the proposal will be safe for its lifetime, without increasing flood risk elsewhere. These measures could be secured by condition attached to any planning permission. For these reasons, it is considered that the proposal passes the exemption test.

#### IMPACT UPON THE FUNCTIONALITY OF THE COURSE FISHERY:

5.32 Concerns have been raised by objectors in respect of the impact of the proposal upon the functionality of the coarse fishery operating from the environs of the site. The Environment Agency also initially objected to the proposal on the grounds that insufficient information was forthcoming in terms of the effectiveness of the proposed fish pass both on its own and in combination with the existing fish pass. Concerns were also expressed in terms of the impact of the proposed apparatus on water flows with consequent impacts upon fish health and viability. The objection has subsequently been withdrawn following on from agreement in respect of a minimum water flow through the apparatus and associated fish pass. Water flow rates through the apparatus and associated fish pass can then be controlled via the relevant section of the water resources licencing regulations.

#### IMPACT ON THE AMENITY OF NEIGHBOURING PROPERTIES:-

5.33 Central Government Planning Policy as set out in paragraph 127 f) of the NPPF indicates that planning policies and decisions should create places that give rise to a high standard of amenity for all existing and future users. Policy D1 (Place making) of the Publication Draft Local Plan 2018 indicates that planning decisions should make clear reference to securing the residential amenity of neighbouring properties.

5.34 Concerns have been expressed in respect of noise generated by the construction of the proposed development together with noise generated by the development in operation. The site is relatively remote from other residential properties, however the natural topography in the surrounding area could accentuate any impact from noise. Nevertheless, the level of noise generated subject to any permission being conditioned to secure best practise, would not be such as to give rise to any material harm to amenity. Similarly, the operations would largely be undertaken at or close to water level within a building and so any noise impact in respect of the active operation would be modest.

5.35 Concerns have also been expressed by neighbours in respect of the impact of the use of the access road to the adjacent caravan site by construction traffic and other vehicles associated with the development. However, the legal rights relating to the use of the road are a civil matter and not a material consideration in terms of determining the present application.

#### CONSIDERATION OF VERY SPECIAL CIRCUMSTANCES

5.36 Paragraph 147 of the NPPF states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. With specific reference to "Meeting the challenge of climate change", paragraph 154 of the NPPF states that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve the application if its impacts are (or can be made) acceptable. Policy CC1 of the Publication Draft Local Plan indicates that proposals for renewable energy developments will be supported and encouraged within the City providing they consider impacts upon nature conservation sites and features including those afforded statutory protection.

5.37 The applicant has submitted a detailed statement outlining that the proposed development would generate some 5MW of energy capacity which would be sufficient to generate sufficient power for around 310 houses over a period of one year. As such the proposal would make measurable contribute to the reduction of the UK's carbon energy use. Whilst the proposal represents a relatively small scale project, the potential contribution to energy supply at a local level is not insubstantial. Central Government guidance in the NPPF makes it clear that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve the application if its impacts are (or can be made) acceptable. With this in mind, and bearing in mind the nature of the location and characteristics of the application site and that no other harms have been identified arising from the proposal, it is considered that very special circumstances exist that clearly outweigh the harm to the Green Belt.

## **6.0 CONCLUSION**

6.1 Naburn Lock is located on the River Ouse in a rural location to the south of Naburn village. The construction of the locks (in 1757 and 1888) has created an island upon which is located the workshops, stores and offices associated with the operation and maintenance of the lock. Directly to the east lies the Naburn Banqueting House, a Grade II listed building, together with the lock keeper's house. The locks themselves are separately listed at Grade II. Planning permission is sought for construction of a hydro electric generating plant together with associated infrastructure on the western bank of the island.

6.2 The proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt and should not be approved other than in very special circumstances. However, it is considered that the impact of the proposal on the openness of the Green Belt would be mitigated by the characteristics of the locality and its setting adjacent to Naburn Lock. Whilst the proposal represents a relatively small scale project, Central Government guidance in the NPPF makes it

clear that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve the application if its impacts are (or can be made) acceptable. With this in mind, and bearing in mind the nature of the location and characteristics of the application site, it is considered that very special circumstances exist that clearly outweigh the harm to the Green Belt. No other harms have been identified arising from the proposal.

6.3 In terms of the previously identified significant concerns relating to harm to local habitat and biodiversity the proposal has been amended in detail and additional information provided which allows for the previously identified harm to the habitat of the ocean and river lamprey to be effectively mitigated and harm to the habitat of the sand martin and tansy beetle avoided altogether subject to any permission being properly conditioned. Subject to conditions, no objections are raised by the Environment Agency or Natural England, or by the Council's Ecologist. In accordance with paragraph 154 of the NPPF relating to renewable energy projects, it is considered that the impacts of the proposal can be made acceptable through the imposition of appropriate conditions, and the application is recommended for approval.

## **7.0 RECOMMENDATION:** Approve

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

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

Revised drawings received on 24 October 2019

2350002E - General layout

2350003E - Access and construction

2350006E - Ground plan and sections

2350007E - Elevations

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

3 Construction Environmental Management Plan (Construction)

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.

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.

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

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

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

[public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

#### 4 Construction Environmental Management Plan (Biodiversity and Habitat)

No development shall take place (including ground works and vegetation clearance)

until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the local planning authority. The CEMP shall include (but not be limited to) the following;

- a) Risk assessment of potentially damaging construction activities,
- b) The location and timing of sensitive works to avoid harm to biodiversity features,
- c) Details of pollution prevention measures to avoid harm and potential mortality to fish species from pollution,
- d) Details of biosecurity measures to stop the spread of waterborne diseases and Invasive Non-Native Species,
- e) Details of methods of working to avoid the risk of harming fish species during dewatering.
- f) Responsible persons and lines of communications.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to avoid an adverse impact on interest features (Lamprey) of the Humber Estuary SAC, and to protect the biodiversity of the river corridor in accordance with the aims of paragraph 175 of the National Planning Policy Framework 2019.

Reason: To protect the amenity of the locality

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

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

6 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local



planning authority for approval.

These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first operates and shall be appropriately maintained thereafter.

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

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

7 Except in case of emergency no construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

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

8 No removal of hedgerows, trees or shrubs that may be used by breeding birds, or vertical river side bank that may be used by Sand Martins (southwest facing banks above the concrete capping and pressed metal piling), shall take place between 1<sup>st</sup> March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction.

NOTE: All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

9 No development shall take place until an ecological design strategy (EDS) addressing Sand Martin (*Riparia riparia*) artificial nest creation has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following.

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- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 of the National Planning Policy Framework (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

10 Operation of the approved development shall not commence unless a vertical slot fish pass for the benefit of Lamprey, of a design approved by the Environment Agency National Fish Pass Panel, is installed and functioning. The fish pass shall be retained and maintained thereafter for the lifetime of the Hydro-electric Plant.

Reason: To ensure that operation of the hydroelectric generation plant does not have an adverse impact on a qualifying feature (Lamprey) of the European Site in line with the Conservation of Habitats and Species Regulations 2017 (as amended).

11 Where it is intended to create or re-instate semi-natural habitats, all species used in the planting proposals shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority. Where stands of Tansy plant (*Tanacetum vulgare*) are to be disturbed or removed, replacement plug planting or seeding shall be undertaken.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

12 The development shall be carried out in accordance with the submitted revised flood risk assessment (by Renewables First, dated February 2019) and the following mitigation measures it details; and also Drawing 'Ground Plan & Sections' (drawing number 23560006D, dated 03/2019):

- Electrical equipment is to be protected by being located above 9.37mAOD
- The powerhouse will be designed to flood and withstand inundation

These mitigation measures shall be fully implemented prior to occupation 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 impacts of flooding to the proposed development and future occupants

13 All spoil and arisings that are to be removed from the floodplain and disposed of so as to ensure that there is no loss of flood storage or raising of ground levels on site,

Reason: In order to ensure that there is no displacement of flood flows downstream of the application site.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (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:

- Sought submission of a detailed case for very special circumstances that would outweigh the harm caused by the proposal to the openness of the Green Belt.
- Sought clarification that the proposed lamprey pass design together with the volume of dissolved oxygen with the water arising from the operation of the plant would not harm the foraging and spawning habitat of the ocean and river lamprey a

critically endangered species of importance in securing the biodiversity of the Humber Wetlands SAC (Special Area of Conservation)

## 2. ENVIRONMENTAL PERMITTING

Advice to applicant from the Environment Agency

It is noted that the applicant is aware of the requirement to gain a Flood Risk Activity Permit. We are currently processing the flood risk activity permit application for the permanent works for this proposed development.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to maintain consultation with us regarding this.

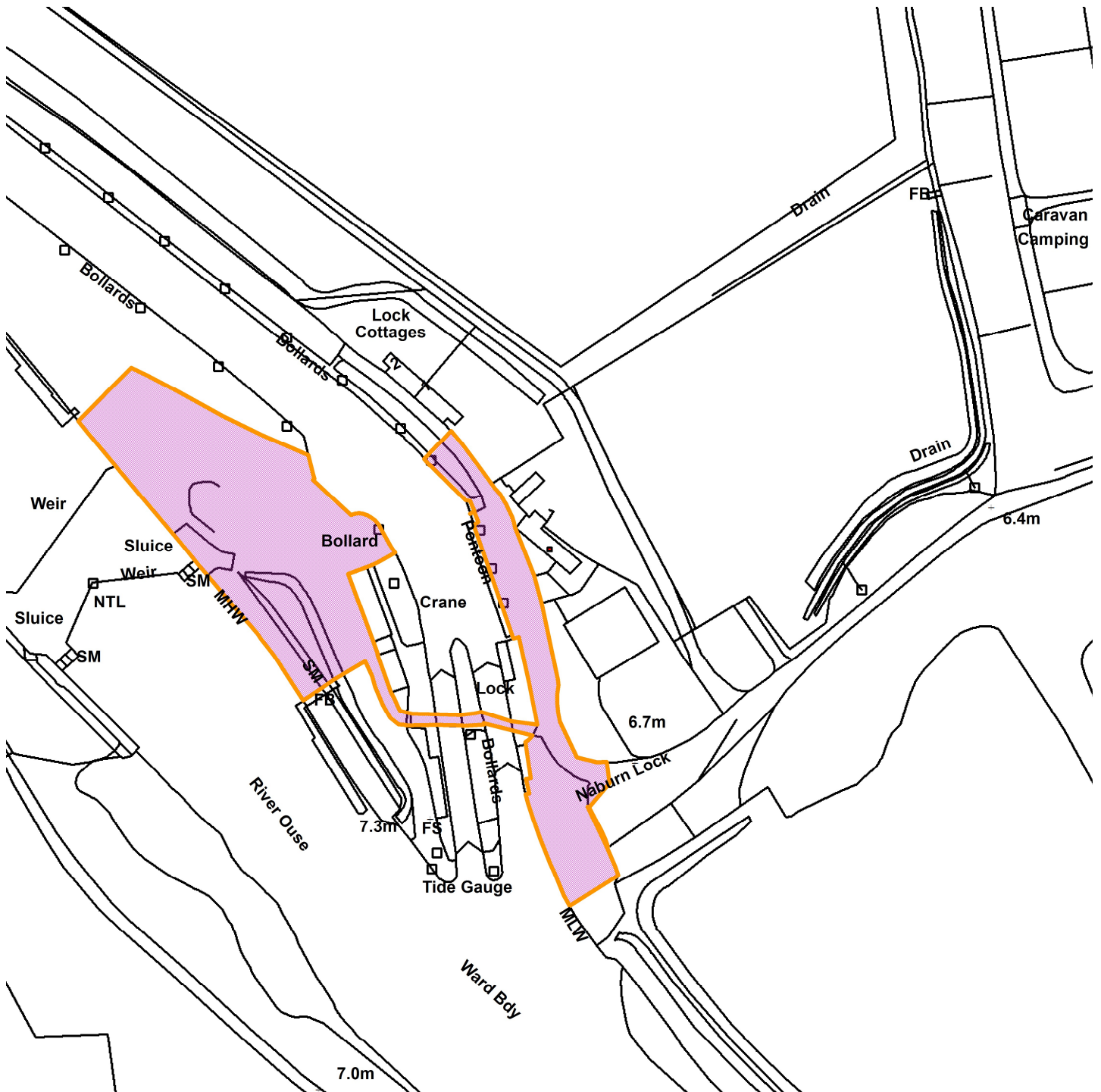
### **Contact details:**

**Case Officer:** Simon Glazier

**Tel No:** 01904 551322

18/02552/FUL

Naburn Locks, York Road, Naburn



Scale : 1:1590

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	08 January 2020
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 16 January 2020      **Ward:** Guildhall  
**Team:** East Area      **Parish:** Guildhall Planning Panel

**Reference:** 19/01467/FULM  
**Application at:** Proposed student accommodation site Eboracum Way York YO31 7RE  
**For:** Erection of 5 storey apartment building with basement comprising 62 residential units (Use Class C3), associated car parking and landscaping works.  
**By:** Tiger Developments Limited  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 31 January 2020  
**Recommendation:** Approve subject to Section 106

**1.0 PROPOSAL****APPLICATION SITE**

1.1 The application relates to a vacant site by the junction of Layerthorpe and the new link road; Eboracum Way. The site is classed as brownfield/previously developed and is in the urban area. In the Publication Draft Local Plan 2018 it is within the defined city centre and has no specific allocation.

1.2 There are a variety of buildings, in terms of their type and use in the surrounding area. To the north is 2-storey housing fronting Layerthorpe. To the east, on the opposite side of Layerthorpe is a 4 storey residential development and single storey industrial commercial uses. To the south, on the opposite side of Eboracum Way is a 2-storey building with retail at ground floor, residential above and a 5-storey hotel building. To the west, along Eboracum Way are commercial and residential developments of similar height to the hotel and the former gasworks site. The former gasworks site is subject to a current planning application for residential development ranging in height from 4 to 7 storey.

**PROPOSALS**

1.3 The application is for residential development, ranging in height between 3 and 5 storey. The building steps down to 3 storey where adjacent to the semi-detached housing along Layerthorpe and has car parking and ancillary storage at lower ground floor level. Vehicle access would be from Eboracum Way; the access point is already in-situ, being designed as part of the new link road. Roof-top plant is proposed as the low/zero carbon technology proposed for the building is air-sourced heat pumps.

1.4 The development would provide the following accommodation mix -

1-bed - 37

2-bed - 21

3-bed - 4

Affordable 12 (20%)

Total 62

Car parking 28 spaces

1.5 This is a revised scheme since the original submission; the scale of development and the number of dwellings has been reduced and the amount of car parking increased.

## 2.0 POLICY CONTEXT

2.1 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. 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.

2.2 Key relevant policies of the plan are as follows -

H2 Density of Residential Development

H3 Balancing the Housing Market

H10 Affordable Housing

GI6 New open space provision

D1 Place-making

D2 Landscape and Setting

CC1 Renewable and Low Carbon Energy Generation and Storage

CC2 Sustainable Design and Construction of New Development

ENV4 Flood Risk

DM1 Infrastructure and Developer Contributions



## 3.0 CONSULTATIONS

### INTERNAL

#### Archaeology

3.1 Due to the history of the site and anticipated ground conditions no conditions regarding archaeology will be required.

#### Design & Conservation

3.2 Officers asked for a reduction in scale of the building originally proposed. They are content with the revised scheme (now the building is predominantly 4-storey and the development would be less dominant over 119/121 Layerthorpe) and have suggested conditions to agree materials and architectural details.

#### Education

3.3 Demand arising from the scheme based on current multipliers and yield ratios are set out below. The primary spaces will be required to accommodate demand as a consequence of development of this site and the gasworks next door.

- Primary  
Tang Hall Primary – 3 places x £18237 = £54,711  
(Reconfiguration to provide additional teaching space)
- Secondary  
Archbishop Holgate – 1 place = £24987  
(Expansion works (part of a large expansion project for needs arising from new developments and local growth))
- Early years  
No contribution required for this relatively small yield in this particular area.

#### Highway Network Management

3.4 With regards the original scheme officers raised issue with the low amount of car parking spaces proposed and the proposed installation of a lay-by for servicing.

3.5 The concerns were that inadequate car parking would result in residents trying to park elsewhere, on local streets, where the capacity is insufficient and parking pressure already significant. It was asked that the lay-by for servicing be omitted. Servicing should take place within the site; there is space for it to be accommodated and this would provide a safer environment for cyclists.

3.6 In the revised scheme the car parking provision has been increased (45%) and the lay-by omitted; with access for servicing and turning on-site.

### Housing

3.7 The Housing Policy and Strategy Team supports the application. The affordable housing proposed as part of this application demonstrates a site specific approach taken by the applicant and is expected to provide good quality homes to local households in housing need. The proposed dwellings will have a ramped access, therefore be accessible, meet nationally described space standards and have proportionate car and cycle parking.

3.8 20% affordable housing is proposed. Usually this is split into 80% social rented and 20% discount sale tenures. For this application this has been applied with minor adjustment to enable the full affordable housing requirement to be delivered on-site, as detailed below.

12 dwellings for affordable rent - 4 intermediate / 8 social

1-bed x 8

2-bed x 3

3-bed x 1

3.9 Taking into account the scheme layout as a single block of apartments, it is not possible to transfer a freehold to a Registered Provider for discount sale. To minimise service charges and enable Registered Providers to manage communal areas themselves, it is instead proposed to allocate the ground floor apartments as affordable housing. This gives Registered Providers the best opportunity to provide the affordable homes on site, if this is not achieved, then other tenure options to achieve affordable apartments and / or an affordable housing contribution would be made in the form of an off-site commuted sum paid by the developer.

### Public Protection

3.10 Recommend conditions to cover construction management, remediation, to ensure suitable internal noise levels and for provision of electric vehicle charging facilities.

3.11 With regards electric vehicles the provision of 2 spaces on site is required with provision/infrastructure made to secure 2 further spaces in future, subject to demand. The spaces will need to be exclusively for the use of electric vehicles.

EXTERNAL

### Environment Agency

3.12 No objection. Ask for the Environment Agencies standing advice to be applied on flood risk given that part of the site is within Flood Zone 2.

#### Guildhall Planning Panel

3.13 Object due to the scale of the proposed building and its form. The proposed building is in a prominent position on a corner and in its present form is dominant and overbearing. It should be a maximum of four storeys. The form of the building is boxlike. The outside space is small but the panel commend the inclusion of trees.

#### Historic England

3.14 No objection in principle. Asked for analysis that demonstrates that the building will not impinge on views of the Minster from East Parade. This is a key view as identified in the Central Historic Core Conservation Area Appraisal (as shown on pages 69 and 76). This issue has been addressed; the building would be outside of the view corridor.

#### Yorkshire Water

3.15 Company records indicate a newly laid 160mm water main runs through the red line site boundary. No obstruction must encroach within 3 metres on either side of the main i.e. a protected strip width of 6 metres. Alternatively it may be possible to divert the water main; this would need to be undertaken at the expense of the developer.

### **4.0 REPRESENTATIONS**

4.1 Two objections have been received (from residents of houses to the north). The grounds for objection are -

#### Impact on residential amenity

- Loss of light, overlooking and over-dominant over houses to north.
- Type of dwellings proposed (apartments with very limited outside amenity space) unsuitable.

#### Design

- Unsuitable scale next door to 2-storey houses.
- Loss of views of the Minster from neighbouring houses.

#### Car parking

- Inadequate car parking will mean neighbours may be unable to park outside their homes.

## 5.0 APPRAISAL

### KEY ISSUES

5.1 The key issues are as follows -

- Principle of the proposed use
- The amount of proposed development and housing size / type
- Design
- Residential amenity
- Highways
- Sustainable design and construction
- Flood Risk
- Drainage
- Archaeology
- Public Protection
- Planning obligations (education and open space)

### PRINCIPLE OF THE PROPOSED USE

5.2 The NPPF is, in principle, supportive of the proposed residential development, because the site is within the urban area, vacant and is classed as 'brownfield land'. In particular NPPF paragraph 118 states planning decisions should "give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land".

### THE AMOUNT OF PROPOSED DEVELOPMENT AND HOUSING SIZE / TYPE

5.3 Paragraph 118 sits within section 11 of the NPPF which relates to making effective use of land. This section also has policy on achieving appropriate densities. In this respect it advises as follows -

"Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) local market conditions and viability;
- c) the availability and capacity of infrastructure and services - both existing and proposed ... and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places".

5.4 In addition, NPPF paragraph 123 seeks to optimise the use of land to help meet identified need for housing.

5.5 The 2018 DLP policy H2 establishes target densities of 100 units per hectare in the city centre and 50 in the urban area, although subject to the caveats that these can be adjusted to relate to local context and character and that higher densities can be supported within 400m of high frequency public transport corridors.

5.6 Policy H3 of the 2018 DLP states proposals for residential development will be required to balance the housing market by including a mix of types of housing which reflects the diverse mix of need across the city. This includes flats and smaller houses for those accessing the housing market for the first time, family housing of 2 to 3 beds and homes with features attractive to older people. The Local Plan policies are city wide and it is expected that housing density, type and mix will differ from site to site.

5.7 The site is some 0.23ha and 62 dwellings are proposed. This would be a density of approx. 270 dwellings per hectare. In terms of mix 60% of the dwellings would be 1-bed.

5.8 At this site the high density and accommodation mix is accepted on the following grounds –

- viewed in the context of the other developments along Eboracum Way, the scheme would respect the area's prevailing character;
- the site is in a sustainable location;
- the scheme would include 20% affordable housing;
- it is anticipated the apartments proposed would help meet identified need as explained in policy H3, by providing dwellings for those accessing the housing market for the first time.

5.9 Affordable housing policy is for 20% on brownfield sites, with a target split of 80% rented (80% social/affordable & 20% intermediate) and 20% for sale as set out in policy H10. 20% affordable is proposed although this would all be for rent and grouped at ground floor level. This proposal has been arrived at as a consequence of discussions with registered affordable housing providers and is the preferred option in terms of deliverability due to service charges.

## DESIGN

5.10 NPPF paragraph 127 states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and landscaping;
- c) are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- d) establish or maintain a strong sense of place;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space); and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.11 The scheme responds to the urban grain and constraints of the site. It would be setback from Layerthorpe to respect the building line to the north, and allows for landscaping between the building and the street; the massing is varied to respect neighbouring housing and the larger scale of existing (and proposed) developments along Eboracum Way. Where the rear elevation looks toward neighbouring gardens the apartment layout and design have been considered to reasonably minimise overlooking and the dominance of the building.

5.12 The building will be predominantly of red brick to relate to the prevalent material for buildings in the locality. The horizontal emphasis within the building allows for the variation in building heights to not look forced. The perceived bulk of the building will be reduced by the cranked building line, the glazed/recessed staircase on the (longer) Eboracum Way elevation which would sub-divide the brickwork, and the considerable setting back of the top floor.

5.13 The scheme makes efficient use of the site, being viable to the extent it can provide 20% affordable housing without being over-development. Whilst it would be of larger scale than the neighbouring 2-storey housing, the site is in an area which is undergoing regeneration and change, typically with blocks of buildings that exceed 4-storey in height.

5.14 Amenity and the prevention of crime and disorder are covered in the following section.

## RESIDENTIAL AMENITY

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

### Impact on daylight and sunlight

5.16 A daylight / sunlight assessment has been submitted which identifies an impact on sunlight to the ground floor level of the apartments opposite and to 1/3 of the kitchen window (rear elevation) at 119 Layerthorpe. There is no adverse effect in terms of levels of daylight. The impact is deemed to be acceptable as the affected elevations are north-west facing and consequently already receive limited direct

sunlight.

### Overlooking

5.17 The revised plans address overlooking by making the following changes –

- Windows omitted from upper floors on side elevation which faces north east, towards 119 and 121 Layerthorpe.
- On the rear elevation (north east) living room windows have been angled so they face away from rear gardens. Bedroom windows are around 24 m away from the neighbouring plot and this is considered reasonable to respect privacy.
- Any external amenity spaces stop short of the building edge to prevent any perceived overlooking.

### Whether the building would be over-dominant / over-bearing

5.18 The 4-storey section of the building would be around 24 m from the rear garden to the north east (119 Layerthorpe) and 26 m from the apartments on the corner of Layerthorpe and Hallfield Road (these apartments are closer to the footpath compared to the proposed building). The windows on the proposed building's rear elevation have been angled to focus outlook from living rooms away from residential gardens. As such and as this building is of a comparable massing to the apartments opposite and recent development along Eboracum Way it is considered that this building would be in character with the area and not over-dominant.

### Amenity for users of the proposed building

5.19 The layout comprises a central corridor with apartments on each side. All rooms will have adequate outlook and daylight. A condition regarding secure by design measures can be applied to control access points into the building and ensure that cycle parking in the basement will be secure.

## HIGHWAYS

5.20 The NPPF states that in assessing applications for development, it should be ensured that:

- Includes appropriate opportunities to promote sustainable transport.
- Safe and suitable access to the site can be achieved for all users.
- Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.21 The NFFPF also states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the

residual cumulative impacts on the road network would be severe. Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations”.

### Sustainable travel

5.22 A draft travel plan which targets an estimated modal split of approx. 30% of trips by private car has been submitted. This is an appropriate target and works with the car parking provision which is at approx. 45%. These levels are reasonable, considering national policy on promoting sustainable travel and car parking standards (the latter requiring account of the accessibility of the site, the type of dwellings proposed, public transport availability and local car ownership levels).

5.23 Securing the travel plan and realising its targets will be subject to a planning condition. This will secure monitoring and the implementation of schemes to encourage sustainable travel.

5.24 Cycle parking facilities will be within the basement. The plans show 66 spaces, 52 of these use Sheffield type stands – the council’s preferred option. A condition will be applied to ensure this area is secure and to agree precise detail of cycle parking – to include Sheffield type stands.

5.25 Electric vehicle charging facilities will be provided in accordance with Public Protection’s current standards. The provision/trigger for the installation of extra spaces can be accommodated in the Travel Plan. Car club will be encouraged as future residents will be offered incentives to join.

### Impact on the network / access / servicing

5.26 The vehicle access into the site was inserted at the time of the construction of the road (because development of this site was anticipated and this final section of Eboracum Way was delivered by the applicants who were also responsible for the



Travelodge opposite). Officers are content with the access and that it can facilitate servicing associated with the development. The amount of traffic anticipated with this development is not anticipated as having a material impact on the capacity of the road network.

## SUSTAINABLE DESIGN AND CONSTRUCTION

5.27 A planning condition will require the buildings to be compliant with DLP policies CC1 and CC2 which require exceedance of Building Regulations with regards to energy efficiency and carbon emissions (through the use of low/zero carbon technology or building efficiency). Building Regulations require that the Dwelling Emission Rate (DER) does not exceed the Target Emission Rate (TER). Local policy requires a 28% reduction.

5.28 The application is supported with a strategy as to how local requirements would be met, these demonstrate building efficiency which would exceed Building Regulations and air-sourced heat pumps are proposed as a source of low/zero carbon energy.

## FLOOD RISK

5.29 Flood Zone 2 briefly encroaches onto the site at the north end (outside of the proposed building footprint) and for a small area on the west side. The fundamental of flood risk policy in the NPPF is to ensure developments are safe from flood risk and do not increase flood risk elsewhere. A sequential test should be passed for residential development in areas at risk of flooding.

5.30 The sequential test is considered passed as the proposed building would be almost entirely outside of Flood Zone 2.

5.31 The proposed development will be safe from flood risk. The levels of accommodation are at lowest 13m AOD which is over 2m above the 1 in 100 year (plus climate change) level of 10.98 AOD. There would be safe access and egress during such flood events from Layerthorpe.

5.32 There would be no increased flood risk elsewhere as there would be no loss of flood water storage space and a condition will require no increase in surface water run-off.

## DRAINAGE

5.33 The drainage strategy for the site is in accordance with the NPPF and national guidance, which promote sustainable drainage systems (SUDS). Surface water run-off will be reduced by 30% (compared to the existing rate) and there will be separate surface and foul water connections. The required run-off rate will be achieved using storage tanks underground. The site could not drain directly into a

watercourse and soakaways are unsuitable due to ground contamination.

## ARCHAEOLOGY

5.34 Two gasholders were previously accommodated on this site and the land where the Travelodge is now located. Due to the previous groundworks no conditions are proposed in respect of archaeology.

## PUBLIC PROTECTION

### Land contamination

5.35 An extent of site remediation was undertaken when the hotel was constructed on the opposite side of Eboracum Way. However due to the proposed end use, the time that has passed since previous remediation and potential impact from off-site sources there will be further investigation and if necessary preparation / implementation of a remediation strategy that will be secured through condition.

### Noise

5.36 A noise assessment has been undertaken which provides a glazing specification that will ensure internal noise levels are compliant with British Standards / World Health Organisation recommendations. The specification will be required through condition.

### Construction management

5.37 Due to the proximity of neighbouring dwellings a CEMP can be secured through condition to manage noise and vibration and to keep the highway clean.

### Electric vehicle facilities

5.38 NPPF paragraph 110 states developments should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.39 In accordance with Public Protection comments the provision of 2 spaces on site, exclusively for EV will be secured through condition. There will be capacity to secure 2 further spaces, subject to demand, in future. The provision/trigger for the installation of the extra spaces can be accommodated in a Travel Plan, which would be secured through condition.

## EDUCATION

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

5.41 Draft local supplementary planning guidance explains how the need for extra education spaces are determined and the relevant planning obligations. At this site it has been determined that primary and secondary spaces are required. Based on this guidance, as updated in 2019, for 25 qualifying dwellings, this equates to 1 secondary space and 3 primary spaces. The schools and projects are detailed in section 3. The contribution would be secured by S106.

## OPEN SPACE

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

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

5.44 The site is within the Guildhall Ward and the Heworth Ward is adjacent. Both have a shortfall in all types of open space based on the Open Space and Green Infrastructure Update (September 2017). The 2017 update details existing supply only. There are some allocated sites for open space in the 2018 DLP but no current city wide strategy to provide adequate space (or improve existing sites), either for the existing or envisaged local population.

5.45 The Open Space and Green Infrastructure Update 2017 (referred to in the local policy) requires 40.5 sq m of amenity space for each 1 bed dwelling and 17.8 sq m towards sports. Typically it is not possible to accommodate such on urban sites (there is not the space). Alternatively an off-site contribution can be requested. This must though meet the (CIL) regulations – be necessary to make the development acceptable, reasonable in scale and kind, and directly related to the development. National guidance on the use of planning obligations is also to be mindful of viability and the need to prioritise/incentive development of brownfield land.

5.46 In this case an obligation towards off site facilities has not been requested. This is because no area or local project (for new or to improve existing) has been identified (by officers in sports/open space) where a contribution could be used for facilities that would be reasonable and directly related to the development.

## 6.0 CONCLUSION

6.1 The NPPF (paragraph 118c) states planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. In this case the presumption in favour of sustainable development applies, as set out in paragraph 11, which states planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

6.2 The scale and type of development proposed would be in character with the immediate area's prevalent character and would have no undue impact on neighbour's amenity. The housing type proposed, including 20% affordable, is broadly in accordance with identified need and the design will be compliant with the sustainable construction targets in the 2019 DLP.

6.3 Technical issues and the promotion of sustainable design and construction and sustainable travel can be secured through condition. A S106 agreement is also necessary to secure the affordable housing and provision of education facilities to meet identified need. Approval is recommended.

## 7.0 RECOMMENDATION:

That delegated authority be given to the Assistant Director of Planning and Public Protection to APPROVE the application subject to

- i. ii. the conditions set out in this report; and
- ii. completion of a s106 agreement to secure the following obligations –
  - Affordable housing (20% on site)
  - Education
    - £54,711 to be used at Tang Hall Primary (reconfiguration to increase capacity)
    - £24,987 to be used at Archbishop Holgate (extension to increase capacity)
  - Car club – first occupants to be offered £200 towards membership/use

## RECOMMENDED CONDITIONS

1 TIME2 Development start within three years

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

Revised drawings received 23.12.2019

Drawings 170097 3DR -

B1 20001K

00 20002M, 01 20003K, 02 20004K, 03 20005K, 04 20006J, 05 20008J

EL 20100H, 2010H

SE 20200H, 20201G

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

- 3 LC1 Land contamination - Site investigation
- 4 LC2 Land contamination - remediation scheme
- 5 LC3 Land contamination - remedial works
- 6 LC4 Land contamination - unexpected contamination
- 7 NOISE7 Restricted hours of construction
- 8 Construction Management

Prior to commencement of development a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be strictly adhered to throughout the construction period of the development.

The plan shall provide for:

- Wheel washing facilities to prevent mud and detritus getting on to the public highway.
- Measures to control the emission of noise, dust and dirt during construction including appropriate measures;
- 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.
- A scheme for recycling/disposing of waste resulting from construction works.
- Measures to control noise during any piling of foundations (if required).
- Point of contact on site for enquiries.
- A complaints procedure. The procedure should detail how a contact number will

be advertised to the public, and procedure once a complaint had been received. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

Reason: To protect the amenity of the locality

#### 9 Separate foul and surface water drainage

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

Reason: In the interest of satisfactory and sustainable drainage.

#### 10 Surface water drainage

Peak run-off from the site shall be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas for the 1 in 1 year storm).

Storage volumes shall accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change.

Reason: To avoid increased flood risk, in accordance with NPPF paragraphs 163 and 165 and policy ENV5 - Sustainable Drainage of the Publication Draft Local Plan.

#### 11 Large scale details

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

- Plinth / ground level interface including car park grilles shown set in reveals
  - Windows - typical details of each type shown in context, to include metal window infill panels and balustrading.
  - Projecting balconies (to include soffit)
  - Angled feature bays
  - Roof level including parapet / guarding
  - Plant roof screening (it is expected this is finished in a way that relates to other materials on the building, such as the cladding panels or the exposed staircase)
  - Exposed soffits
  - Any permanently fixed equipment for servicing and maintenance (ladders, guarding etc). Note these will generally not be expected unless already on the
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permitted drawings or are not visibly intrusive.

Reason: In the interests of good design, in accordance with NPPF paragraph 127.

## 12 Materials

Samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction. The development shall be carried out using the approved materials.

A sample panel of the brickwork to be used on the building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of construction. The panel(s) 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: In the interests of good design and visual amenity, in accordance with the NPPF, paragraph 127.

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

## 13 Sustainable design and construction

The dwellings hereby approved shall achieve the following measures:

- At least a 19% reduction in Dwelling Emission Rate compared to the target fabric energy efficiency rates as required under Part L1A of the Building Regulations 2013).
- A maximum water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).
- A reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations.

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

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

## 14 Landscaping

The development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscaping scheme (taking into account the location of drainage attenuation proposed to rear of the building and following the strategy as shown on drawing 19052 CO LP 0 01 rev 1).

The scheme shall illustrate hard and soft materials, include a planting and maintenance schedule for the sedum roof, details of the soffit to the undercroft area and the number, species, height and position of trees and shrubs across the site. It shall also show how the pedestrian access ramp on the Layerthorpe side adequately connects with the public realm.

The hard elements of the approved landscaping scheme shall be implemented prior to occupation; the soft elements within a period of six months of the completion of the development.

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and residential amenity.

## 15 Secure by design

Secure by Design elements of the development shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation. The development shall be carried out in accordance with the approved details.

The details shall include means of access control and CCTV coverage to the main building entrances and basement storage areas, in particular CCTV coverage for the cycle parking area.

Reason: In the interests of good design, in accordance with NPPF paragraph 127.

## 16 Cycle storage

Details of the cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation. The development shall be carried out in accordance with the approved details.

The details shall include the number of spaces, the means for securing cycles (Sheffield stands or similar shall be the predominant means of securing cycles as illustrated on the cycle parking strategy drawing 20001), and the setting out of the



spaces (including confirmation of compliance with manufacturer's recommendations).

Reason: To promote sustainable transport in accordance with section 9 of the NPPF.

#### 17 Electric vehicle facilities

Before the occupation of the development, a minimum of 2 parking bays, which shall incorporate facilities for charging electric vehicles shall be provided on site. In addition, a minimum of 2 additional parking bays shall be identified for the future installation of additional Electric Vehicle Charging Points. Such additional bays shall be provided with all necessary cabling and groundwork to facilitate the addition of Electric Vehicle Charge Points in the future. The trigger for installation of additional facilities shall be detailed in the Travel Plan for the development.

Within 3 months of the first occupation of the development, an Electric Vehicle Recharging Point Management Plan shall be submitted to and approved in writing by the Council. The plan will detail the location and specification of the facilities, management, maintenance, servicing and access arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

#### 18 Travel Plan

The development shall be operated in accordance with the interim Travel Plan dated June 2019.

Following completion of the first residential travel survey (required once 50% of apartments are occupied) measures to ensure the target residential modal split is met for the lifetime of the Travel Plan shall be submitted to an approved in writing by the Local Planning Authority. These shall include measures for promoting and increasing awareness of electric vehicles and car club. The Travel Plan shall be implemented in accordance with the approved details.

Reason: To promote sustainable travel in accordance with NPPF section 9.

#### 19 Noise levels

The development hereby permitted shall as, a minimum, incorporate the acoustic performance requirements (glazing / ventilation specification) recommended in table 5 of the MZA Acoustics noise assessment (ref 1700283 dated July 2019).

Reason: In the interests of future resident's amenity, in accordance with NPPF paragraphs 127 and 180.

20 Basement Area

The basement area shall be used for ancillary storage only and shall not be converted into apartments/living accommodation.

Reason: To ensure adequate storage space for car parking, cycles and bins, and so future residents are reasonably protected from flood risk, in the interests of good design and residential amenity, and to reduce flood risk, in accordance with NPPF paragraphs 127 and 163.

**8.0 INFORMATIVES:**

**Notes to Applicant**

**1. LEGAL AGREEMENT**

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

**2. 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: advised on the revised plans required on visual and residential amenity grounds and with regards sustainable travel, and through the use of planning conditions and obligations.

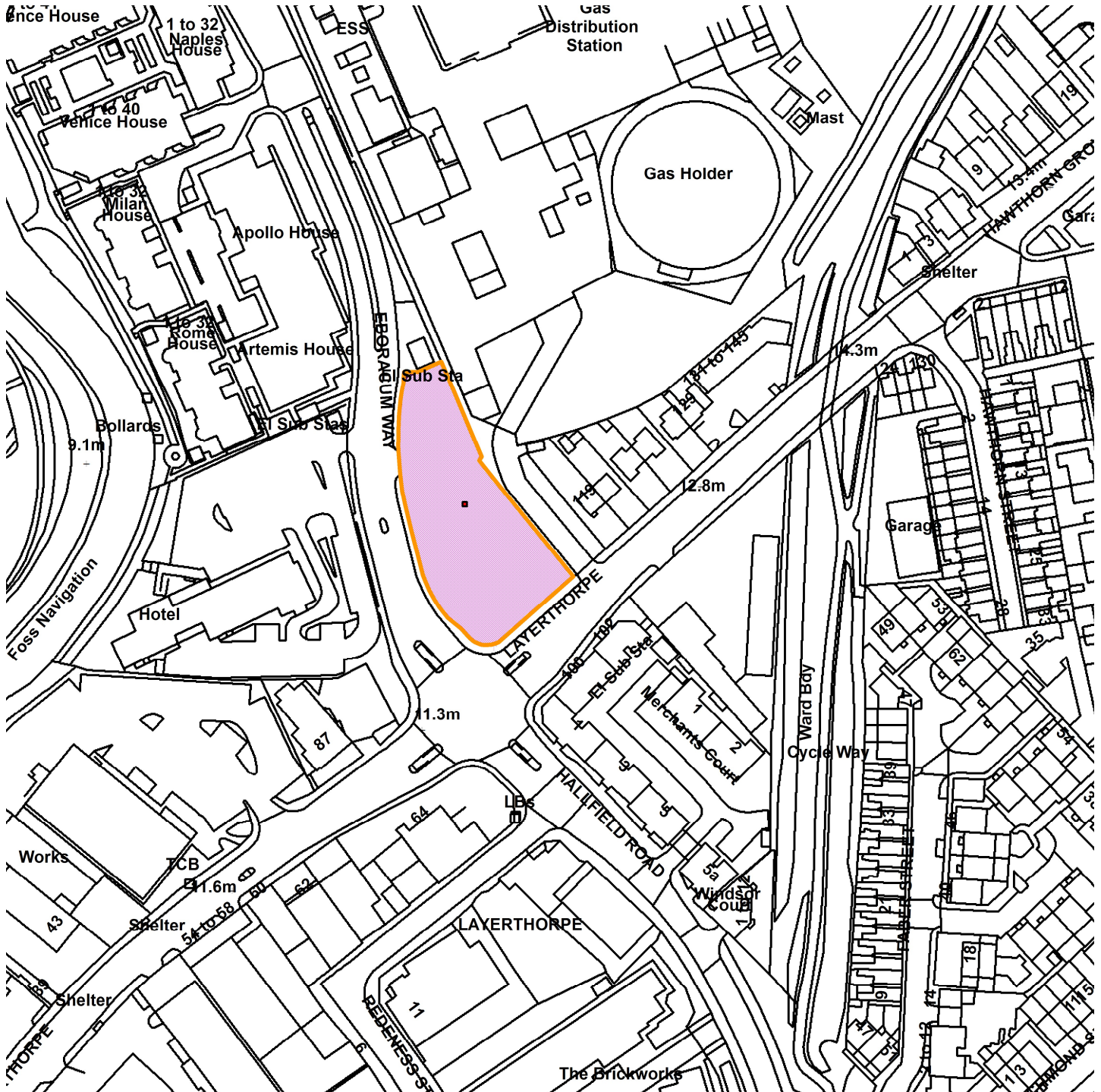
**Contact details:**

**Case Officer:** Jonathan Kenyon

**Tel No:** 01904 551323

19/01467/FULM

Proposed Student Accommodation, Layerthorpe, York



Scale : 1:1733

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	07 January 2020
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 16 January 2020      **Ward:** Hull Road  
**Team:** East Area              **Parish:** Heslington Parish Council

**Reference:** 19/02011/FULM  
**Application at:** Smith and Nephew Plc Research Centre Innovation Way  
Heslington York  
**For:** Change of use of former research centre (Use Class B1) to  
non-residential institution for academic use (Use Class D1)  
with associated external works  
**By:** University of York  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 19 December 2019  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The proposal seeks full planning permission to change the use of an existing building of 8,061 sq.m. floorspace, from its last use as a research and development facility (Use Class B1(b)) to use by the University of York for its York Management School and the Department of Electronic Engineering (Use Class D1).

1.2 The Management School would occupy the main building providing academic offices, seminar rooms, tutorial facilities and a café, with laboratory space for the Electronic Engineering Department occupying the annex following the insertion of a mezzanine. Some external works are included as part of the application, including insertion of double doors and changes to other entrances, provision of aluminium louvres, insertion of skylights, a glazed link connecting the main building and annex, and changes to the car parking and external space. Changes to existing landscape on site are proposed with removal of 33 trees across the site, particularly on the Church Lane frontage to increase light penetration the building and improve the sense of arrival, with replacement planting at the north-west entrance.

1.3 The site lies within Flood Zone 1. There is a woodland to the eastern and southern site boundaries that is protected by Tree Preservation Order 15/1986-W1 and W2. The site's planning history includes applications approved in 2009 for alterations to the access and car parking (09/01218/FULM) and a small rear extension approved (09/01080/FUL).

**2.0 POLICY CONTEXT**

2.1 City of York Draft Local Plan Incorporating the 4th set of changes – Development Control Local Plan. Approved April 2005:

GP1 – Design

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GP4b – Air Quality  
GP9 – Landscaping  
NE1 – Trees, Woodlands and Hedgerows  
T4 – Cycle Parking Standards  
E3b – Existing and Proposed Employment Sites

2.2 City of York Local Plan – Publication Draft February 2018 (Regulation 19 Consultation):

SS22 – University of York Expansion  
EC2 – Loss of Employment Land  
ED1 – University of York  
D1 – Placemaking  
D2 – Landscape and Setting  
GI4 - Trees and Hedgerows  
T1 – Sustainable Access  
ENV1 – Air Quality

### **3.0 CONSULTATIONS**

#### Public Protection

3.1 Request electric vehicle charging points in line with NPPF and CYC Low Emissions Strategy.

#### Highway Network Management

3.2 No objection to the development, subject to cycle parking provision being appropriate. Request conditions HWAY18 and HWAY19.

### **4.0 REPRESENTATIONS**

4.1 None received.

### **5.0 APPRAISAL**

5.1 The key issues are:

- Principle of development
- Loss of employment use
- Expansion of University provision
- Landscaping and trees

- Parking and highway safety
- Design and visual amenity

## POLICY CONTEXT

### Development Plan

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. For the purposes of section 38(6) the relevant development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. None of the adopted Neighbourhood Plans relate to this area.

The Saved RSS policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

### Draft Local Plan

5.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. However, such policies can be afforded very limited weight. Relevant policies are listed in section 2 of this report. The site is identified within the main urban area of the City on the Proposals Map accompanying the 2005 Draft Plan.

### Emerging Local Plan

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

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

5.5 Relevant policies are set out in section 2 of this report. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The site lies within the built-up area of the City outside the area allowed as Higher Education Use by the University on the Proposals Map that accompanies the 2018 Draft Plan.

5.6 The evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. The directly relevant evidence base comprises the Approach to the Green Belt Appraisal 2003, the Green Belt TP1 Addendum and Annex 3 York Green Belt Inner Boundary Section Descriptions and Justifications (2019), and the Employment Land Review 2016 and Update 2017.

5.7 Annex 3, in particular, considers the inner Green Belt boundary close to the application site and proposes that the inner boundary run along the eastern side of Windmill Lane and south of the application site in order to follow recognisable mix of built and natural features and mark the extent of urban area where it meets open land. The site is excluded from the general extent of the Green Belt and included within the main urban area of the City.

5.8 The Employment Land Review 2016 and Update 2017 assess the demand and supply of employment land in the City and project future needs and site allocation. They consider the need for B1b uses. The 2016 document acknowledges demand for sites next to research and knowledge assets, such as the University and references the Witty Review 2013 that evidences the role universities have had and are able to play in driving tangible business growth in their locality. There is demand for B1b uses and the allocation of site ST27 lying east of University Campus East has a high economic score.

### National Planning Policy Framework

5.9 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", 2019). Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking.



In decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

5.10 The relevant chapters of the Framework include 6 'Building a strong, competitive economy', 7 'Ensuring the vitality of town centres', 9 'Promoting sustainable transport', 12 'Achieving well-designed places' and 15 'Conserving and enhancing the natural environment'.

## PRINCIPLE OF DEVELOPMENT

5.11 The saved policies of the RSS establish a Green Belt around the City of York, but require the inner and outer boundaries to be set as part of an adopted local plan. The City has no adopted local plan at this time that defines inner and outer boundaries, but the 2018 emerging Local Plan seeks to establish these. The site lies at the outer edge of the City's main urban area and, consequently, adjacent to the draft inner boundary of the Green Belt. However, the application relates to an existing building that sits within an established developed and built up area that does not contribute to the openness or purposes of the City's Green Belt. As such, the site has not been considered to fall within the general extent of the York Green Belt, being excluded in the 2005 draft Local Plan Proposals Map and the 2018 emerging Local Plan Proposals Map. The evidence base supporting the emerging local plan supports the exclusion of this already developed area from the general extent of the Green Belt. As a result of the physical characteristics of the site and its policy background, it is considered that the site does not fall within the general extent of York's Green Belt and that, as such, Green Belt policy should not be applied.

5.12 The planning statement submitted with the application sets out the history of York Science Park, which was established in 1991 and comprises numerous buildings of varying size set within 21 acres adjacent to University of York Campus West. Its main aim was to stimulate technology transfer and business development within purpose built facilities, including small start-ups to large internal corporations. It has close links to the University, which is majority landowner, and plays a pivotal role in the technology transfer and business development for the City's knowledge, bioscience and IT base enterprises.

5.13 The application relates to one of the larger buildings within the Science Park that was built for and used by Smith and Nephew for research and development.

The company was one of the first to locate to the park and vacated the premises in 2017. The proposal would result in the loss of the current B1(b) use following occupation by the University of York's Management School and Department of Electronic Engineering.

5.14 The NPPF seeks to build a strong and competitive economy and seeks to ensure the vitality of town centres.

5.15 At a local level, the emerging Local Plan Policy EC1 seeks to provide for a range of employment uses, with a strategic site ST27 (21.5ha) allocated at the University of York Campus East to deliver B1(b) knowledge based businesses and research led science park uses. Draft Policy EC2 requires developers to provide a statement addressing the loss of employment by, firstly, demonstrating that the land or buildings are not viable and, secondly, that it would not lead to the loss of an employment site necessary to meet employment needs. Draft policy ED1 permits a range of specified higher education and related uses on the University's campuses identified on the Proposals Map, to ensure the continuing development of the University, including knowledge base businesses on campus and on the research led science park. The site falls outside the University's campuses as identified on the Proposals Map.

5.16 The evidence base document Employment Land Review 2016 and Update 2017 identifies the demand for land for B1b uses and the high economic score of the allocated expansion to the east of University Campus East for such uses.

5.17 The Planning Statement considers the policy position with regards the proposal. It highlights:

- the successful expansion of the University since formed in 1963,
- limited potential for development on either campus west or the science park,
- the commitment of the University to promoting high value innovation-led business locations,
- the length of time the application building has been empty (since 2017),
- the physical difficulty in occupancy of the current building other than by a single occupier due to its layout,
- the need to accommodate both the York management School and School of Engineering that cannot be met on existing campuses, and
- the employment generating opportunities offered by the proposal (around 250 staff).

5.18 The University is recognised as a major asset to the City and a significant employer itself. The site, whilst outside the east and west campuses allocated on the proposals map, is immediately adjacent and juxta-positioned between the two

and so is ideally placed for a use in connection with the University. The departments are currently located on the existing campuses, but in small spaces within other departments (Engineering within Physics and Management within Law), and so as well as providing suitable space for growth of these departments, space would also be released for the growth of Physics and Law.

5.19 Further information has been sought about any marketing exercise for the building. The agent has confirmed that he is not aware of any marketing exercise being undertaken by the owners prior to the building being offered to the University, but that other approaches had been made to other parties, all of whom were looking at prospects of alternative uses, such as a student housing scheme. He confirms that there is no identified demand for a unit of this size, which was a purpose built facility designed to accommodate a specific end user.

5.20 In light of the above, whilst the loss of employment uses should be avoided, it is considered that the circumstances of this particular building and proposal addresses the general policy objection to loss of employment.

## LANDSCAPING AND TREES

5.21 The NPPF seeks in paragraph 127 effective landscaping to create a visually attractive development that adds to the overall quality of the area and at paragraph 170 planning decisions that contribute to and enhance the natural and local environment. Draft Local Plan policies reflect these aims.

5.22 A protected woodland lies adjacent to the eastern and southern site boundaries. There are no plans to impact this woodland other than pruning works. It is proposed to remove 33 existing trees that are outside this woodland, many of which are within the landscaping strip along Church Lane. This is in order to improve the connection and permeability between the building and its frontage with the street; an element of replacement planting will be provided elsewhere within the site. It is acknowledged that the tree planting is dense and overshadows the building, some of the species are not worthy of retention and the higher category or larger trees are to be retained. It is also noted that these trees are currently not protected and so could be removed without consent.

5.23 The agent was approached about retaining tree T26, which is a large False Acacia that sits on the street frontage and the silver birches within the car parking area. The agent has confirmed that the retention of T26 is problematic as it is planted on a raised bund, which is required to be removed to create level access thereby affecting its root system and because it creates a dense barrier that overshadows the building. The silver birches are currently constrained by concrete

manhole rings which limits their future potential and therefore replacement planting in new tree pits is seen as a preferred approach.

5.24 On balance, taking into account the need to carry out works to unchecked landscaping, the retention of visually important trees and the replacement with suitable landscaping, the proposal would accord with the aims of national and local planning policy.

## PARKING AND HIGHWAY SAFETY

5.25 The NPPF encourages development that is sustainably located and accessible. Paragraph 108(b) requires that all development achieves safe and suitable access for all users. It advises at paragraph 109 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Further, paragraph 110 requires development to, inter alia, give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive. Policy T1 of the 2018 emerging Local plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

5.26 The site is within a sustainable and accessible location being within walking and cycling distance of Campuses East and West and close to public transport routes between the campuses and the City Centre. Increased pedestrian access to the building is proposed, including onto Church Lane (to the café) and via the glazed link to the annex building. The existing vehicle accesses from Church Lane would be retained and reused. The northern entrance leads to the main car park for staff and students, with the southern access for delivery vehicles. Car parking is proposed to be reduced from 244 spaces to 147 spaces to allow for the increase in usable public space and public realm enhancements. Further details of cycle parking is required to cater for the number of likely students, which could be covered by condition. Overall, the proposal would accord with national and local planning policies.

## DESIGN AND VISUAL AMENITY

5.27 Chapter 12 of the NPPF places great importance on good design to create better places to live and work. In particular, paragraph 127 of the NPPF states that planning decisions should ensure that development, inter alia, adds to the overall quality of the area, is visually attractive and has a high standard of amenity for existing and future users. This advice is reflected in Draft Local Plan policies GP1 of the 2005 Draft Local Plan and D1 of the 2018 Draft Local Plan.

5.28 The proposal is supported by a Design and Access Statement, which sets out the proposals in detail and includes a sustainability statement. The latter statement refers to the substantial energy savings that the conversion of the building would allow compared to the continued operation of the existing building, with the target being BREEAM very good. As part of this BREEAM assessment, the submitted ecology report and flood risk assessment both seek to achieve credits through mitigation measures put in place during construction and conversion works.

5.29 The physical changes proposed to the existing building as part of its re-use largely involve internal alterations, but there are also external changes to the exterior elevations of the building and its associated curtilage. New detailing is proposed to match the design of the existing building. Replacement soft and hard landscaping and new street furniture is proposed, which would improve the appearance of the site and be sympathetic to the context of the science park. Therefore, the proposal would create a well-designed environment that is suitable for the proposed uses but also congruous with the local surroundings.

## 6.0 CONCLUSION

6.1 The proposal relates to the re-use by the University of York of an existing B1b research and development building on York Science Park adjacent to University of York Campus West. It has been vacant for around 2 years. The re-use is considered to be acceptable despite the loss of a straight employment use, given that the new occupier is a major employer, that alternative allocation of B1b land is proposed as part of the emerging local plan adjacent to Campus East to meet the City's needs, that there is limited capacity on the existing campuses and that the building was built for a single user. Whilst established trees would be removed, none are protected, some larger trees are to be retained on the roadside frontage and replacement planting is proposed. The site is sustainably located and accessible, though further details of cycle parking are required. There would be no harm identified to the visual amenity of the surrounding area.

## 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:

2017-199-0051 Proposed Location Plan dated 13.8.19

2017-199-0052 Proposed Site Plan dated 13.8.19

2017-199-0070 Proposed GA Ground Floor Plan dated 13.8.19

2017-199-0071 Proposed GA First Floor Plan dated 13.8.19

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2017-199-0072 Proposed GA Second Floor Plan dated 13.8.19

2017-199-0075 Proposed Elevations dated 8.8.19

2017-199-9100 Rev.A Landscape Proposals General Arrangements dated 4.7.19

TPP01 Tree Protection/Removal Plan dated 9.8.19

SAN-BWB-DDG-XX-DR-D-500-S1 P2 Proposed drainage alterations dated 13.6.19

SAN-BWB-DDG-XX-DR-D-506-D2 T1 Drainage details dated 25.6.19

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

3 The development hereby approved shall be carried out in full accordance with the Arboricultural Method Statement contained in the Arboricultural Survey Report Revision A (August 2019) by Smeedon Foreman, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the protected woodland and those trees to be retained as part of the scheme.

4 The landscaping scheme shown on approved drawing 2017-199-9100 Rev.A Landscape Proposals General Arrangements dated 4.7.19 shall be implemented within a period of six months of the building coming into use. Any trees or plants which die within a period of five years from the completion of the development, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area.

5 The development hereby approved shall be carried in full accordance with the conclusions and recommendations of the Ecology Report ref.037-19 RE01 V1 (dated 15.8.19) by bl-ecology, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that there is adequate consideration to and protection of biodiversity during works to the building and site.

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

Reason: In the interests of highway safety.

7 Details of secure and covered cycle parking within the site shall be submitted to and approved in writing by the Local Planning Authority and thereafter provided prior to the building coming into use. These areas shall not be used for any purpose other than the parking of cycles.

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

8 Before occupation of the development, 8 Electric Vehicle Recharging Points shall be provided in a position and to a specification to be first agreed in writing by the Council (active provision). In addition, a minimum of 8 additional parking bays should be identified for the future installation of additional Electric Vehicle Charging Points. Such additional bays should be provided with all necessary ducting, cabling and groundwork to facilitate the addition of Electric Vehicle Charge Points in the future, if required (passive provision). The locations of these additional bays should also be agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Management Plan that will detail the management, maintenance, servicing and access arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

Notes:

- Electric Vehicle Charging Points should incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle. The exact specification is subject to agreement in writing with the council.
- Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this.
- All electrical circuits/installations shall comply with the electrical requirements in force at the time of installation

## **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  
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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:

- Further confirmation sought about marketing of building;
- Further details sought about implications for University of provision of further departmental accommodation;
- Request for retention of large tree on site frontage and smaller birches within the car park.

**Contact details:**

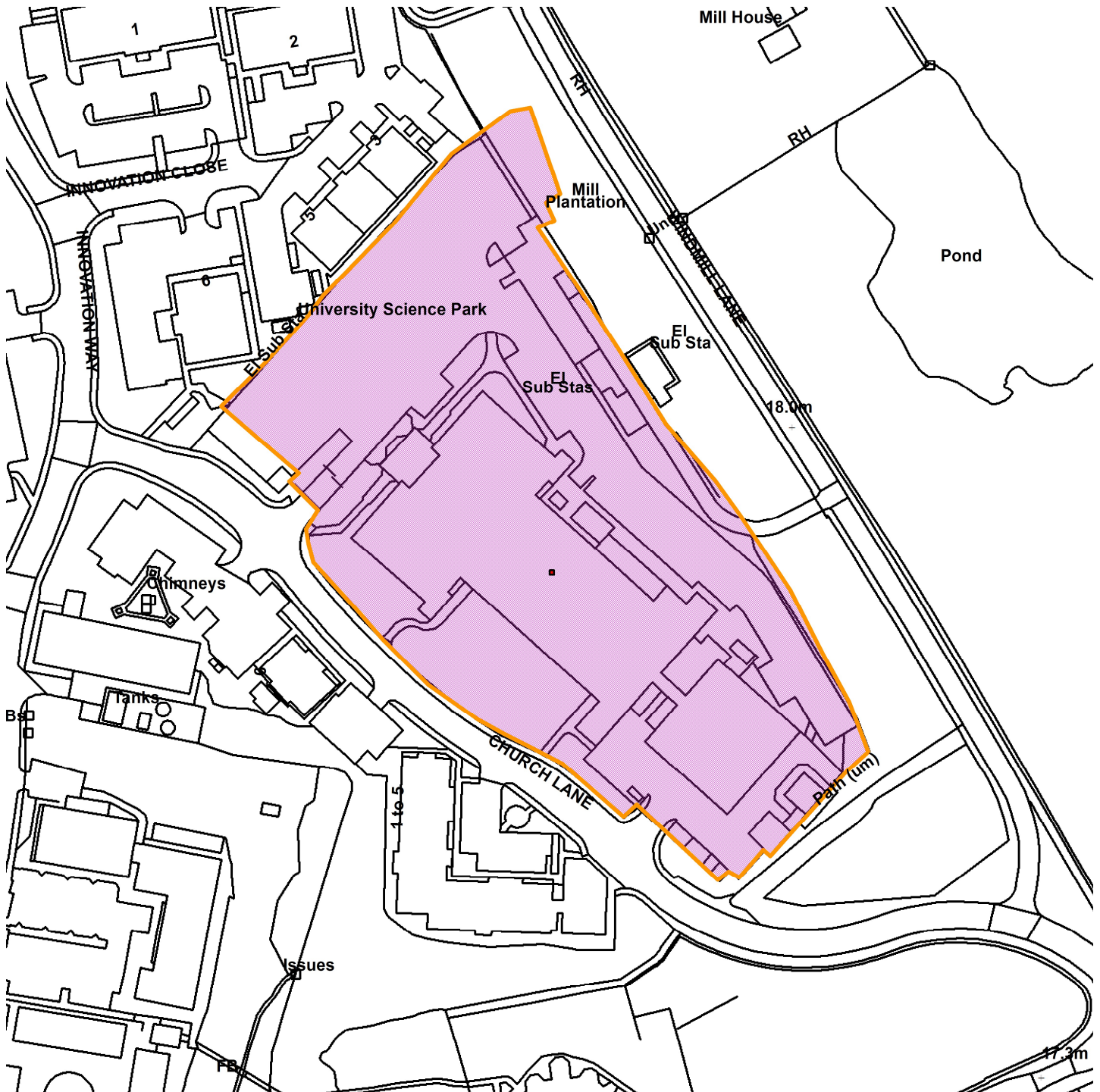
**Case Officer:** Hannah Blackburn

**Tel No:** 01904 551325



19/02011/FULM

Innovation Way, Heslington, YO10 5DF



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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	08 January 2020
<b>SLA Number</b>	

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