



Notice of a public meeting of

Planning Committee

To: Councillors Reid (Chair), Derbyshire (Vice-Chair), Boyce, Ayre, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Galvin, Looker, Richardson, Shepherd and Warters

Date: Thursday, 27 October 2016

Time: 4.30 pm

Venue: The George Hudson Board Room - 1st Floor
West Offices (F045)

AGENDA

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 25 October 2016**

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 3 - 16)

To approve and sign the minutes of the meeting of the Planning Committee held on Thursday 15 September 2016.

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 **5pm on Wednesday 26 October 2016**. 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 Officers for the meeting, on the details at the foot of this agenda.

Filming or Recording Meetings

Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (whose contact details are at the foot of this agenda) in advance of the meeting.

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

4. Plans List

This item invites Members to determine the following planning applications:

a) Clifford's Tower, Tower Street, York, YO1 9SA (16/01642/FUL)
(Pages 17 - 52)

Erection of visitor centre at base of motte, cafe unit on roof deck, installation of new staircase, tower floor, walkways, balustrading, roof-deck and restoration works. [Guildhall Ward] [Site Visit]

b) Naburn Marina, Naburn Lane, Naburn, York YO19 4RW
(16/01558/FUL) (Pages 53 - 70)

Replacement garage/workshop building (revised scheme).
[Wheldrake Ward] [Site Visit]

- c) **St Peters Boat House, Westminster Road, York (16/01325/FUL)**
(Pages 71 - 100)
Demolition of boathouse and construction of replacement boathouse, extension of boat repair block to accommodate sports facilities and amenities, extension of steps to river. [Clifton Ward] [Site Visit]
- d) **Former Unit A1, Parkside Commercial Centre, Terry Avenue, York (15/02321/FULM)** (Pages 101 - 136)
Erection of 97 bedroom hotel. [Micklegate Ward] [Site Visit]
- e) **Naburn Lock Caravan Park, Naburn Lock Track, Naburn, York (16/01853/FUL)** (Pages 137 - 146)
Use of the land for the siting of 15 touring caravans / camping pitches. [Wheldrake Ward] [Site Visit]
- f) **York Designer Outlet, St Nicholas Avenue, York, YO19 4TA (16/01483/FUL)** (Pages 147 - 158)
Change of use of part of car park to 12 hole artificial all weather putting course. [Fulford and Heslington Ward] [Site Visit]
- g) **Land To The North Of Avon Drive, Huntington, York (16/01073/OUTM)**
(Pages 159 - 184)
Erection of 67 dwellings. [Huntington/New Earswick Ward]
5. **Any other business which the Chair considers urgent under the Local Government Act 1972.**

Democracy Officers:

Name: Louise Cook/Catherine Clarke (job-share)

Contact Details:

- Telephone – (01904) 551031
- E-mail louise.cook@york.gov.uk
catherine.clarke@york.gov.uk

(When emailing please send to both email addresses)

For more information about any of the following please contact the Democratic Services Officers 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 جا سکتی ہیں۔ (Urdu)

 **(01904) 551550**

PLANNING COMMITTEE**SITE VISITS****TUESDAY 25 OCTOBER 2016**

Time	Site	Item
10:00	Minibus leaves Memorial Gardens	
10:15	St. Peters Boat House, Westminster Road	4c
10:55	Naburn Lock, Naburn Lock Track	4e
11:15	Naburn Marina, Naburn Lane	4b
11:35	York Designer Outlet	4f
12:10	Parkside Commercial Centre, Terry Avenue	4d
12:45	Clifford's Tower, Tower Street	4a

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City of York Council

Committee Minutes

Meeting	Planning Committee
Date	15 September 2016
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Boyce, Ayre, Cullwick, Cuthbertson, D'Agorne, Dew, Funnell, Galvin, Looker, Cannon (Substitute) and Brooks (Substitute)
Apologies	Councillors Doughty, Richardson, Shepherd and Warters

27. Site Visits

Application	Reason	In Attendance
Oliver House, Bishophill Junior	As objections had been received and the officer recommendation was to approve	Councillors Cannon, Cullwick, Cuthbertson, Dew, Galvin and Reid

28. Declarations of Interest

At this point in the meeting, members were asked to declare any personal, prejudicial or pecuniary interests that they might have in the business on the agenda.

Councillor Brooks declared a personal non prejudicial interest in plans item 4b (Oliver House, Bishophill Junior) as she was a member of the Executive when agreement for the sale of land was made.

Councillor Ayre declared an interest in plans item 4b (Oliver House, Bishophill Junior) as he had been a member of the Executive when the sale of land was agreed and was still a member of the Executive. He stated that he did not feel comfortable taking part in the decision and left the table and took no part in the discussion or vote on this item.

Councillor Reid declared a personal and prejudicial interest in plans item 4a (Yorwaste, Harewood Whin, Tinker Lane, Rufforth) as the Council's Director on the Yorwaste Board. She

left the room for consideration of this item and Councillor Derbyshire (Vice Chair) took the chair for this item.

Councillor D'Agorne declared a personal non prejudicial interest in plans item 4a (Yorwaste, Harewood Whin, Tinker Lane, Rufforth) as a member of Cycling England and York Cycle Campaign.

29. Minutes

Resolved: That the minutes of the meeting held on 18 August 2016 be approved as a correct record and then signed by the chair.

30. Public Participation

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

31. Plans List

Members considered the following reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

32. Yorwaste, Harewood Whin, Tinker Lane, Rufforth, York (16/00357/FULM)

Members considered a major full application by Yorwaste Ltd for the construction of a waste transfer station with associated ancillary buildings, hard standings, car parking and alterations to access.

The Committee had previously considered this application at their meeting on 12 May 2016 and had resolved to grant planning permission for the proposed development subject to the conclusion of a Section 106 Agreement. The draft Section 106 agreement included provision for a cycle track running along the frontage of the site with the B1224 Wetherby Road. Members noted that the applicant had subsequently sought to have this requirement re-considered in terms of the requirements of Section 122 of the CIL Regulations, which the

provisions of Section 106 Agreement are required to meet, as another cycle route running to the north of the site had now been constructed and was in use.

A hard copy of the annexes to this agenda item, which had been omitted in error when the agenda was originally printed, were circulated to Members for their information. These comprised the original committee report presented to the 12 May meeting, the officer update from that meeting and a minute extract of that meeting.

Mr Geoff Derham, Group Operations Director for Yorkwaste, had registered under public participation in case members had any questions to ask him at the meeting. No questions were asked.

Members noted that, as there was already alternative provision in place, there was no need for the requirement for a cycle track cycle track running along the frontage of the site with the B1224 Wetherby Road.

Resolved:

That the application be approved subject to the conditions listed in the report considered at 12 May 2016 meeting, the conclusion of a Section 106 Agreement to include the matters referred to in the Minute of 12 May 2016 meeting but without the requirement for the provision of a cycle way along the B1224 Wetherby Road frontage of the site and subject to the conditions set out in the minute of 12 May 2016 meeting.

Reason:

Further re-examination of the requirement for a road side cycle track in consultation with Highways and PROW officers along with Rufforth and Knapton Parish Council indicates that it would not comply with the statutory tests for acceptable planning obligations set out at bullet points a) and c) of Regulation 122 of the CIL Regulations 2010. Officers do not consider that the removal of this obligation from the proposed Section 106 Agreement affects the planning balance of this planning application or that it should otherwise affect the resolution of the 12 May 2016 meeting.

**33. Oliver House, Bishophill Junior, York YO1 6ES
(15/02645/FULM)**

Members considered a major full application by McCarthy & Stone Retirement Lifestyles Ltd for the demolition of the existing building and erection of Retirement Living Housing for the elderly with associated communal facilities, landscaping and car parking.

The Chair reported that she had received a marketing leaflet from McCarthy & Stone and several emails from residents in relation to this application and advised that she had forwarded these onto the planning case officer.

Officers provided a comprehensive update. They advised that paragraph 4.31 of the report should read “18.5 % developer profit ...” and not 18% as stated and informed Members of the following amended and additional conditions.

- Condition 2 - A revised drawing had been supplied and therefore condition 2 needed amending to incorporate it.
- Condition 5 – wording should be amended to read at the beginning “Prior to construction above foundation level a landscaping plan shall be submitted to and approved in writing by the LPA which shall illustrate.....”
- Condition 6 - Detail has been submitted in respect of items b) c) and e) of this condition 6 and it is recommended that those items be deleted from the condition.
- Condition 20 should at the same time be amended to read “The premises shall be used for Retirement Housing (Category 2) for a primary occupant aged 60 years or over....” The reason should also be amended to remove the reference to Later Living.
- Additional Conditions - In view of further detailed comments from Highway Network Management it was recommended that conditions be added to cover: the junction between the internal access road and the highway; reinstating the kerbing and footway after removal of existing vehicular crossings not being retained; highway works; and a travel plan.

- Informative to cover works on the highway

Officers advised that since the committee report had been written, further consultation responses had been received. Flood Risk Management had confirmed that they had no objection to the proposed development. A further 16 letters of representation had also been received, 14 of objection and two of support. The letters of objection expressed concern that the proposal would greatly increase the level of on-street parking in the locality, would harm the setting of St Mary Bishophill Junior and the wider City skyline and would harm the residential amenity of neighbouring properties. The letters of support highlighted the benefits to the wider community of the development of a specialist residential use in close proximity to the city centre.

In response, officers advised that it had been confirmed that the proposal would be removed by Traffic Regulation Order (TRO) from the residents parking area with the result that any on-street parking associated with the site would be subject to the same controls as any other ad hoc parking in the locality. Officers advised that the design of the scheme had been extensively amended in order to lessen any impact upon the setting of St Mary Bishophill Junior and the Central Historic Core Area and any impact upon the residential amenity of neighbouring properties was felt to be acceptable.

With regard to the Section 106 Agreement, officers advised that the following legal advice, with amended recommendation had been received. The advice was that, as the applicant was not currently in a position to enter into a s106 planning obligation with the council that would bind the freehold interest in the land to the planning obligations, it would be necessary for the applicant, prior to the grant of planning permission, to enter into an initial contractual arrangement with the Local Planning Authority under section 106 and also under section 111 of the Local Government Act 1972 that requires the applicant to enter into a further confirmatory S106 obligation once the land is sold to it. Additionally, consent should be granted subject to a condition restricting development until a non Local Planning Authority freeholder has entered into a further agreement in a form which has been agreed and appended to the decision notice. Because the final terms of the initial section 106/111 agreement, the second confirmatory section 106 planning obligation and the condition are not yet agreed, it is

recommended that authority be delegated to the Assistant Director for Development Services, Planning and Regeneration to finalise the terms of these arrangements and the condition.

With regard to paragraph 4.30 to 4.31 of the report, officers provided an update and clarification in relation to commuted sum payments, advised that they considered that the agreed commuted sum payment was appropriate given the site specific circumstances.

Mr Chris Boxall, a local resident, addressed the committee in objection to the application. He raised concerns in relation to the height of the proposed building stating that it would block other dwellings of light and views. He advised that granting permission would conflict with the character of the conservation area and requested a maximum ridge height of three storeys.

Mr Gareth Rees, another local resident, also spoke in objection to the application. He stated that there were a number of vulnerable individuals residing in Prospect House who would be affected by reduced light to their properties as a result of this development. He stated that views of the bar walls would also be affected.

Ms Hazel Fox, the agent for McCarthy & Stone Retirement Lifestyles Ltd, addressed the committee. She advised that they had worked with officers to overcome the concerns of residents. She stated that the proposed development would meet the need for older people's housing in the local area on what was a highly accessible and sustainable brownfield site and responded further to concerns which had been raised.

Ms Elizabeth Harris, a York resident, spoke in support of the development. She explained that she was an older retired person currently living in Bishopthorpe. She stated that there was a shortage of this type of housing in York and felt that the proposed development would fit well with the existing buildings. She advised that the location was ideally suited to offer amenities close at hand including nearby shops, cinema, Bishopthorpe Road and all the city centre had to offer, without the need to use a car.

Members agreed that there was a need for retirement living accommodation in York and that the proposed development

would provide the opportunity for older people to remain independent and have access to amenities.

They noted the concerns expressed by objectors and accepted that people living in the immediate area would notice a change. However they acknowledged that the applicant had done as much as possible to address the concerns which had been raised.

Members felt that the building worked well from bar walls and from other end of Priory Street and noted that the height was stepped down towards Fairfax Street and the smaller terraces. They agreed that it would sit well within the street scene and didn't feel that it would look out of place and expressed their overall support for the scheme.

Resolved:

That delegated authority be given to the Assistant Director, Development Services, Planning and Regeneration, to approve the application subject to:

- (i) The conditions set out in the report and the amended and additional conditions listed below.
- (ii) Prior completion of a satisfactory agreement made pursuant to section 106 of the Town and Country Planning Act 1990 and section 111 of the Local Government Act 1972 between the Council and the applicant setting out the obligations listed below and obligating the applicant to enter into a further confirmatory section 106 agreement with the Council immediately after the completion of the land transfer to bind the freehold interest to the planning obligations:-
 - £561,600 towards off-site affordable housing
 - £3,000 – to be used towards the creation/amendment of Traffic Regulation Orders in the vicinity of the site. The funds are likely to be used to;
- (iii) exclude the property from the R22 Residents parking scheme. It is considered necessary to prevent residents from the proposed development being able to apply for

R22 resident parking permits in order to prevent existing residents being disadvantaged by an increased demand for car parking within the res-park scheme.

- (iii) modification of existing on-street parking bays in order to enable site access to be formed
- (iv) creation of car club bay
 - £160 per residential dwelling to provide membership, marketing and other promotional benefits in order to incentivise use of the car club by future residents of the development.
- (v) That prior to the planning permission being issued, delegated authority be granted to Assistant Director, Development Services, Planning and Regeneration, to finalise an appropriate condition to prevent development until such time as the freehold interest in the site has been adequately bound by the planning obligations under s106 of the Town and Country Planning Act 1990.

Amended Condition 2

A revised drawing had been supplied and therefore condition 2 needed amending to incorporate it.

NE-2118-03-AC-065-1-Brick Detail Type 1

NE-2118-03-AC-065-2-Brick Detail Type 2

NE-2118-03-AC-065-3-Brick Detail Type 3

NE-2118-03-AC-065-4-Brick Detail Type 4

NE-2118-03-AC-031-Proposed Site Plan With Levels_Rev -

NE-2118-03-AC-032-Proposed Boundary Conditions_Rev -

NE-2118-03-AC-033-Section through homeowners roof terrace

NE-2118-03-AC-022-Block 7 -Detail elevations and sections_Rev E

NE-2118-03-AC-023-Block 8 -Detail elevations and sections_Rev E

NE-2118-03-AC-012-Detail Elevations Sheet 1_Rev B

NE-2118-03-AC-013-Detail Elevations Sheet 2_Rev B

NE-2118-AC-010-Context Elevations Sheet 1- Rev C

Amended Condition 5

Prior to construction above foundation level a landscaping plan shall be submitted to and approved in writing by the Local Planning Authority which shall illustrate the number, species, height and position of trees shrubs, and hard landscaping This

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

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

Amended Condition 6

Large scale details (1:20 and 1:5 with specifications as appropriate) of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- a) Special eaves and verge conditions (including gutters and outfalls)
- b) Bay windows
- c) Windows incorporating louvers (notwithstanding the submitted details)
- d) Other external doors

Amended Condition 20

The premises shall be used for Retirement Housing (Category 2) for a primary occupant aged 60 years or over and for no other purpose, including any other purpose in Class C3 in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: The nature of the development means that the mix of unit sizes, the lack of provision for on-site affordable housing and the level of contributions towards off-site open space and affordable housing provision does not comply with policies H2a, H3c, L1c and GP13 of the Development Control Local Plan and paragraphs 50 and 203 of the National Planning Policy Framework, as such the occupation of the development for general market housing would be inappropriate.

Additional Condition

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

Reason: In the interests of road safety.

Additional Condition

The development shall not be first occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbing and footway to match adjacent levels.

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

Additional Condition

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

- i) The creation of a landscaped area adjacent to the entrance (currently used as an emergency vehicle dropped crossing);
- ii) Installation of a tactile crossing linking the landscaped area with Dewsbury Terrace.

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

Additional Condition

Prior to first occupation, a Full Travel Plan should be submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines. 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 LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with advice contained in local and national planning and transportation policy, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

Additional Informative

WORKS IN THE HIGHWAY INFORMATIVE:-

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

Adoption of highway - Section 62 - Mr M Kitchen (01904) 551336

Planting in the highway- Section 142 - Mr S Partington (01904) 551361

Reason:

The amendments to the scheme are felt to satisfactorily address the previous concerns in respect of the relationship of the building to the setting of the Church of St Mary Bishophill Junior and the City Walls as well as the character and appearance of the Historic Core Conservation Area with the loss of the existing building amounting to a significant public benefit to outweigh the less than substantial harm to the significance of these designated Heritage Assets even when considerable importance and weight is attached to the harm. At the same time the adjustment to the scale and massing of the development as it approaches properties in Fairfax Street would effectively address concerns in relation to residential amenity.

The proposal generates a requirement for the payment of a commuted sum in lieu of the provision of on-site affordable housing. The applicant has identified a significant viability issue in terms of the manner in which the sum has been calculated through the costs of demolition and the need to establish a bespoke foundation design and construction method to protect important buried archaeological remains. In order to comply with Regulation 122 c) of the CIL Regulations it is therefore recommended that their suggested compromise commuted sum payment of a total of £570,000 towards a TRO and the provision of off-site affordable housing be agreed to and secured by

means of a Section 106 Agreement. The scheme as a whole is therefore felt on balance to be acceptable in planning terms.

34. Land West Of Hagg Wood, Broad Highway, Wheldrake, York (16/01534/REMM)

Members considered a major reserved matters application by Mr Chris Hobson for approval of access, appearance and landscaping for an egg production building (following outline approval 15/02439/OUTM).

Officers provided a brief update to Members. They advised that condition 8 should make reference to the first 10m of the access road from Broad Highway needing to be tarmac. They also informed Members that two letters have been received from residents since the report had been written. One letter raised concerns about the safety of pedestrians using the proposed access road and questioned whether there would be protective barriers or a raised kerb to mark pedestrian areas. The other letter stated that they were unhappy with the way that the outline application had been dealt with.

Mr Ian Pick, the agent for the application, had registered to speak at the meeting but advised Members that he no longer felt the need to address the committee.

Members accepted that the principle of development had already been accepted and agreed by the committee previously. Members felt that the access road had been designed taking account of pedestrian safety and acknowledged that the road was of sufficient width to allow an HGV to pass a pedestrian safely, and passing places were only needed in order for two vehicles to pass each other.

Resolved:

That the application be approved subject to the conditions listed in the report and the amended condition below.

Amended Condition 8

The first 10m of the access with Broad Highway shall be constructed of tarmac. The rest of the proposed access road linking Broad Highway with the egg production unit buildings shall be constructed of a 200mm base course of hardcore, topped with 60mm of graded stone. The wearing course for the

road surface shall be 40mm of tarmac planings rolled and compacted to create a smooth surface.

Reason: For the avoidance of doubt and to ensure that it is fit for purpose.

Reason:

It is considered that the proposed details submitted with the application are acceptable in respect to key issues including the impact on public rights of way, highway safety and the character and appearance of the countryside and Green Belt. It is considered that there are not any reasons to withhold the grant of reserved matters approval.

It is considered that the application, subject to the suggested conditions complies with relevant advice in the National Planning Policy Framework and guidance in the Wheldrake Village Design Statement. In addition, it is considered acceptable in respect to policies of the Local Plan, particularly GP1 (Design), GB1 (Development in the Green Belt) and NE1 (Trees, Woodlands and Hedgerows).

Cllr A Reid, Chair

[The meeting started at 4.30pm and finished at 5.25pm].

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 16/01642/FUL
Application at: Clifford's Tower, Tower Street York YO1 9SA
For: Erection of visitor centre at base of motte, cafe unit on roof deck, installation of new staircase, tower floor, walkways, balustrading, roof-deck and restoration works
By: English Heritage
Application Type: Full Application
Target Date: 26 September 2016
Recommendation: Approve

1.0 PROPOSAL**THE SITE**

1.1 Clifford's Tower is the castle keep dating from Henry III's mid 13th Century rebuilding in stone of the Norman castle, founded on this site in the late 11th Century. It represents the most substantial surviving element of the large castle of York, an important centre for royal government for the North of England in the middle ages. The castle became dilapidated in the 15th and 16th centuries and the upper portion of the tower was robbed of its stone. The building was refortified in 1642-43 to house a Royalist garrison during the Civil War, but gutted by an explosion in 1684 after which it was largely abandoned. The building has stayed in the form of an open topped ruin ever since, whether in its role as a substantial garden feature of a large 18th Century house (now demolished), or as an imposing landmark in the grounds of the new County Gaol, or as a much visited heritage asset in the guardianship of English Heritage (EH).

1.2 The Statement of Significance submitted with the application provides a focused account of why Clifford's Tower is important. To summarise:

- the above and below ground archaeology of the tower and motte (and extended site) are of exceptional evidential significance; the structures embody physical evidence of historic events.
- historically the site is illustrative of York's considerable importance as a seat of power and governance for York and the wider region for approximately 1000years; and it has played a strategic role in the history of the nation,

- the Keep's quatrefoil plan is architecturally unique in England and of high aesthetic value. The beauty of the tower, seated on the simple conical mound, adds a dramatic quality to the formal grouping of classical buildings around the Eye of York. It is part of a rare and spectacular urban landscape of both planned and fortuitous aesthetic.
- Clifford's Tower is one of two massive landmarks of iconic status in York symbolising the city as a communal enterprise. It marks a place of celebration as well as commemoration, the latter being of particular importance to the Jewish community around the world.

1.3 The building is listed at grade 1 and it forms part of Scheduled Ancient Monument no NHLE 1011799. It is located within the Central Historic Core conservation area (character area 13), close to the confluence of the Rivers Ouse and Foss, where together with the formal grouping of the three 18th Century prison and court buildings It also lies within the City Centre Area of Archaeological Importance (York is one of 5 cities designated as an 'Area of Archaeological Importance', and has 7sub - areas within the City)

THE PROPOSAL

1.4 In April 2015 English Heritage separated into two separate bodies (English Heritage and Historic England). The new charity, retaining the original name "English Heritage" is responsible for looking after the national heritage collection of monuments and sites, of which Clifford's Tower is one of the most visited heritage assets. All assets are expected to be self funding by 2022/23 when "Grant in Aid" from the government will cease.

1.5 The current project at Clifford's Tower involves:-

- Conservation and repair of the tower
- Introduction of a new structure within the tower surmounted by a deck at the approximate level of the wall walk
- A new entrance building and visitor centre at the base of the motte

1.6 The proposed scheme would involve the reconfiguration and partial repaving in reclaimed York stone of the County Court car park, involving a loss of 9No. car parking spaces.

1.7 The submitted Statement of Community Involvement details the public consultation and community involvement that has taken place, outlining how discussions with the Local Authority and Historic England commenced in 2015, followed by targeted consultation with the relevant civic and heritage groups occurred. After this targeted consultation, with alterations to the scheme to satisfy as far as possible any concerns raised, the wider community consultation commenced in January 2016.

1.8 The primary consultation event in January was publicised on Radio York and in the Press and involved daytime drop in session and evening discussion attended by 152 people with 82 responses received and much traffic on social media. As a result of the views put forward as part of the public consultation, a number of alterations were made to the design of the visitor centre and further research on access issues have been explored.

1.9 In addition to the forms, plans and Statement of Community Involvement, the application is supported by a Planning Statement, Heritage Impact Statement, Ecology appraisal, Flood Risk Assessment, External Lighting Assessment, Archaeology Statement, Drainage Statement and a Ventilation and Extraction Statement.

2.0 POLICY CONTEXT

2.1 2005 Draft Development Plan Allocation:

- Areas of Archaeological Interest GMS Constraints: City Centre Area 0006
- Conservation Area GMS Constraints: Central Historic Core CONF
- Listed Buildings GMS Constraints: Grade 1; Cliffords Tower Tower Street York YO1 1SA 0985
- Scheduled Ancient Monuments GMS Constraints: SMR No.13275; York Castle (including Clifford's Tower)

STATUTORY DUTY: SETTING OF LISTED BUILDING

2.2 Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 states that the local planning authority shall have special regard to the desirability of preserving the setting which the listed building possesses.

Section 72(1) with respect to any buildings or other land in a conservation area, places a duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

2.3 National Planning Policy Framework (March 2012), The most relevant sections and paragraphs are summarised at paragraphs 4.5 – 4.7 below.

2.4 2005 Draft York Local Plan (4th set of changes). Relevant policies include:

CYSP3 - Safeguarding the Historic Character and Setting of York

CYHE2 - Development in historic locations

CYHE3 - Conservation Areas

CYHE4 - Listed Buildings

CYHE9 - Scheduled Ancient Monuments

CYHE10 - Archaeology

CYGP1 - Design

CYGP15A - Development and Flood Risk

2.5 Draft York Local Plan (2014) Publication Draft – relevant policies include:

- DP4 - Approach to Development Management
- D2 - Placemaking
- D4 - Conservation Areas
- D5 - Listed Buildings
- D7 - Archaeology

3.0 CONSULTATIONS

INTERNAL

ENVIRONMENTAL MANAGEMENT (CONSERVATION)

Comments summarised as follows:-

3.1 The former castle site is one of the most archaeologically, historically and architecturally important sites in the country, retaining the imposing landmark of Clifford's Tower on its motte and the set piece formal grouping of 18th Century classical former prison and court buildings. Clifford's Tower is one of the nation's most visited heritage assets, yet at the same time reported as being "an underwhelming experience with little to see or do", as it is essentially experienced as the ruin left after the explosion over 300 years ago.

3.2 The package of proposals is designed to greatly enhance the visitor experience, by enabling better physical and intellectual access to the monument, and by capitalizing on its elevated position to improve interpretation, understanding and enjoyment of the place and its histories.

3.3 The new entrance building would change the familiar and much cherished view of the tower which was established in 1930s - within the lifetime of our older citizens. Its apparent height and width would be relatively small and it would be anchored into the motte in a historically meaningful place; so we consider that harm to setting would be less than substantial and the majority of identified views within the conservation area (of the tower and the buildings around the “Eye of York”) would be preserved.

3.4 The architecture of the new building has been criticized as being stark, though the design has been carefully refined over time to resolve contradictory requirements of needing to represent strength and control whilst being welcoming in the 21st Century. By modifying the archetypal form of the colonnade with carefully softened details and deeply set generously scaled windows, we consider the building would make a convincing architectural contribution in its own right without challenging the dominance or character of the existing structures.

ENVIRONMENTAL MANAGEMENT (ARCHAEOLOGY)

3.5 The proposed development will have detrimental impacts on archaeological features and deposits on this site but it is considered that these will cause less than substantial harm. Moreover, the proposed works offer a significant opportunity to both enhance understanding of this monument and to engage with a wide range of audiences.

3.6 The mitigation measures will allow an exploration of a number of significant questions that are relevant to archaeological research in York. There have been very few modern archaeological investigations at York Castle. The opportunity to interrogate the site of a motte as important and significant as that at York Castle is rare. Questions relating to the pre-castle landscape, the date and constructional sequence of the motte will be addressed. The location of the proposed development means that there is a huge opportunity to enhance community understanding of and engagement with archaeology in the city. The public benefit that can be derived from the archaeological mitigation measures is therefore very significant.

3.7 Policy HE10 states that developments within the central Area of Archaeological Importance will normally be permitted if they can demonstrate that the development will destroy less than 5% of archaeological deposits. It is difficult to assess the precise % impact this development will have on archaeological deposits. However, it is likely to exceed the 5% set out in HE10. Para 134 of the NPPF states that where development 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”. It is considered that the proposed development at Clifford’s Tower if accompanied by appropriate archaeological mitigation measures will deliver significant public benefit.

3.8 The mitigation measures required must therefore include: archaeological recording of material forming the lower segment of the motte to be removed; archaeological recording of the 19th century retaining wall to be revealed; archaeological excavation of all features and deposits down to formation levels for sub-surface accommodation, foundations, attenuation facilities and service connections; a programme of public access and community engagement with these archaeological works; publication of the results and deposition of the archaeological archive with an appropriate registered museum.

3.9 It is recommended that the application be approved in relation to archaeological features and deposits subject to a condition requiring the submission of a programme of archaeological mitigation.

HIGHWAY NETWORK MANAGEMENT

3.10 No objections but would recommend that the following issues are addressed;

- (i) Request a new sign sited on the northern side of the mound to direct pedestrians to use the footway which runs around the west side to the visitor centre. As it was established that a new route could not be provided on the opposite side through the edge of the car park; the applicant should want to encourage visitors to follow the footway.
- (ii) There are some small areas of grass verge which are badly worn adjacent to where the visitor centre will be situated. With the expectation of increased footfall in this vicinity, some minor upgrading to convert this to Yorkstone paving to match the existing is again sought.
- (iii) The provision of cycle parking in the area of the benches.

3.11 The construction traffic management plan covers the usual requirements to ensure safe and satisfactory construction, mitigating impacts upon the highway and its users.

PUBLIC PROTECTION (ENVIRONMENTAL HEALTH)

Noise

3.12 Given the proposed hours of opening (10:00 to 18:00) and the city centre location, it is not considered that noise from use of the café would be likely to result in any loss of amenity to nearby residential properties.

3.13 In terms of plant it would appear that an air source heat pump is proposed on the site. Providing that the sound level from the plant does not exceed the background noise level, there are no concerns regarding noise from such plant subject to a condition requiring details.

3.14 With regards to the demolition and construction phases of the development there is the potential for noise, dust and light to affect the amenity of the area, nearby residential premises and the court rooms. As a result, conditions relating to the submission of a Construction Environmental Management Plan (CEMP) and restricting the hours of works are recommended.

Lighting

3.15 It is not considered that lighting would be likely to result in loss of amenity providing that it is installed in accordance with the Institute of Lighting Professionals Guidance on the reduction of obtrusive lighting. Details within the application consider that the site falls within a medium district brightness area and indicate that the proposed lighting would comply with the requirements of the ILP guidance. On this basis, no objections are raised.

Odour

3.16 Limited detail is provided on the types of food and drink to be provided in the café. However if the café is to provide foods and drinks normally associated with a tearoom then there are no concerns over the potential for odour from the café affecting the amenity of the area.

Contaminated Land

3.17 The proposals will involve the removal and digging up of the made ground to the base of the tower which may contain contaminated material. As a result, recommend a condition covering the event that any contamination is discovered during the construction phases of the development.

FLOOD RISK MANAGEMENT

3.18 No objections in principle but in view of its close proximity of important archaeology in which there may be conflict, would be prepared (in consultation with City Archaeologist) to relax attenuation depth requirements.

EXTERNAL

HISTORIC ENGLAND

3.19 Historic England accepts and agrees that the current visitor "offer" at Clifford's Tower is in need of renewal, particularly with regard to visitor services and the current interpretative provision which is not as substantive as current good practice requires. Additionally the condition of the historic fabric requires conservation repairs to be undertaken, preferably in the short term.

3.20 Considers that the proposed treatment of the internal access arrangements and roof viewing deck is an imaginative and innovative approach to an issue that has been a long term concern to English Heritage, and should provide the visiting public with an improved visitor experience. It is considered that the proposed access and conservation works are beneficial, timely and desirable.

3.21 The construction of a new building at the foot of the motte raises concerns relating to its impact on the significance of heritage assets and the buried archaeology of the application site itself. Of particular concern is the relationship between a new build structure facing into the Eye of York which then effectively separates the Tower from the Eye and the civic buildings around it. Allied to this is the necessity to ensure that any structure is of a suitably recessive design that does not compete with the Grade 1 buildings.

3.22 As a consequence, great care needs to be given to the design, finish, and colour palette of chosen materials. We agree that the decision to use York stone paving alongside contemporary materials such as non-reflective glass and a lightly textured concrete echoes the local guidance provided by the City of York Conservation Area Appraisal but also assists in creating the necessary "subdued" quality of the building in that it does not "challenge" the Tower or adjacent civic buildings. The changes brought about by the wide public consultation have led to a reduction in the number of the vertical piers in the facade, the increase in their spacing and the introduction of a greener, softer edge to the roof deck. We consider these changes have made the building much less "strident" than originally conceived and therefore it has less of a "presence" within the Eye of York.

3.23 In order to make the building as recessive as possible, it has been designed to be partially buried within the motte, but this will have an impact on buried archaeological deposits. The removal of a portion of the motte to allow the insertion of the Visitor Centre has limited archaeological impact because the motte deposits are post 1930s date, whilst their removal will allow the 1830s prison revetment wall to be seen by visitors. However in order to allow the buried "wing" portions of the Visitor Centre to be completely buried, it will be necessary to excavate below the level from which the motte was constructed. These deposits beneath the motte have the potential to be complex and significant, indicating that there will be some "harm". However, this degree of "harm" to the deposits can be justified by the public benefit of improving the physical and intellectual access to the Tower. The results of the necessary archaeological mitigation will be fed into that improved intellectual access.

3.24 One positive aspect of the new steps is that it will make it easier for the elderly, young and those with limited mobility to access the Tower. The decision to allow free out of hours public access to the roof is a welcome addition to the scheme.

Summary

3.25 The conservation repair of the historic fabric and improvements to access arrangements inside the Tower are both desirable and beneficial. However a new Visitor Centre will generate some "harm" to Cliffords Tower and neighbouring heritage assets, and therefore the planning authority should address paras 131 to 134 of the NPPF. Historic England does not object to the proposal on heritage grounds.

SAFER YORK PARTNERSHIP

Initial comments

3.26 There are concerns about the possible misuse of the roof deck of the Visitor Centre, which would be insecure "out of hours" and could be exploited by the undesirable element as access to it would be freely available. If the roof deck area has to remain as it is, recommend that it be covered by a monitored CCTV system.

3.27 Furthermore, it is noted that four benches are to be erected. These benches are likely to attract the wrong element, which could discourage people from visiting the centre. If they have to remain, they should be designed so as to prevent people from lying across them.

Comments further to receipt of additional information

3.28 The architect has confirmed the following;

- bench seating will be fitted with arm rests to prevent persons from being able to lie across them,
- CCTV coverage of the roof deck will be provided,
- doors will meet Loss Prevention Standards,
- the Visitor Centre will be fitted with an Intruder Alarm system
- Internal CCTV will be fitted to cover the shop and the interpretation space

3.29 These measures address the recommendations made previously. No further comment.

YORK CIVIC TRUST

3.30 The public's understanding of Clifford's Tower and York Castle would be improved by the proposals to (1) repair and conserve the physical structure of Clifford's Tower and (ii) the installation of improved access to the interior of Clifford's Tower by means of inserted stairs and roof deckfirst two elements. The application is comprehensive and very well-researched; the conservation repair and the interior

access are well designed; and the physical interventions are clearly visible and largely reversible. Fully supports these two elements.

3.31 In terms of the new visitor centre, it is considered that taken in its own right, the new building is well designed and might be suitable if the context were different and there were fewer options for its location, size, massing and design. But the context is highly sensitive, being in the midst of York Castle, the complex of civic buildings, and the Central Conservation Area including Castlegate, Tower Street, and Clifford Street. By constraining options for development to the limited foot-print of Clifford's Tower, YCT feels that the options for achieving English Heritage's objectives have not been fully considered and that a comprehensive heritage-based development of a greater area, in association with other stakeholders, would have resulted in a solution which was less obtrusive, less damaging to the current characteristics of the historic area, and perhaps even a better solution to the economic revenue-generation requirements of English Heritage.

3.32 YCT therefore objects to the visitor centre element on the grounds that the proposal is detrimental to the character of the neighbouring listed buildings and conservation area.

3.33 YCT encourages English Heritage to proceed with the first two elements of the proposal, and to continue discussions with surrounding stakeholders in the knowledge that the principle of a new visitor centre is well accepted and can be achieved with less damage to the heritage of the area.

THE SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS

Visitor Centre

3.34 Given the constraints of the site which EH has under its direct control, accepts that the proposed location of the visitor centre offers the most appropriate site from those available for consideration.

3.35 Despite this retains serious concerns about the design. By virtue of its mass and heavy, horizontal architectural emphasis, SPAB feels that it would disturb the current unity and simplicity of the site. The proposal seems intrusive, out of scale with the monument, and architecturally disconnected from any of the surrounding buildings in the Eye of York. Urges EH to instead seek an intervention which is architecturally far more subservient and lightweight. Also questions the change to the existing stair up the mound and consider that, although some alteration might be essential to improve accessibility, more effort might be made to work with the fabric and form of the existing 20th century stair.

Viewing platform and walkways

3.36 Appreciates the value in making this area more accessible however there is also concern that the proposed structure would alter too greatly the current character of the interior space of the keep; the loss of the quatrefoil of blue sky that one currently sees would be regrettable. It is also unfortunate that a walkway is proposed underneath the square opening so that, at no point, will the view of the sky be uninterrupted.

Platform

3.37 Not convinced by the current design. Suggests a smaller platform with a larger central void and a more obvious gap between it and the ruin.

Internal Environment

3.38 Understands the space will not be fully enclosed but previously exposed stonework will be permanently shaded which will have some environmental effect. Queries whether any monitoring of stone decay on internal faces of the ruin is planned.

YORK GEORGIAN SOCIETY

3.39 Object to the Visitor Centre. A substantial building in this position will be an anachronistic and unsightly intrusion into the classic view of Clifford's Tower and the motte. It will introduce an unattractive visual and physical barrier between the castle motte and its bailey thereby emphasising the present unfortunate separation of the two component parts of the medieval castle precinct.

3.40 Object to the walkways, staircases and roof deck. For centuries Clifford's Tower has existed as a ruined castle, and has been appreciated and enjoyed as such at least since it provided a very early example of a 'Gothick' ruin in the garden of Col Waud's Castlegate house as illustrated in 1730. Obscuring its ruined interior in the way proposed will be to destroy its fundamental character. Because it is such an austere monument, the introduction of such 21st century facilities as a shop and viewing platform can only detract from the experience of the monument itself and be detrimental to its character and appearance.

3.41 The Visitor Centre would be detrimental to the setting of the Georgian buildings which form the context of Clifford's Tower. Together, the buildings of the Castle Museum and the Crown Court form the only formal Georgian architectural set piece in the City.

3.42 The Society would wish to safeguard the position and commemorative purpose of the stone to the Jewish Massacre in 1190. It is not clear how the stone will be

affected by the construction of such a substantial building at the foot of the steps up to the entrance of the Tower beside which the stone is located. Unless it is removed from its present position, it will either be covered or obscured by the proposed Visitor Centre.

3.43 Suggest that English Heritage explore with York Museums Trust the possibility of sharing the reception facilities in the Castle Museum for entrance to Clifford's Tower. Re-uniting the castle and its motte with its medieval bailey by these means would recreate the historic castle precinct.

3.44 York Georgian Society asks that this application should be refused and that its suggestion for a collaborative project between the two organisations is given serious consideration.

GUILDHALL PLANNING PANEL

3.45 Objects; the visitors centre is of a poor design and looks like a public convenience. Also believes this is the use it will be put to when it is closed the area is known for its rough sleepers and street drinkers this will only make matters worse. The internal wood work only takes away the ambiance of the internal structure. In summary the whole plan shows no sympathy to this ancient structure and English Heritage should go back to the drawing board and start again.

RIVER FOSS SOCIETY

3.46 Endorses the view of English Heritage that "An important detractor from the aesthetic value of Clifford's Tower is the modern day council car park. A key part of any proposed development in this wider area should be the removal of the car park, the creation of public space and the provision of "breathing space" away from the base of the motte." The public space thus created would border the River Foss and might one day link with the newly-developed area within the Castle walls, thus providing a pleasant river side walk.

3.47 The relocation of the proposed visitor centre to the car park area would be a step in the right direction and would solve the dilemma of the flat roof.

PUBLICITY

3.48 The application was publicised by site notice, press notice and letters of neighbour notification. Thirteen letters of objection have been received, two of which object to the visitor centre and cafe but offer support to the proposals for the interior of the Tower. The following points are raised;

- Lack of detail and clarity, leading to ambiguity within some of its key documents. The report lacks the substance and robustness to objectively

demonstrate how the impacts of the proposals as well as impacts to its immediate setting are warranted. Further information should be requested.

- The proposed design of the entrance loggia fits neither the context nor the present day and blocks the foot of the external staircase. Its design evokes images of a public toilet or entrance to a 1930s lido. A simpler, modern design is required.
- Much of the character of Cliffords Tower resides in the fact that it stands on a substantial and uninterrupted motte. Whatever one thinks of the design of the proposed visitor centre, it would impinge on the motte which is an essential part of the monument and would thus detract from the setting of the Tower itself.
- Design is visually intrusive and not in keeping with the original building design and will lead to the destruction of a unique heritage feature. The motte, if interfered with, deserves sympathetic treatment and not a box which has no bearing on anything in the vicinity. The proposal does not enhance this Grade 1 listed building and the conservation area.
- The proposed visitor centre would destroy the integrity and powerful presence of the Tower and its motte, most obviously by intruding visually on the south-facing slopes of the latter (the entrance side), but also compromising the profile of the overall structure viewed from east and west.
- The proposed visitor centre would very seriously detract from the impressive architectural set piece constituted by the three eighteenth-century prison and court buildings to the south, which are part of the Castle complex. The intrusion onto the motte of an indifferent modern design destroys the harmony of this formal, open space.
- Visually damaging in the landscape and setting, losing historical street setting. Better alternative sites are available.
- The proposals for the internal platforms and viewing platform are too heavy. A more transparent, lightweight design is required.
- The proposal for steps and walkways would largely destroy the internal character of the building as a ruined castle.
- Should be preserved as a castle and should not become a tourist shop and performance area. The original functionality of the building should not be eroded. It is supposed to be difficult to access and open to the elements as it

is an ancient fort. The staircase is supposed to be narrow. Improving access will only lead to higher footfall and potential damage to the structure over time.

- Climbing the steps gives the visitor a greater appreciation of the function of the motte and increases the enjoyment of the Tower on arrival. If necessary, the handrail to the steps could be reconstructed to incorporate a disabled stairlift,
- Why can the visitor centre not be incorporated inside the tower, or out of sight at the back of the structure or in the area surrounding the courts? Alternatively an existing property, in Castlegate or Tower Street, should be found. A ticket office and interpretation centre could be included within the foyer of the Castle Museum.
- At present, there is an absence of commercialism in this area which, with Tower Gardens, provides a place to relax. The visitor centre would detract from this quality.
- No justification for a visitor centre or cafe. There are plenty of cafes in the vicinity and there is the Museum and the Church in Castlegate which already provides tourist information in the city.
- If there is the necessity to have a commercial cafe for income, it should be nearby but not in this position.
- There will be an increase in nuisance to residential neighbours who already experience disturbance from anti-social behaviour. English Heritage cannot control people climbing the grass slopes now, which is slowly destroying the wild daffodils. English Heritage should take a more proactive stance to discourage this practice and introduce more daffodils.
- Support the comments of the Police in their concerns that there will be no restriction regarding access to the decking when the Tower is closed.
- Noise could be a problem to the Crown Court.
- The internal proposals are much more elaborate than is needed; many generations of visitors have enjoyed the Tower as it is.
- There will be increased service traffic to the Tower for the cafe and for collecting rubbish. The external waste bin area will become messy and uncared for.

- Huntingtower Castle near Perth is not dissimilar to Cliffords Tower. Here the bare minimum has been done to ensure this castle can be accessed and with a guide book, you are invited to imagine the castle as it was.

4.0 APPRAISAL

4.1 The key issues to be considered as part of this application are:-

- Justification for / Principle of proposed development
- Impact on Heritage Assets
- Archaeological Considerations
- Impact on Amenity
- Flood risk and drainage
- Designing out crime

POLICY CONTEXT

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than 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 which relate to York's Green Belt and are therefore not relevant to this application. In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and it is against this Framework and the statutory duties set out below that the application proposal should principally be addressed.

Section 66 and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

4.3. Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.4 Section 72(1) of the 1990 Act refers to any buildings or other land in a conservation area and places a duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

National Planning Policy Framework (NPPF, March 2012)

4.5 Central Government guidance is contained in the National Planning Policy Framework. Paragraph 7 of the NPPF says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Paragraph 14 requires a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking, but a footnote states the presumption does not apply where more restrictive policies within the NPPF apply- including to designated heritage assets and to areas at risk of flooding. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design and a good standard of amenity for all and to proactively drive and support sustainable economic development to deliver the homes and businesses that the country needs.

4.6 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people.

4.7 Section 12 of the NPPF relates to the conservation and enjoyment of the historic environment. Paragraph 129 states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 134 says 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 benefit of the proposal, including its optimum viable use. However, it should be noted that lawful application of the statutory tests in the 1990 Act requires considerable importance and weight to be given to any harm to a listed building or conservation area, in the planning balance. The exercise is still one of planning judgment but it must be informed by that need to give considerable importance and weight to conserving of the heritage asset, more weight than if it were simply a factor to be taken into account along with all other material considerations.

City of York Draft Local Plan (2005)

4.8 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF.

4.9 Related policies are listed in section 2.1 above. However policies considered to be compatible with the aims of the NPPF and relevant to the development are; HE2 (Development in Historic Locations), HE3 (Conservation Areas), HE4 (Listed Buildings) and HE10 (Archaeology).

Emerging Local Plan

4.10 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of planning applications.

JUSTIFICATION FOR / PRINCIPLE OF PROPOSED DEVELOPMENT

4.11 The proposed works at Clifford's Tower represent a significant investment by Central Government to sustain the monument into the future by improving its physical condition and by carrying out works to enable better understanding and appreciation of its exceptional cultural value.

4.12 Clifford's Tower is one of the most visited of English Heritage's assets and yet, as the application submission makes clear, feedback demonstrates that visits are short, visitor facilities are poor, access is difficult and interpretation is limited. People report that it is a disappointing experience and as a result there are few return visits.

4.13 In terms of the conservation and repair of the tower, the work is intended to address structural and fabric defects for the next 50 years. It includes renewal of some repairs carried out in the 20th century which could be contributing to deterioration. The highly detailed drawn specification and schedule provided in the application documents is based on extensive survey work.

4.14 With reference to the proposal to erect a new structure within the tower to include a roof deck, it is recognised that whilst the existing wall walk offers stunning panoramic views of the context (as identified in the Central Historic Core Conservation Area Appraisal ref Key View 16), the physical constraint of the elevated environment limits potential to enjoy the experience and to use it to further understanding of the monument.

4.15 The proposed inserted structure is designed to maximize direct experience and understanding of the castle's history and to capitalize on views, whether as framed glimpses of the city and Minster through openings in the walls, or the 360 degree panorama experienced from the top.

4.16 With reference to the proposed Visitor Centre, in developing the brief for the project, English Heritage recognized that if the significance of the castle interior was to be explained and experienced in full as a historic building of immense military and administrative importance, extra space would be required outside the monument to develop visitor facilities, i.e. interpretation, WCs, staff facilities, storage, membership and ticketing. It was also considered that an external ground level structure would also have the public benefit of serving visitors who could not reach the elevated castle keep by enabling virtual tours and other alternative forms of access, currently impossible at this site.

4.17 Officers understand that early options which were investigated and discounted include the use of a shared facility in the area with York Museum's Trust, or the use of a remote facility such as shop on Tower Street. Both of these options had significant operational drawbacks for the bodies involved and were deemed to disconnect the visitor from the site.

4.18 Officers are also aware of a more recent feasibility study for a new independent building within the scheduled area; but plans for development of the wider area (Southern Gateway project by the City of York Council) are insufficiently progressed to enable an independent structure to be sited anywhere other than close up to the mound where it would have severely intruded on the free-space around the monument necessary to preserve its character.

IMPACT ON HERITAGE ASSETS

4.19 York Castle, the motte and Clifford's Tower are designated heritage assets. They comprise a scheduled ancient monument and a Grade 1 listed building located within the Central Historic Core Conservation Area and within the Central Area of Archaeological Importance. They form part of an ensemble of buildings, spaces and sub surface deposits which represent one of the most important heritage sites in the country.

4.20 The scheduled status of Clifford's Tower takes precedence in assessing impacts on the architectural and historic interest of the building and on its archaeology. Therefore there is no application for listed building consent. The Scheduled Monument Consent process is handled by Historic England. The assessment required in considering the planning application relates to the impact of proposals on the appearance and setting of Clifford's Tower and its neighbours and on the character and appearance of the conservation area.

4.21 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('1990 Act') imposes a statutory duty on local planning authorities, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic

interests which it possesses. Section 72(1) of the 1990 Act imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas when determining Planning applications.

4.22 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply in these circumstances.

4.23 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 12 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 131, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness. Paragraph 132 establishes the great weight that should be given to a designated heritage asset's conservation with a clear and convincing justification being provided to justify any harm or loss.

4.24 Paragraph 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. Draft 2005 Local Plan policies HE2, HE3, HE4 and HE10 reflect legislation and national planning guidance. In particular, Policy HE2 states that proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

Conservation and repair of the tower

4.25 Proposals affecting the outward appearance of the structure include the replacement of ironwork and guarding to windows including new guarding in places which were previously inaccessible. Iron and steel would be replaced with bronze and Perspex sheets would be renewed in laminated glass in oak frames. Officers consider that these works would have neutral to beneficial effects and are related to

the public benefits of the scheme which include access to more historic features of the tower.

4.26 Rainwater goods on the “Forebuilding” would be renewed to take extra capacity. This would involve a change to the detail at the wall head, the creation of outlets in the stone to take new chutes, and an extra downpipe on the west side. Rainwater goods would be in lead, though the bottom sections of the downpipes and brackets would be in a visually “matching” cast iron to deter theft.

4.27 The introduction of the roof level deck would be considered to have conservation benefits in allowing the safety railing to be removed from the perimeter stone parapet. In addition the internal walls of the building would be protected from the weather. The associated repair/replacement of the 20th Century ring beam under the wall walk would also allow it to be re-formed as a wide gutter. Rainwater would be diverted under the deck and discharged down the 4no new columns to be taken away from the building.

New structure within tower including roof deck

4.28 The proposed structure has been designed to be a reversible introduction with an actual “light touch” where it meets existing fabric. It would be formed of laminated timber and the deck would sit on four columns, located at the centre of each of the lobes, supported by a new raft foundation at ground level to spread the load and limit intrusion into archaeology. Contact with the historic structure would be “non invasive”. The Council’s Conservation Architect recommends that the soffit of the deck be redesigned to emphasise the unique quatrefoil form of the tower. This would affect the layout of main and secondary beams only, as the columns already mark the centre of the lobes. It is recommended that this matter is addressed under the Scheduled Monument Consent application.

4.29 The new deck would have a central diagonally rotated compluvium (hole to let the rain in) to maintain a direct connection between inside and outside. This would allow the quality of natural light to vary throughout the day and year. The semi-internalized environment would enable the interior to be modified by light, sound or projection to illustrate the castle’s many historical events where they took place.

4.30 Suspended metal walkways would allow access to the west and east bartizans and the garde-robe at first floor level. By also completing two of the damaged spiral stairs of the castle (one in metal to be identifiable as new and one in stone), new circuits would be created to allow visitors to experience different aspects of the historic castle and its views. These interventions would have no impact outside the keep, other than the additional guarding at windows referred to previously.

4.31 At its highest point, the deck edge would be approx 500mm higher than the previous wall walk to avoid unnecessary disturbance of stonework. This depth of

floor structure is required to make an effective high level cantilevered raft from which the walkways can be suspended. The new balustrade would also be slightly higher to meet safety regulations. The impact of this increased height on views from ground level would be mitigated by the deck and balustrade being set back from the outer edge of the perimeter wall by 1.0m and the balustrade would be designed with an open mesh to be as transparent as possible. A deep timber handrail would be provided to accept information and although this would be slightly more visible than the existing rail it would have an ephemeral appearance from ground level views which would be over 30m lower and 40m away at their closest. Similarly to reduce the visibility of the deck to each side of the Forebuilding, where the parapet offers no screening, a sunken auditorium would be introduced. People would still be visible in views from ground level but the increased set back from the parapet would off-set the extra height of the deck.

4.32 Stepped seating would increase comfort conditions on the deck and the small timber kiosk proposed would enable refreshments to be procured. This timber kiosk has been carefully located to avoid being visible from ground level.

4.33 Due to its design, location and height, the proposed deck and balustrade would have a neutral impact on the character and appearance of the conservation area and on the setting of the monument when seen from ground level views.

4.34 In accordance with paragraph 137 of the NPPF (detailed at paragraph 4.24), it is considered that provision of the deck would greatly increase public enjoyment of the views and, together with provision of information and re-enactment, would promote understanding of the castle's strategic position, its historic development and its various roles in the life of the city and the region. By enhancing opportunities to experience key view 16 as identified in the Central Historic Core Conservation Area Appraisal, it is considered that the set-piece planning and architecture of the 18th Century classical prison and court buildings would also be better revealed.

New entrance building and visitor centre at base of motte

4.35 The former castle site (character area 13 in the Central Historic Core Conservation Area Appraisal) is one of the most archaeologically, historically and architecturally important sites in the country. As such, it is acknowledged that any proposed intervention must be justified and be carefully designed to respect the immediate setting of the assets, the relationship between them and key views within the conservation area.

4.36 The proposal involves the creation of a new entrance building on the South Eastern side of the monument at the base of the motte below the Forebuilding. Officers consider this to be the only historically meaningful place to site a gateway building in the motte as it marks the place of the former crossing point over the moat to the outer bailey. It reaffirms the strategic importance of the location as illustrated

in a document from the 1680s which shows a drawbridge in this location. By locating the new building on axis with the singular entrance in the Forebuilding, the existing gateway does not lose its significant defensible role.

4.37 The feasibility study submitted with the application demonstrates that each of the three alternative locations explored have a more harmful impact on the setting and views within the castle area. The alternative locations would each isolate the historic entrance from the Forebuilding and cause intrusive alteration of the mound, as an ambulant stepped pathway with guarding and handrails at both sides would be required.

4.38 Although Officers recognise that the proposed scheme would cause some harm in altering the daunting simplicity of a much cherished and familiar view, the harm would be less than substantial, and there would be considered to be positive benefits:

- in reaffirming a historic control point
- in providing a platform (on the roof) from which the development of the area could be better explained and visualized
- and in easing the ascent by providing a resting point

4.39 The existing steps would be removed and a further landing would be introduced into the new lightweight steps. The mound would be repaired and planting supplemented with commemorative daffodils.

4.40 The new building would be integrated into the mound and service functions would be buried underneath it to reduce the apparent mass of the building. This proposal takes advantage of 19th Century alterations to accommodate the new county gaol which resulted in the loss of the lower third of the motte and the construction of a high retaining wall to contain the spread. Recent archaeological investigations have rediscovered the retaining wall and the modern back-fill made up of demolition spoil. The massive early 19th Century grit-stone retaining wall would be revealed within the proposed visitor centre and its significance would be explained. As the proposed area of development would be out-with the retained archaeology, impact would be lessened and theoretically the building could be removed in future with only minor disturbance to the ground having occurred for footings.

4.41 The internal cross walls of the visitor centre have been designed to have a buttressing function against this wall, and they add to the extensive works of structural stabilization to the South Eastern quadrant of the keep carried out in the early 20th Century.

4.42 The proposed visitor centre would be close to the “Eye of York” and be inter-visible with the formal buildings introduced over the course of the 18th Century

which, together with the imposing landmark of Clifford's Tower, define the area. In this location it is considered that key views of the complex from Piccadilly Bridge would be preserved; views of Clifford's Tower (alone) from Foss Bridge would be preserved; views from Castlegate (the historic approach to the outer castle gate) would be preserved; and views from the more recent approach of Clifford Street would also be preserved. There would be minor harm to the approach view from Tower Street (painted by Lowry in 1950s) where the relatively small triangular South West gable would be visible approximately 40 metres away. Despite this, it is considered that the proposals would not challenge the particularly imposing character of the keep from this direction, due to the topography of the site and the relatively small size and form of the intervention.

4.43 Concerns have been expressed about the visitor centre extension causing separation between the buildings of the Eye of York and Clifford's Tower. The relationship between the outer bailey and the tower has changed over time. The 18th Century interventions were added over a period of approximately 80 years and they have resulted in a strong formal grouping of large classical buildings whose relationship is primarily with each other. Officers note that the relationship with Clifford's Tower does not appear to have been formally planned. Officers consider that the relatively low height and mass of the visitor centre building and its anchorage within the mound relate it strongly to the tower and therefore do not consider that it would compromise the current less formal relationship between the two set pieces (18th Century building group and Clifford's Tower).

4.44 The apparent mass of the new building has been minimized to preserve the dominance of the tower and motte and it has been designed to reduce the harmful effect of cutting across the forceful vertical axis. The front elevation would be contained within the width of the tower and it would occupy the lower third of the motte. The new large entrance doors have been repositioned centrally on axis and they would be highlighted from inside with the use of pavement lights in the roof above.

4.45 It is noted that the architecture of the new building uses the archetypal form of the colonnade to convey strength and simplicity without being forbidding. Strength must be expressed to give a plausible base to the motte and tower, and simplicity to avoid pastiche, or parody, or becoming a distraction from the highly valued and rich architecture of the existing structures.

4.46 The visitor building is a gateway into a medieval structure of architectural distinction (as opposed to a Neolithic burial mound) and accordingly a degree of refinement has been achieved in the front elevation by following the radial curve of the motte and by softening the edge detail of the columns where they project beyond the generously proportioned windows. The fascia/entablature remains deep and unrelieved. In developing the construction details, Officers recommend further subtle refinement of the facade detailing which can be addressed by means of a

condition. It is noted that the proposed wet cast stone is capable of achieving a high quality finish whilst attaining the required technical performance. Its use would enable the new extension to blend in colour, texture and tone with the parent building of magnesian limestone and be “of the place as well as of its time”.

4.47 The replacement of the 9No. car parking spaces with useable hard landscape in reclaimed York stone pavings would be considered to be a minor enhancement of the immediate setting facing the “Eye of York”. The lighting level of any up-lighting within the area would be the subject of a condition to ensure the prominence of Clifford’s Tower is retained.

ARCHAEOLOGICAL CONSIDERATIONS

4.48 As noted in paragraph 4.20, the scheduled status of Clifford’s Tower takes precedence in assessing impacts on the architectural and historic interest of the building and on its archaeology and the Scheduled Monument Consent process is handled by Historic England. Nevertheless, the City Archaeologist has been involved in pre-application discussions and has provided an assessment of the impact of the proposed works.

4.49 The proposed visitor centre would be set within the footprint of the motte but certain elements would extend beyond its footprint. The construction of the visitor centre would involve: removal of the lower third of the motte within the proposed footprint of the visitor centre; excavation to provide (i) a foundation for the new building (ii) a semi-basement area within the visitor centre (iii) service connections and (iv) a drainage attenuation tank. The construction of the foundations and support for the new roof to Clifford’s Tower would require excavation and level reductions within the tower.

4.50 2005 Draft Local Plan Policy HE10 advises that developments that involve disturbance of existing ground levels on sites within the City Centre Area of Archaeological Importance will be granted provided that applicants can demonstrate that less than 5% of any archaeological deposits will be disturbed or destroyed.

4.51 As detailed within paragraphs 3.5 to 3.9, the Council’s Archaeologist acknowledges that the proposed works would have a detrimental impact on archaeological features and deposits and considers that it is likely to exceed the 5% as stipulated in draft Policy HE10. However in the context of the more up to date NPPF paragraph 134, it is considered that the proposed works would cause “less than substantial harm” to the significance of the archaeological heritage asset. In accordance with paragraph 134 of the NPPF, “*where a proposal will lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*”.

4.52 Through the implementation of a number of mitigation measures, Officers consider that the proposed development at Clifford's Tower offers an opportunity to both enhance understanding of the monument and to engage with a wide range of audiences thus delivering significant public benefit. The City Archaeologist notes that the mitigation measures would provide a rare opportunity to interrogate the site of such an important and significant motte when questions relating to the pre-castle landscape, the date and constructional sequence of the motte, can be addressed. The location of the development increases the potential to enhance community understanding of and engagement with archaeology in the city.

4.53 The mitigation measures to be secured via a condition will include: archaeological recording of material forming the lower segment of the motte to be removed; archaeological recording of the 19th century retaining wall to be revealed; archaeological excavation of all features and deposits down to formation levels for sub-surface accommodation, foundations, attenuation facilities and service connections; a programme of public access and community engagement with these archaeological works; publication of the results and deposition of the archaeological archive with an appropriate registered museum.

SUMMARY OF IMPACT ON HERITAGE ASSETS

4.54 An assessment as to the impact of the proposed development on the appearance and setting of this Grade I listed building and its neighbours, and on the character and appearance of the Central Historic Core Conservation Area concludes that the proposed development would cause some harm to the designated heritage assets. This is largely due to the impact on archaeological deposits and through changes to the familiar and much cherished view of the tower which was established in the 1930s.

4.55 The harm to the heritage assets is assessed as minor but in these circumstances the council's statutory duty under s.72 gives rise to a strong presumption against planning permission being granted, and considerable importance and weight must be given to the harm in the planning balance, despite it being minor.

4.56 Overall the scheme has a number of public benefits and there are material considerations that are considered to outweigh the impact of the minor harm, even when providing it considerable importance and weight in the planning balance. The proposed development has been designed to greatly enhance the visitor experience, by enabling better physical and intellectual access to the monument, and by capitalizing on its elevated position to improve interpretation, understanding and enjoyment of the place and its histories. The design of the Visitor Centre has been carefully refined over time such that it is now considered to make a convincing architectural contribution in its own right without challenging the dominance or character of the existing structures. Its apparent height and width would be relatively

small and it would be anchored into the motte in a historically meaningful place. Furthermore, the majority of identified views within the conservation area (of the tower and the buildings around the “Eye of York”) would be preserved.

4.57 The public benefits of the scheme and the overall quality of the design are therefore considered to outweigh the harm.

4.58 Whilst harm to heritage assets is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance.

IMPACT ON AMENITY

4.59 One of the core principles of planning outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants.

4.60 The visitor centre, which would include the provision of a shop, cafe and external seating connected to the cafe, would have opening hours of 10:00 to 18:00 Mondays to Sundays. Given these hours of opening and the city centre location, it is not considered that noise from use of the visitor centre / café would be likely to result in any loss of amenity to nearby residential properties. Conditions are proposed to require details of plant and machinery and in the event that unexpected contamination is detected during the development works, a condition relating to the reporting of unexpected contamination is recommended.

4.61 To safeguard the amenity of the occupants of nearby commercial and office premises and the occupants of residential properties during the demolition and construction phases of the development, conditions restricting the hours of construction and demolition works and requiring the submission of a Construction Environmental Management Plan (CEMP) are also recommended.

FLOOD RISK

4.62 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Draft 2005 Local Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced.

4.63 The application site is within functional flood Zone 1. The NPPG advises that it should not normally be necessary to apply a Sequential Test to proposals for development in Flood Zone 1. The proposed Visitor Centre is classed as a “less vulnerable” development. The Technical Guidance to the NPPF confirms that “less vulnerable development” is appropriate in Flood Zone 1 and therefore the application of the Sequential Test and Exception Test is not required in order to further assess flood risk.

4.64 In terms of drainage, attenuation would be sized for the 1 in 100 year storm event with a 20% allowance for climate change; in a 1 in 100 year storm event, this would provide 67% betterment on existing runoff rates. Attenuation would be provided in the form of geocellular storage which would enable storage to be kept as shallow as possible.

4.65 Taking into account archaeological considerations, the Flood Risk Management team confirm that attenuation depth requirements could be relaxed if so required.

DESIGNING OUT CRIME

4.66 The Police Designing Out Crime Officer is concerned that the design of the roof deck of the Visitor Centre and, in particular, the proposal to allow access to it outside of opening hours, has the potential to increase the already high levels of complaints received by the Police and the Council in relation to street drinkers and people sleeping rough in the area. The applicants explain that the reason for allowing access to the roof deck outside of opening hours is so that people who choose to climb onto the roof deck at night can do so without scrambling up the grassy banks of the motte, causing unwelcome erosion.

4.67 The applicant has confirmed that advice from the police will be accommodated within the design, for example the visitor centre's roof terrace and the public spaces within the visitor centre would have CCTV surveillance and the benches to the eastern side of the visitor centre would be fitted with arm rests to prevent their use by rough sleepers.

5.0 CONCLUSION

5.1 The proposed works have the potential to greatly enhance the visitor experience to the Tower by enabling better physical and intellectual access to the monument, and by capitalising on its elevated position to improve interpretation, understanding and enjoyment of the place and its histories. There would be some minor harm to designated heritage assets, i.e. on archaeological deposits and through changes to the familiar view of Clifford's Tower from the Eye of York. Having attached considerable importance and weight to the desirability of avoiding such harm, the local planning authority has concluded that it is outweighed by the application's public benefits and by the new building having been carefully designed to make an architectural contribution in its own right without challenging the dominance or character of the existing structures. The majority of identified views within the conservation area would be preserved. All other issues are satisfactorily addressed.

5.2 The application accords with national planning policy set out in the National Planning Policy Framework and with the emerging policies in the Draft York Local Plan (2014 Publication Draft).

6.0 RECOMMENDATION:

1 TIME2 Development start within three years

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

2239-01/01/14 Rev A External North-East Elevation as proposed

2239-01/01/15 Rev A External North-West Elevation as proposed

2239-01/01/16 Rev A External South-East Elevation as proposed

2239-01/01/17 Rev A External South-West Elevation as proposed

2239-01/01/51 Rev D Forebuilding: Ground Floor Plan

2239-01/01/62 Rev D Chapel: Roof Plan as proposed

2239-01/01/65 Rev B Forebuilding RWP's Elevations as existing and as proposed

2239-01/01/91 Windows Glazing and Grilles GF plan as proposed

2239-01/01/92 Rev A Windows Glazing and Grilles FF plan and chapel ring beam level plan as proposed

2239-01/03/21 Rev D Forebuilding Gutters Details typical sections as existing and as proposed

2239-01/03/25 Rev B Wall Top typical section

VC Site Plan SK37 Rev A (dated 12.4.16)

217-P1001 Proposed Site Plan

217-P1002 Site Ownership Plan

217-P1003 Construction Plan

217-P1010 Proposed Ground Floor Tower Plan

217-P1011 Proposed First Floor Plan

217-P1012 Proposed Roof Plan

217-P1015 Proposed Visitor Centre Ground Floor Plan

217-P1016 Proposed Visitor Centre Roof Plan

217-P1020 Proposed Tower Section AA

217-P1021 Proposed Tower Section BB

217-P1022 Proposed Tower Section CC

217-P1023 Proposed Section DD

217-P1025 Proposed Site Sections 01 and 02

217-P1030 Proposed Visitor Centre Section AA

217-P1031 Proposed Visitor Centre Section BB

217-P1040 Proposed North East Elevation

217-P1041 Proposed North-West Elevation

217-P1042 Proposed South West Elevation

217-P1043 Proposed South East Elevation

Reason: For the avoidance of doubt and to ensure that the development is carried

out only as approved by the Local Planning Authority.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of all external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. Sample panels of the wet cast concrete for the visitor centre shall be set up on site to enable them to be visualized in relation to the parent building. Colour, texture, patterning and finish shall be controlled as well as the formation of junction details and associated pointing. 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: In the interests of safeguarding the character and appearance of Clifford's Tower and the wider conservation area.

4 Notwithstanding drawn information submitted in the application documents, large scale details of the following items and areas shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

Existing building and motte

- a) roof-top balustrade, including leaning rail/hand rail and associated interpretation. Roof-top kiosk, fixed waste bins and any other fixture on the deck
- b) new windows and/or guarding in the stone walls visible from outside
- c) new chutes formed in stonework and lined with sand cast lead, located at each side of the Forebuilding
- d) new metal staircase, landing and supports running between roof of visitor centre and threshold of tower

Visitor Centre

Full details of visitor centre building (suggest at 1:20 and 1:5 as necessary) to include:

- e) typical front elevation bay in plan, section and elevation at 1:20 with special details at 1:5
- f) gable end details showing assembly details, junctions, integration of steps and handrails (west), integration of kiosk aperture, shutter and plant grills (east)

- g) typical section, front to back, and plan through VC roof including details of roof edge, planters, pavement lights, balustrades and seating on back wall
- h) details of windows and external doors, gates, shutters, grills and any other external aperture or external fixture

Landscape

- i) full details of hard and soft landscape shall be provided, including details of seating, waste bins, cycle parking, signage and any other artefact proposed within the immediate setting of the tower.
- j) Details of external lighting or plant equipment. Light levels of any new up-lighters shall be highly controlled.
- k) Full details of the design and new location for the commemorative plaque.

Reason: In the interests of safeguarding the character and appearance of Clifford's Tower and the wider conservation area.

5 A programme of archaeological mitigation, including excavation, public access and community engagement, post excavation assessment & analysis, publication, and archive deposition is required in connection with this development. Prior to Commencement of Development the applicant will submit an archaeological project design for archaeological mitigation on this site. The works set out in the project design shall be approved and discharged in the following 3 stages:

A) No development shall commence until an archaeological project design including a written scheme of investigation (WSI) describing the archaeological project (excavation, public access and engagement, post-excavation assessment and analysis, publication and archive deposition) 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, post investigation assessment and analysis, report preparation and submission for publication, and archive deposition shall be completed in accordance with the programme set out in the project design and WSI approved under (A). This part (B) of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the approved project design and WSI and have been approved by the local planning authority in writing.

C) A copy of a report or publication of the project shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 12 months of completion of works on site or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 12 of NPPF.

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

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 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 background noise level 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 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

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

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

8 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. 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).

For dust details should be provided on measures the developer will use to minimise dust blow off from site. 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. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any). The plan should also provide detail on the management and control processes. 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/>

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

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

Reason: To protect the amenity of the area and local residents.

9 In the event that 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.

10 Prior to the use of the visitor centre hereby approved, details of cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The use of the building shall not commence until the cycle parking has 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.

11 Full details of the location and design of a sign to be sited on the northern side of the mound, to direct pedestrians to use the footway which runs around the west side to the visitor centre. shall be submitted to and approved in writing by the Local Planning Authority prior to the opening of the visitor centre. The sign shall be installed in accordance with the approved details prior to the use of the visitor centre commencing.

Reason: To encourage visitors use this footway in the interests of pedestrian safety

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 (paragraphs 186 and 187) 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:

Application Reference Number: 16/01642/FUL

Item No: 4a

Engaged in extensive pre-application discussions with the applicant; Negotiated improvements to the proposal such that the application could be supported.

2. 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) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

(b) The best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.

(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 manufacturer's instructions.

(d) There shall be no bonfires on the site

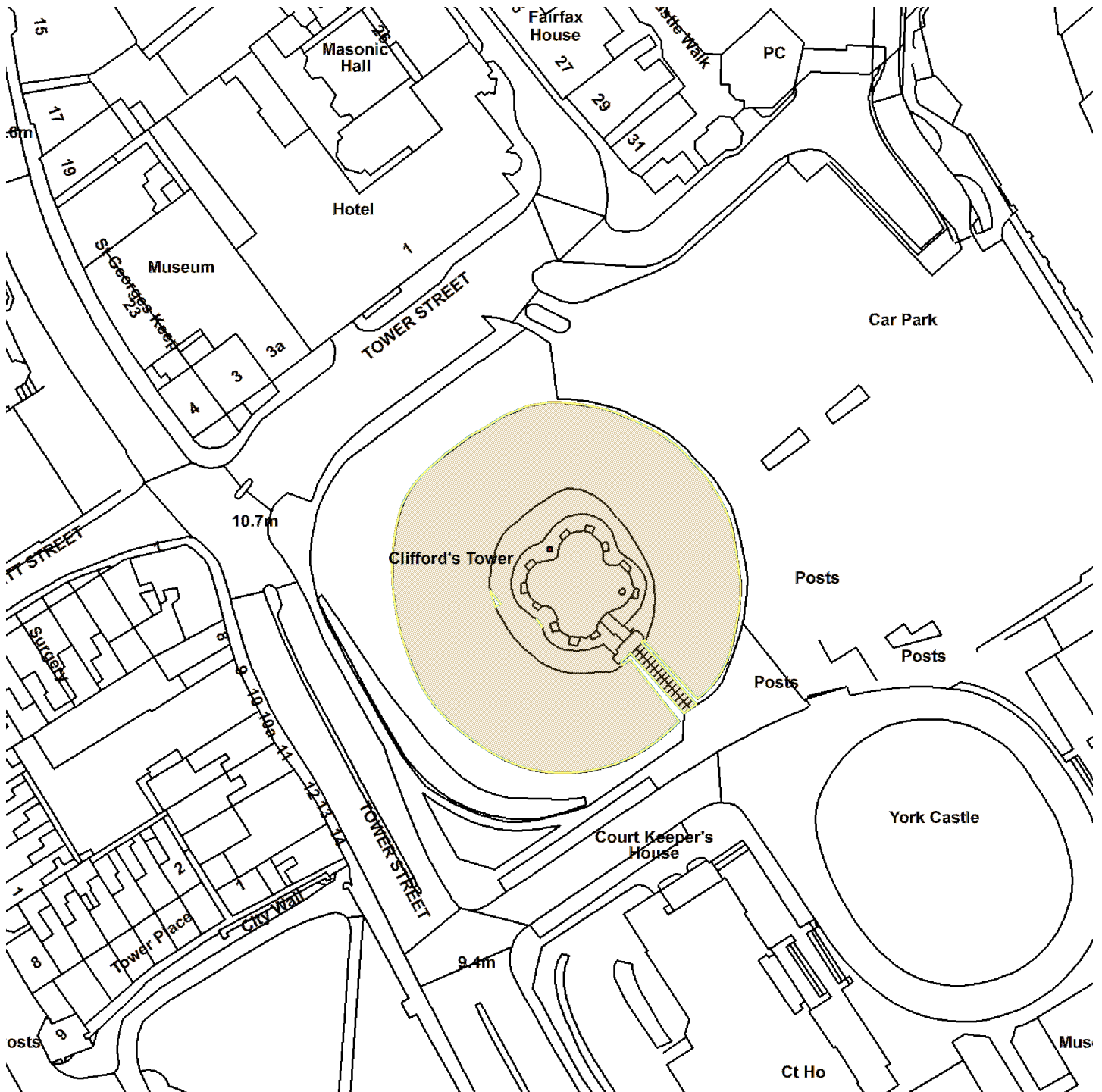
Contact details:

Author: Rachel Tyas Development Management Officer (Tues - Fri)

Tel No: 01904 551610

16/01642/FUL

Cliffords Tower, Tower Street



Scale : 1:1073

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Organisation	Not Set
Department	Not Set
Comments	Site plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Wheldrake
Team: Major and **Parish:** Naburn Parish Council
Commercial Team

Reference: 16/01558/FUL
Application at: Naburn Marina Naburn Lane Naburn York YO19 4RW
For: Replacement garage/workshop building (revised scheme)
By: Mr P Bleakley
Application Type: Full Application
Target Date: 24 August 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 This is a full application for the replacement of two existing combined garage and workshops with a single larger portal framed building at York Marina, Naburn Lane, Naburn.

1.2 The site is located at the northern edge of the village of Naburn, on the east bank of the river Ouse some 3 miles south of York City Centre. The Marina occupies an area of almost 22.5 acres (9.1 Hectares), which includes a mini-harbour with a slip-way, moorings and pontoons, of some 8.6 acres (3.5 Hectares).

1.3 The existing garage workshop has a footprint of 110 sq.m and is 18.3 m long, 6 m wide, stands 5.8 m to the eaves and 7.0 m to the ridge. It is steel framed, with corrugated sheet cladding and in a poor state of repair. The replacement building would have a higher ridge at 7.5 m, and the width increased to 15.2 m, resulting in a footprint of 278.5 m². The building position will also be adjusted slightly to allow for a 1 m wide maintenance gap between the new and existing buildings. The larger floor area is required to accommodate the expanding numbers of boats and river craft which are taking advantage of the Marina facilities.

1.4 The whole of the Naburn Marina site is located within flood zone 2 with areas of lower land located within flood zone 3. The application is supported by a flood risk assessment including a sequential test (to assess if there are sites that could be utilised for the development outside flood zone 3).

1.5 The site is considered to be within the general extent of York Green Belt.

PLANNING HISTORY

1.6 The following applications are considered to be those most relevant to the current proposals:-

- Permission was granted for the redevelopment of the workshops and other permanent buildings and boat storage are for the siting of holiday chalets in March 2004. Officers understand that this permission may still be extant as part of the approved development has been implemented (the access arrangements) (Planning ref: 03/00196/FUL).
- Permission was granted for re-cladding and alterations to existing buildings and internal alterations to provide cafe, shop and workshop facilities at ground floor and offices at first floor together with extensions in April 2007 (Planning ref: 06/02511/FUL).
- Amendments to the above re-cladding scheme incorporating extensions was granted permission in July 2008 (Planning ref: 08/00619/FUL).
- An application was withdrawn for the current replacement workshop proposals and a scheme to site a number of mobile home structures in July 2016 (planning ref: 16/00497/FUL).

2.0 POLICY CONTEXT

Please see section 4 of this report for the relevant planning policy context.

3.0 CONSULTATIONS

INTERNAL

Public Protection - No objections subject to contamination conditions given the previous uses of the site.

Countryside and Ecology Officer - No objections on ecology grounds.

Flood Risk Management – Comments to be reported.

EXTERNAL

Environment Agency - The development will only be acceptable if the measures detailed in the flood risk assessment are implemented. These should be conditioned. The Local Planning Authority should be satisfied that the sequential test has been passed. Emergency planning and rescue implications should be considered. An environmental permit may be needed for the development given the proximity of the site to the River Ouse.

Ouse and Derwent Internal Drainage Board - Surface water details should be provided. The scheme shows that surface water will go to the River Ouse this main river asset is under the control of the Environment Agency. The Ouse and Derwent Drainage Board therefore have no further comments to make.

4.0 APPRAISAL

Key Issues:-

- Green Belt
- Character and appearance of the area
- Ecology
- Flood Risk
- Very Special circumstances

PLANNING POLICY

Regional Spatial Strategy - Development Plan

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the retained policies of the Yorkshire and Humber Regional Spatial Strategy (RSS). These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies require the inner and the rest of the outer boundaries are 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.

4.2 The site is located within the general extent of the Green Belt on the south side of York.

National Planning Policy Framework

4.3 Paragraph 14 of the National Planning Policy Framework (NPPF) says that at the heart of the NPPF is a presumption in favour of sustainable development for decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date granting planning permission unless specific policies in the framework indicate development should be restricted. (Foot note 9 indicates restrictions include Green Belt locations, flood risk areas, site protected under the Birds and Habitats directive and Sites of special scientific interest). The presumption in favour of development does not apply to this application, as the site is within the general extent of the York Green Belt and is within Flood Zones 2 and 3.

4.4 The core planning principles in paragraph 17 of the NPPF says planning should support economic growth; among other things protect the Green Belt around urban areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities and contribute to conserving and enhancing the natural environment.

4.5 Section 3 of the NPPF says that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

4.6 Section 9 of the NPPF says that the essential characteristics of Green Belts are their openness and their permanence (para.79). One of the five purposes of including land within the Green Belt is to assist in safeguarding the countryside from encroachment (Paragraph 80). Once defined Local Planning Authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land (para.81). Paragraph 89 says that the construction of new buildings should be regarded as inappropriate in Green Belt; exceptions to this include 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 and the replacement of a building, provided the new building is in the same use and not materially than the one it replaces.

4.7 Section 10 paragraphs 100 to 108 address flood risk. Paragraph 103 says that local planning authorities when determining applications should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following a sequential test and if necessary an exception test it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning, and it gives priority to the use of sustainable drainage systems.

4.8 Paragraph 109 says that the planning system should contribute to and enhance the natural and local environment and soils by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimising impacts on biodiversity. Paragraph 118 seeks to conserve and enhance biodiversity; it says that development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect should not normally be permitted. Paragraph 119 confirms that the presumption in favour of development at Paragraph 14 of the

NPPF does not apply to sites requiring assessment under the Birds or Habitats directives.

4.9 The NPPF says at Annex 1, paragraph 216, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Weight may also be given to relevant policies in emerging plans according to the stage of preparation

Draft 2005 Local Plan

4.10 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.

4.11 The relevant policies applicable to this application include: GP1: 'Design' which requires that development among other things respects or enhances the local environment; policy GB1 'Development in the Green Belt' and policy NE2 'River Stream corridors, ponds and wetland habitats; GP15a 'Development and Flood Risk' GB 11 'Employment Development outside Settlement Limits'

4.12 Policy GB1 says that planning permission for development will only be granted where development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and development would not prejudice the setting and special character of York. Policy GB11 says that planning permission will only be granted for new industrial and business development outside defined settlement limits in the Green Belt and open countryside were it involves the reuse or adaptation of an existing building or is for a small scale extension to an existing building and it provides a direct benefit to the rural economy and the local residential workforce.

Emerging Local Plan

4.13 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However the evidence base underpinning the policies is capable of being a material consideration in the determination of planning applications. The most relevant of the document's policies is policy EC6 which says York's rural economy will be sustained and diversified through the allocation through policy EC1 of suitable sites for employment uses in

villages and supporting appropriate farm and rural diversification activity including office and leisure development (Use Classes B and D).

GREEN BELT

4.14 The site is located within the general extent of the Green Belt as described in the RSS; is shown as being within Green Belt on the proposals map in the 2005 DCLP and identified as within the Green Belt in the emerging Local Plan.

4.15 Although paragraph 14 of the NPPF sets out a presumption in favour of sustainable development, in accordance with the footnote referenced within paragraph 14 the presumption in favour of sustainable development does not apply in Green Belt locations (note: or in areas at risk of flooding).

4.16 Paragraph 89 regards the construction of new buildings as inappropriate development in the green belt however the replacement of a building to be in the same use and not materially larger than the one it replaces are considered exceptions where new buildings can be supported.

4.17 The existing buildings are located at the southern end of the Marina. These are a cluster of workshop buildings used in connection with the repair and maintenance of boats and other maintenance requirements of the Marina. There are three main buildings; a recently upgraded workshop building; a further workshop building and a Nissan hut. The latter two buildings are in a poor state of repair. The upgraded building is the central of the three structures; the proposal is to remove the other structures either side and erect a single new workshop building. The new workshop will be located on the Naburn Lane side of the existing workshop and will be 1 metre from it. The footprint of the existing structures is 110 sq.m (existing workshop), 90sq.m (Nissen hut) and 31 sq.m (ancillary store). The new structure will have a footprint of 278.5 square metres, an overall increase of 47.5 sq.m. Additionally the new building will be 0.5 of a metre higher than the existing workshop building and 3.5 metres higher than the Nissan hut.

4.18 Paragraph 89 says in relation to replacement buildings that these should not be materially larger in order to be appropriate in the Green Belt. The footprint of the new structure although similar to the overall footprint of the existing structures will be replaced as a single, higher building. The overall volume of the new building will be substantially greater than the building it replaces. Officers conclude that the additional volume of the building, the amalgamation of the footprint to a single building and its siting towards the Naburn Lane side of the site results in a building that will be materially larger than the buildings it replaces and as such it is considered that the building constitutes inappropriate development in the Green Belt, and does not fall within the exception within paragraph 89. Paragraph 87 of the

NPPF establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

OPENNESS AND PURPOSES OF GREEN BELT

4.19 Paragraph 79 of the NPPF says that the essential characteristics of Green Belt are their openness and permanence. The amalgamation of the volume of the existing buildings in to a single structure and additional height of the building will increase its visibility. This will have a small impact on the openness of the Green Belt.

4.20 Paragraph 80 of the NPPF sets out the purposes of Green Belt; these include, amongst others, to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns and to assist in urban regeneration. As the site is an existing developed site with a well defined boundary it is not considered that the proposed development will undermine any of the purposes of Green Belt.

4.21 In summary, the proposal, for the reason set out above, would be inappropriate development. According to the NPPF, paragraph 87, inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also cause a loss of openness.

OTHER CONSIDERATIONS

CHARACTER AND APPEARANCE OF THE AREA

4.22 The Marina site is well established, its boundaries are well defined and there are a variety of uses and buildings within its perimeter. The area of the existing workshop buildings is set within an area also used for the storage of boats and where other office and mixed office/ shop and cafe uses are taking place. Much of the area is hardsurfaced and there is car parking to the north of the site. The front boundary is relatively well screened although the pedestrian entrance within the eastern boundary adjacent to the proposed building affords some views of the site from Naburn Lane. In the particular site context Officers are satisfied that the replacement building can be accommodated without detriment to the Site's character and appearance and are therefore satisfied that the scheme would comply with the core planning principle of the NPPF of recognising the intrinsic character and beauty of the countryside and GP1 of the 2005 DCLP which similarly expects proposals to respect or enhance the local environment.

ECOLOGY

4.23 The nearest statutory site of nature conservation interest is Church Ings Site of Special Scientific Interest (SSSI) approx. 280m south-west. Church Ings SSSI is designated for the unimproved flood meadows which occur here. The nature conservation interest is dependent upon the maintenance of a high water-table and on management by mowing for hay followed by aftermath grazing. It is not considered that the proposed development will impact on this SSSI.

4.24 The River Ouse is designated locally as a candidate Site of Importance for Nature Conservation (cSINC), as is a flood meadow (also known as Church Ings) on the opposite bank from the application site. Church Ings cSINC is not connected to the development site and therefore the habitat on site is unlikely to be impacted.

4.25 The River Ouse is designated as a cSINC because of the presence of migratory fish, protected species otter and kingfisher, and Local Biodiversity Action Plan species tansy beetle. The development has potential to temporarily impact these species from disturbance and pollution during construction.

4.26 Potential construction impacts on the River Ouse should be controlled through following best practice working methods and use of a Construction Environmental Management Plan. There are no objections to the development on ecology grounds and no harm attributable to the planning balance subject to conditions.

FLOOD RISK

4.27 The site is located within Flood Zone 3a. The existing and proposed use of the site is a 'less vulnerable' use according to the NPPF. Paragraph 103 of the NPPF says that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

4.28 The proposed development requires a sequential test as it is marginally above the minor development limit of 250 square metres set out in the NPPG. The applicant has submitted a sequential assessment as part of his design and access

statement. The applicant says that 'relocation of the building to an area less likely to flood has been considered but found to be of no advantage. The existing location has been found to be convenient and suitable despite a small amount of flooding occurring at extreme flood conditions. The equipment and materials stored within the building is flood resilient and any other vulnerable equipment is either stored in other locations or relocated during the early stages of a confirmed flood event. The Marina constantly monitors the River level for both its own safety and to be able to provide prompt and accurate warning to boat users and campers within the site. Flood procedures and instructions are already in place. The location and orientation of the existing and proposed building allows good access by large vehicles from the main boatyard service area, without restricting the route to the partially concealed external storage area behind. Access to the riverbanks to the southern and south western boundaries of the site is also good and will not be compromised by the proposals. Public access to the southern end of the site is restricted for security and health and safety reasons and allows the applicant to group all the service and maintenance buildings in a secure and appropriate location, with a central turning area ideal for large articulated delivery vehicles.' The NPPG advises that when applying the sequential test, a pragmatic approach to the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. Given the particular site circumstances and the nature of the operation Officers are satisfied that the proposal pass the sequential test.

4.29 In accordance with advice in the NPPG the exception test does not need to be applied to the scheme, as it is within Zone 3a and is classed as "less vulnerable" (Table 3 para 067 NPPG).

4.30 The Environment Agency is satisfied with the details of the flood risk assessment subject to a condition to ensure appropriate flood resilience measures in the design of the building as proposed within the Flood Risk Assessment.

4.31 The details of drainage are included in the application and include surface water attenuation. The comments of Flood Risk Management are awaited on the submitted details, and subject to his views, it is anticipated that detailed design solutions are possible and so can be secured by condition. It is considered likely that no harm could be attributed to drainage issues in the planning balance subject to conditions.

VERY SPECIAL CIRCUMSTANCES

4.32 The applicant has put the following forward as 'very special circumstances':

- Although the site is washed over by Green Belt the site is Brownfield having been previously developed with a variety of existing buildings
- The Marina has become a feature of the village and the impact on the surroundings and the openness of the riverbank is long established and accepted.
- The development is appropriate within the site and its current use class
- The continuing improvement of the facilities and rising visitor numbers will maintain and improve employment prospects at the Marina.
- The Marina site sits comfortably with the thrust of the NPPF in promoting a strong rural economy and improving access to sport and recreation facilities.
- The Marina is a centre for both boat sales and all aspects of chandlery and boat maintenance as such it is ideal to generate and contribute to the promotion of York's regional economy.
- The Marina is perhaps the regions best access route to the local waterways and canals and aims to promote the river as a form of transport
- The Marina organises York Flotilla Day and also assists the emergency services to launch their river craft when needed.
- The Marina promotes good practice and safe sailing aiming to encourage users to respect, preserve and improve the waterfront environment.
- The location of the Marina promotes the use of the Nearby Park and ride scheme and adjacent cycle paths.

Assessment of Very Special Circumstances

4.33 The NPPF says that there are three dimensions to sustainable development economic, social and environmental. An economic role in contributing to building a strong, responsive and competitive economy by ensuring that sufficient land is available to support growth and innovation; a social role in supporting vibrant and health communities and an environmental role in contributing to protecting and enhancing the environment. One of the core principles is to seek to proactively drive and support sustainable economic development including in rural locations another is to plan positively to enhance the beneficial use of the Green Belt. This site is an established Marina and has been invested in following permission for extensions to the cafe and shop. The site has an important role in the local community providing jobs and services to the local community, as well as a facility of some regional significance. Officers accept that such sites will need to grow and adapt. The proposed building is being provided within the established confines of the business, it does not necessitate additional access or ancillary facilities these are already within the site. The building is considered to conform to a very important element of Government's policy which is to diversify and grow the rural economy and this is reflected in planning policy.

4.34 In officers' opinion the very special circumstances put forward by the applicant are sufficient other considerations to clearly outweigh the definitional harm and any other harm (impact on openness) identified in this report.

5.0 CONCLUSION

5.1 Given the particular site circumstances and the nature of the operation, officers are satisfied that the proposal passes the sequential test. Subject to a condition to ensure appropriate flood resilience measures in the design of the building as proposed within the Flood Risk Assessment, the development is considered to be acceptable with regard to its location within flood zone 3a.

5.2 The site is located within the general extent of the Green Belt on the south side of York.

5.3 Although paragraph 14 of the NPPF sets out a presumption in favour of sustainable development, in accordance with the footnote referenced within paragraph 14 the presumption in favour of sustainable development does not apply in Green Belt locations.

5.4 It is considered that the other considerations put forward by the applicant together with the mitigation of other harm through the imposition of appropriate planning conditions clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm (impact on openness), and thereby amount to very special circumstances to allow the inappropriate development in the York Green Belt even when substantial weight is given to such harm.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing no. NAB-104-05-01 revision B

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

3 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 construction of the development. The development shall be carried out using the approved materials.

Application Reference Number: 16/01558/FUL

Item No: 4b

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.

4 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development and including car parking and material storage areas shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the ecological value of the River Ouse is protected during the construction phase of the development.

5 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by PDP, dated 24 June 2016 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off to 3l/s.
2. The works are to be completed in accordance with the FRA - retention of existing floor level, flood resilient design.
3. The building is to be built such that it allows the flow of flood water into/out of the building.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory disposal of surface water from the site, to reduce the impact of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that future flood flows are not displaced.

6 2. No construction works shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

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

7 Investigation of Land Contamination

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

8 Submission of a Remediation Scheme

Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health,

buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

9 Verification of Remedial Works

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

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

10 Reporting of Previously Unidentified Contamination

In the event that previously unidentified 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.

7.0 INFORMATIVES:

Notes to Applicant

1. This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 for any proposed works or structures, in, under, over or within eight metres (sixteen metres where tidal) of the top of the bank of the River Ouse which is designated as a 'main river'. This was formerly called a flood defence consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available at <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

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 (paragraphs 186 and 187) 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:

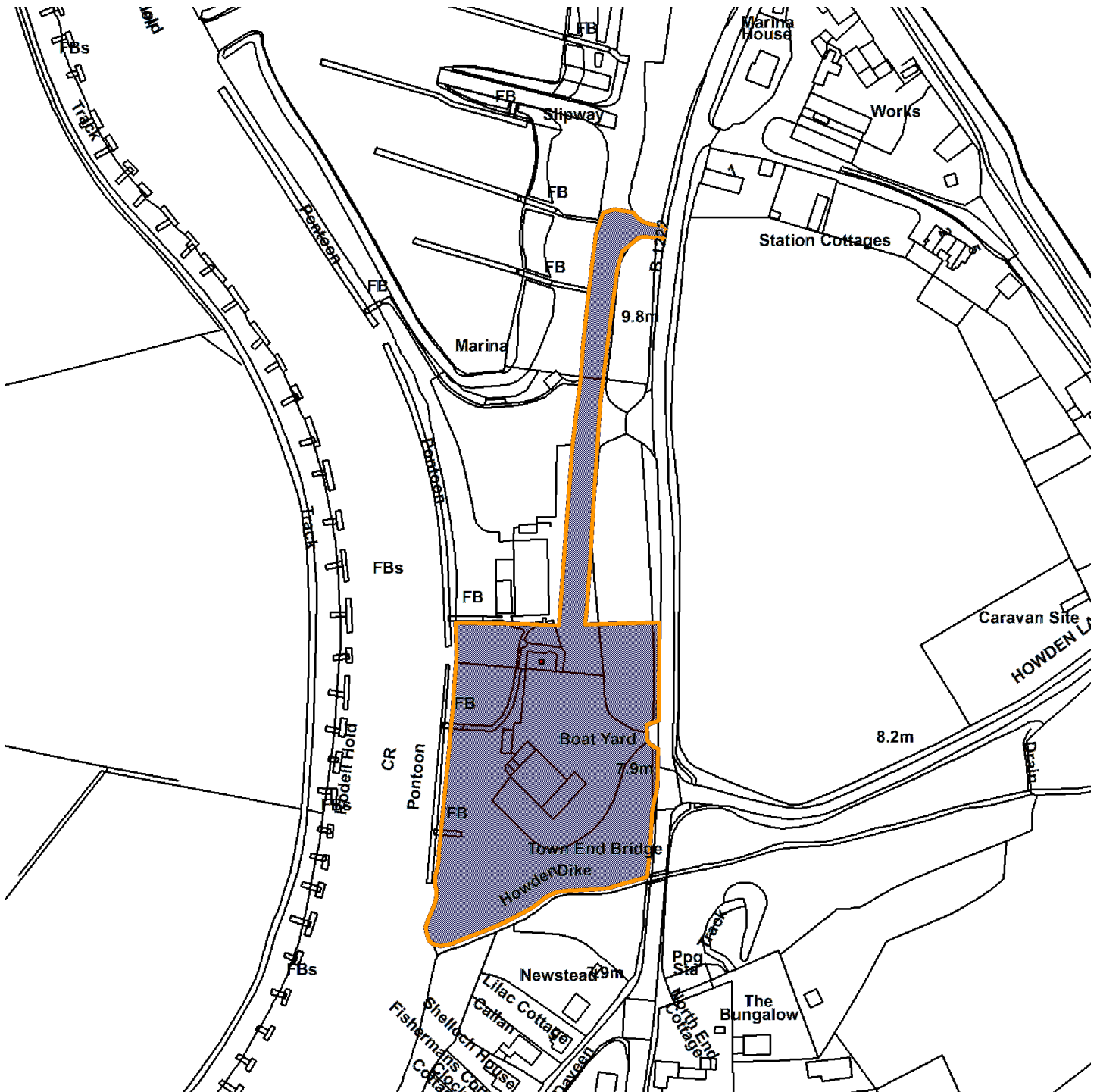
- Requirement for sequential assessment in relation to flood risk

Contact details: Jonathan Carr Head of Development Services and Regeneration
Tel No: 01904 551303

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16/01558/FUL

Naburn Marina Naburn Lane Naburn



Scale : 1:2319

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Organisation	Not Set
Department	Not Set
Comments	Site plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Clifton
Team: Major and Commercial Team **Parish:** Clifton Planning Panel

Reference: 16/01325/FUL
Application at: St Peters Boat House Westminster Road York
For: Demolition of boathouse and construction of replacement boathouse, extension of boat repair block to accommodate sports facilities and amenities, extension of steps to river
By: St Peter's School
Application Type: Full Application
Target Date: 29 July 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks full planning permission for the replacement of a lower boathouse, extension of an existing upper boathouse, the southern extension of existing concrete riverbank steps and associated ancillary works within the grounds of St Peter's School.

1.2 The replacement lower boathouse would increase in size from 245 sq.m. to 496 sq.m. gross internal area and would be relocated further into the site than the existing building on a grassed area between the cricket and rugby pitches. It would be a rectangular building with a pitched roof and dimensions of approx. 41m long x 13m wide x 6.2m high. The materials of construction would be brickwork end gables and plinth, with profiled metal wall and roof cladding that would be laid vertically and colour finished green. The side walls would have a series of blanking panels of the same materials and colours as the walls above low level louvres to allow water access and egress. Two steel doors (colour to be confirmed) would be provided at each end of the building for access via ramps. Polished steel signage reading 'St Peter's School Boat Club' would be fixed to the northern end of the south eastern elevation facing towards the City. The building would provide space for 8 launch boats, oars and life jackets as well as the rowing boats on four rows of stands. It would accommodate two toilets. The existing boat house and ramped access would be removed and replaced with new timber fence and gates on the site boundary.

1.3 The extension to the upper boathouse would be to its south-east facing elevation and of similar dimensions, doubling the internal floor space from 146sq.m. to 293sq.m. Its dimensions would be approximately 31m long x 5.6m x 4.7m high. The materials of construction would be in brickwork for the end gables to match the existing building with the same profiled metal wall and roof cladding, laid vertically, as the lower boat house. The extension would have powder coated aluminium framed entrance doors and windows in the wall and roof on its SE elevation.

It would have timber cladding and double entrance doors in its SW elevation. Polished steel signage reading 'St Peter's School Boat Club' would be displayed on the NE elevation facing the access track from Westminster Road. The extension would accommodate a cricket store, toilet facilities for males, females, visitors and staff (which is also wheelchair accessible) and a training room. The existing building would remain as boat storage and maintenance.

1.4 The extension to the concrete steps would increase their length by approximately 35m at the top of the embankment and approximately 13m at the bottom, to a total length of around 49m. Two existing river bank trees would need to be removed and the land level of an area of grass between the riverside footpath and playing fields reduced and replaced with gravel.

1.5 In addition to the forms and plans, the application is supported by a Planning Statement, document outlining the justification for the development, Design and Access Statement, Arboricultural Report, Flood Risk Assessment and Drainage Appraisal and Archaeological Desk-Based Assessment. The proposal has been subject to a pre-application public consultation exercise by the school with the houses backing onto the site on Government House Road and Westminster Road.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

- York Green Belt

2.2 Policies:

2005 Draft York Local Plan (4th set of changes) – relevant policies include:

- CYSP2 - The York Green Belt
- CYSP3 - Safeguarding the Historic Character and Setting of York
- CYSP6 - Location strategy
- CYGP1 - Design
- CYGP3 - Planning against crime
- CYGP4A - Sustainability
- CGP15A - Development and Flood Risk
- CYNE1 - Trees, woodlands, hedgerows
- CYNE2 - Rivers and Stream Corridors, Ponds and Wetland Habitats
- CYNE4A - International and National Nature Conservation Sites
- CYNE5A - Local Nature Conservation Sites
- CYNE5B - Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites
- CYNE6 - Species protected by law

- CYNE7 - Habitat protection and creation
- CYNE8 - Green corridors
- CYHE2 - Development in historic locations
- CYHE10 - Archaeology
- CYGB1 - Development within the Green Belt
- CYGB13 - Sports facilities outside settlements
- CYED11 - Protection of Playing Fields

Draft York Local Plan (2014) Publication Draft – Allocates the site as open space within a green wedge that contributes to the historic character and setting of York. Relevant policies include:

- DP2 – Sustainable Development
- SS2 – The Role of York’s Green Belt
- CF2 – Built Sports Facilities
- ED8 – Community Access to Sports and Cultural Facilities on Education Sites
- D2 – Placemaking
- D3 – Extensions and Alterations to Existing Buildings
- D1 – Landscape and setting
- D5 – Listed Buildings
- D7 – Archaeology
- G13 – Biodiversity and Access to Nature
- G14 – Trees and Hedges
- GB1 – Development in the Green Belt
- CC2 – Sustainable Development and Construction
- EN4 – Flood risk
- T1 – Sustainable Access

3.0 CONSULTATIONS

3.1 The application was publicised by means of a site notice and notification to statutory consultees and third parties. The consultation period expired on 3.8.2016. The following comments have been received:

INTERNAL

PLANNING AND ENVIRONMENTAL MANAGEMENT (Archaeology)

3.2 Although this site is outside the Area of Archaeological Importance, it is in an area which has the potential to contain archaeological deposits. The surrounding area has been shown to contain Roman burials, many of which were discovered during the late 19th century. The site also lies close to the line of one of the two Roman roads approaching the fortress from the north-west. During the medieval

period the site was undeveloped and a number of archaeological investigations in the area have encountered substantial thicknesses of garden soils. Therefore, the site is regarded as an Area of Archaeological Interest.

3.3 A desk-based assessment has been completed in relation to this project by On-Site Archaeology. It is possible that groundworks associated with this proposal may reveal or disturb archaeological features particularly relating to the Roman period. It will be necessary to carry out a strip, map and record excavation on the site of the new boathouse to formation level. An archaeological watching brief should be maintained to record features or deposits which may be revealed during groundworks for the extension of the upper building. Requests conditions ARCH1 and ARCH2.

PLANNING AND ENVIRONMENTAL MANAGEMENT (Countryside and Ecology)

3.4 The site is located within a Local Green Infrastructure Corridor. The emerging Local Plan supporting document 'Green Corridors' January 2011 locates the site within 'Regional Green Corridor No.1 - The River Ouse'. Green Corridors are not fixed boundaries but are a consensus of where green infrastructure assets occur. This is a significant multifunctional corridor for not only wildlife but recreation as well. Priorities for wildlife enhancement include: wet and flood meadow grasslands, riverine habitats (Fens and marshes), wet woodland, ponds, tansy beetle, bats and otter.

3.5 Clifton Ings and Rawcliffe Meadows Site of Special Scientific Interest (SSSI) is located approx. 530m north of the site. The proposals have potential to impact on this site through changes in the functional floodplain and through pollution during construction.

3.6 The River Ouse itself is designated as a candidate Site of Importance for Nature Conservation (SINC). Whilst they have no direct legal protection, SINCs are considered important enough to receive protection through the planning system.

3.7 An Extended Phase 1 Habitat Survey and Bat Survey has been undertaken to support the application, although this only covers the lower boathouse and extension to the steps.

3.8 The officer notes that the construction and condition of the upper boathouse means that it is unlikely to provide suitable habitat for roosting bats. The gravel path will come close to a horse chestnut tree, which has the potential for roosting bats but has not been assessed. It will need to be assessed if removed or lost through root damage over time.

3.9 The bat survey covers the lower boat house and mature ash tree (T1), and identified that both have a medium potential to support roosting bats. Bats were not recorded leaving the building or tree in the single emergence survey. The ash tree could be lost through damage to its roots from adjacent works. Veteran trees have ecological value for invertebrates and fungi. Options to retain this tree should be explored. There are opportunities to provide features which are suitable for roosting bats within the design of the new boathouse and can be secured through condition.

3.10 Himalayan balsam is present within the vicinity of the lower boathouse and along the riverbank. If approved, a planning condition should be added.

3.11 No evidence of otters or water voles was found in this location. The steps extension will result in the loss of approx. 32m of river bank which is currently well vegetated with semi-improved grassland and a significant amount of tansy plants with a population of tansy beetle. The Phase 1 Habitat Survey makes generic recommendation for habitat management for tansy and tansy beetle, but a detailed mitigation scheme is required and given the riverbank is not in the applicant's control details need to be provided that the mitigation is deliverable. Staggering the steps would be an alternative to overcoming the barrier for tansy beetle dispersal from the proposed increased area of concrete. Careful consideration needs to be given to the replacement riverbank trees to ensure no impact on tansy beetle habitat (short term digging up of plants and long terms shading). [Planning Officer comment: since this response a revised ecology report has been submitted in respect of Tansy Beetle and habitat mitigation to satisfy the Council's Ecologist and so a condition can be imposed to secure mitigation].

3.12 A Construction Environmental Management Plan would be required to ensure there are no adverse impacts on river or habitats down stream during construction.

PLANNING AND ENVIRONMENTAL MANAGEMENT (Landscape)

3.13 The site is located within the green wedge associated with the regionally important green infrastructure River Ouse corridor. Existing arrangement of the boat house and trees explained, including impact to riverside trees from prolonged periods of flooding and presence of a veteranised Ash (T1). Although proposed to be retained, the proposed scheme could cause significant damage to the tree roots due to the introduction of hard surfacing and the desire to reduce the levels so as to meet the level of the footpath. Advises investigations be carried out by the applicant's arboriculture consultant.

3.14 The proposal to extend the steps would result in the removal of two trees, a significant length of green bank (including tansy plants) as well as trees and would cause a degree of harm to the amenity of the riverside walk. Considers that it would be more appropriate to accommodate the length of two 'eights' by doubling the length of the full flight of steps and thereafter reduce the flight of steps to the

practicable minimum number of lowest steps only in order to retain the majority of the green bank and trees.

3.15 The proposed extension of the upper boat house would not impact on existing trees. However, there is a need to top up/add gravel to the existing route that is used for infrequent vehicle access. To the south of the boathouse, it is currently grassed, and marked by slight rutting and compaction. It should be possible to install such surfacing without harm to the existing trees. A method statement under condition would be required. The Arboricultural method statement should also include items such as the location of the site compound, and location and design of tree protection fencing, and limits of areas for construction operations including working areas, parking, manoeuvring and storage.

3.16 The proposed replacement trees along the top of the river bank to the north and south of the steps would appear to be suitable locations, but need to be agreed with the Council's arboriculturist. Assumes that existing utility runs will provide the necessary services for the proposed boathouse and that there will be no additional trenching of services through the rooting zones of any of the trees to be retained.

3.17 The riverside elevation of the proposed boathouse would be set further back from the river, which would reduce the imposition of the building on the river side walkway by freeing up the space immediately adjacent to the footpath. This, however, does have a knock on effect on the openness of the sports grounds, which can be viewed from the flood bank; there are also views across the grounds over/through the hedge in winter months, including views of Clifton Holme, which would be slightly obscured.

3.18 Suggests that naturally weathered timber cladding and a living roof would be far more appropriate in appearance and character, and thence potentially acceptable, than profiled metal sheet cladding; the latter being more incongruous in the landscape and more 'industrial' in character despite being green in colour.

3.19 Requests conditions should the application be approved.

FLOOD RISK MANAGEMENT TEAM

3.20 No comments received.

PUBLIC HEALTH (HEALTH IMPROVEMENT)

3.21 Public Health is supportive of this project and particularly welcomes the secure access to the lower boathouse, the provision of the only purpose built indoor training facility in the City and the provision of secure cricket storage. The City's built sports facilities strategy sets out the need to cater for the increased demand for rowing facilities and to provide modern practical facilities as detailed in Action 7 of the

action plan, 'Develop accessible, fit for purpose facilities for rowing in the city'. It is hoped that the facilities will in the future benefit the local community, visiting clubs and cricket development in the City and welcome the opportunity to discuss community access with the applicant.

EXTERNAL

ENVIRONMENT AGENCY

3.22 Initially the Agency issued an objection to the proposal on the basis that it would create an unacceptable increase in flood risk, given the location of the site in Flood Zone 3b and the obstruction to flows could be the proposed lower boathouse. This objection was removed following the submission of further information by the applicants. Request conditions to ensure that the development is built in accordance with information provided and to require flood risk and resilience measures.

SPORT ENGLAND

3.23 It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years. Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

3.24 Having assessed the proposal and consulted with the England Cricket Board (who raise no comments), Sport England is satisfied that the proposed development meets the following policy exception: E2 - The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use. This being the case, Sport England does not wish to raise an objection to this application.

NATURAL ENGLAND

3.25 No comments to make.

CANAL AND RIVER TRUST

3.26 The Trust is the Navigation Authority for the River Ouse and notes that the proposed scheme is to facilitate improved access and enjoyment of the waterway by the staff and students at the school. Note that the application has confirmed in writing that there will not be an increase in the number of craft using the river at any one time should the scheme be approved by the Council, though the applicant also

states that there may be an increase in the frequency of rowing sessions on the river.

3.27 The Trust has no objections to the proposed scheme but would advise the applicant to contact the Harbour Master to discuss planned frequency of usage to ensure that safe navigation of the waterway is maintained. The applicant must ensure that during the construction stage, current environmental best practice is adhered to in order that the river is protected from construction work and materials. Requests an informative.

CLIFTON PLANNING PANEL

3.28 No objection.

THIRD PARTY COMMENTS

3.29 One response has been received from a resident of Manor Lane objecting to the following aspects of the proposals:

- The new timber gates that would open outwards towards the path and even encroach across the path, which is dangerous and unacceptable along riverside path and National Cycle Route NCN65;
- The extension of the concrete steps along the river bank would result in unnecessary loss of amenity to other users of the path and have detrimental effect on natural environment and ecology.
- Widening of steps is not necessary as it will not remove the main cause of the bottleneck caused by boats being handled across the pathway and conflicting with other users of the path.
- Loss of veteran tree in order to provide unnecessary wider steps.
- School rowing activities are used for only 6 months per year - by comparison, the loss of amenity and environmental effects will be permanent and 12 months per year for other users of the riverside and path.

4.0 APPRAISAL

4.1 The key issues material to the consideration of the application are:

- Principle of development;
- Green Belt policy;
- Openness and purposes of the Green Belt;
- Character and appearance;
- Flood Risk;
- Heritage assets;
- Nature Conservation;
- Residential amenity;

- Other considerations.

POLICY CONTEXT

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than 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. These 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.

4.3 Central Government guidance is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Footnote 9 of paragraph 14 contains restrictions where this presumption in favour of sustainable development does not apply, including land designated as Green Belt and locations at risk of flooding. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design, protecting Green Belt, taking full account of flood risk, conserving and enhancing the natural environment, conserving heritage assets and supporting local strategies to improve health, social and cultural well-being.

4.4 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

4.5 Chapter 8 'Promoting healthy communities', highlights the importance of the planning system in creating health communities, along with the aim to provide safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life. Access to high quality open spaces and opportunities for sport and recreation are considered to make an important contribution to health and well-being (paragraph 73). Paragraph 74 advises against existing open space and sports buildings and land being built on unless an assessment has been undertaken showing that they are surplus to requirements, the loss would be replaced by equivalent or better provision, or the development is for alternative sports and recreational provision.

4.6 Section 9 'Protecting Green Belts' says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). Paragraph 80 sets out the purposes of Green Belt. These are to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and, to assist in urban regeneration. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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. With regard to new buildings, paragraph 89 states that the construction of new buildings is inappropriate in Green Belt unless it falls within one of the listed exceptions.

4.7 Section 10 'Meeting the challenge of climate change, flooding and coastal change' offers advice on locating new development to avoid increased flood risk.

4.8 Section 11 'Conserving and enhancing the natural environment' says that the planning system should contribute to and enhance the natural environment by, amongst other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible as well as preventing adverse affects on pollution and land instability.

4.9 Section 12 'Conserving and enhancing the historic environment' gives advice on handling applications with heritage implications, including heritage assets with archaeological interest.

4.10 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. The relevant policies are summarised in section 2.2 above.

4.11 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF), although the evidence base underpinning the work to the emerging plan is capable of being a material planning consideration in the determination of the planning application.

SITE AND PLANNING HISTORY

4.12 The application site is 0.93 ha in total and includes part of the playing fields serving St Peter's School and a section of the River Ouse embankment. It is linear

in form and stretches from the River Ouse in a north easterly direction to the access track and houses fronting onto Westminster Road. There is a public footpath along the river bank and running SW-NE along the SE boundary of the playing fields. There is an existing boat house adjacent to the boundary with the river (measuring 21.2m overall length x 14m wide x 5.2m max. high) and an upper secondary boat house further north, nearer to Westminster Road (measuring approx. 31m long x 5.6m wide x 4.3m max. high). There are existing concrete steps down the riverside embankment adjacent to the existing lower boat house that are staggered in length, ranging from 14.5m to 17.5m from the first 7 steps with the bottom two steps extending to 37m.

4.13 The site lies outside, though in close proximity to, the City Centre Area of Archaeological Importance and outside the Clifton Conservation Area, which is further north on the opposite side of Westminster Road. Clifton Holme, a detached dwelling to the NW of the site, is grade 2 listed and many of the older school buildings are listed. The site lies within Flood Zone 3b (Functional Floodplain). The River Ouse is a site of Importance for Nature Conservation.

4.14 The planning history relates primarily to alterations to St Peters School buildings or the land immediately around them. Two pre-application enquiries are relevant. A pre-application enquiry was made in 2013 for the extension to the steps (13/03473/PREAPP). A subsequent pre-application enquiry (ref. 15/02363/PREAPP) was submitted to the Authority for a replacement boathouse and extension to the riverside steps, though it involved just one building that was proposed to be located alongside the field boundary with the riverside path.

PRINCIPLE OF DEVELOPMENT

4.15 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner boundaries and the rest of the outer boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The 2005 Draft Local Plan proposals map identifies the site for housing development, but the Secretary of State in considering the outline application proposal concluded that the land was part of the Green Belt. The Secretary of State considered that the site fell outside the categories of development that are considered in policy to be appropriate in the Green Belt and attributed substantial weight to the definitional harm.

4.16 It is considered that the site falls within the general extent of the Green Belt. In accordance with footnote 9 of paragraph 14 of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply in

Green Belt locations. Instead, the more restrictive policies in section 9 of the NPPF apply.

GREEN BELT POLICY

4.17 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Whilst there is no definition of openness in the NPPF, it is usually taken to mean 'the absence of built development'. Paragraph 80 sets out the five purposes of the Green Belt:

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

4.18 Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate development in Green Belt unless they fall within one of the six listed exceptions. Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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. Most development within the Green Belt is considered inappropriate. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt.

4.19 The proposal relates to the provision of boat houses on land adjacent to the River Ouse and for use by St Peter's School in connection with rowing activities. It would, therefore, fall within the second exception of paragraph 89, which allows the construction of appropriate facilities for outdoor sport and recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. As a replacement building in the same use, the proposal could also be assessed under the fourth exception of paragraph 89 and would be appropriate provided that it is not materially larger than the one it replaces. The third exception of paragraph 89 allows for the extension of a building provided that it does not result in disproportionate additions over and above the size of the original building. The extension to the access steps are an engineering operation, which would not be inappropriate in Green Belt, according to paragraph 90 of the NPPF, providing openness of the Green Belt is preserved and there is no conflict with Green Belt purposes.

4.20 The replacement lower boat house is substantially bigger than the existing building, double its size, notably its length. It is, therefore, materially larger and would reduce the openness of the Green Belt. The upper boat house extension would increase the floor area of the existing building by 100% and would, therefore, result in a disproportionate addition that would reduce openness. The extension to the steps would convert grassed river bank to hard surfacing, but would continue to preserve the openness of the river environment. However, overall, the proposal would not preserve the openness of the Green Belt.

4.21 The primary function of Green Belt land in York is, according to Policy SP2 of 2005 Draft Local Plan, to safeguard the setting and historic character of the City. Whilst the proposed buildings and works would be visible in views of the site, the special character and setting of the historic city would not be eroded and, in particular, views of the Minster would not be hindered. Furthermore, the proposal would not conflict with the four remaining purposes of Green Belt, listed in paragraph 4.17 above, namely, to check unrestricted sprawl, to prevent towns merging, to safeguard countryside, to assist in urban regeneration. Therefore, the proposal would not conflict with the purposes of the Green Belt set out in paragraph 80.

4.22 However, due to the adverse impact on openness, the proposal would constitute inappropriate development that is, by definition, harmful for the purposes of Green Belt policy. In accordance with paragraph 88 of the NPPF, such harm is attributed substantial weight. For inappropriate development to be acceptable, very special circumstances must exist. '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.

IMPACT ON GREEN BELT OPENNESS AND PURPOSE

4.23 In addition to the harm by reason of inappropriateness, consideration also needs to be given to other harm to the Green Belt. The NPPF states that the essential characteristics of Green Belts are their openness and their permanence.

4.24 The proposed development would increase the amount of built development within an area of open land that has limited built form on it. The proposed lower boat house would be located in the middle of the playing fields, away from site boundaries, and would dissect the open space. It would be located on a raised section of land – the rugby pitches to the south east being on lower land. As a result of the above, the proposal would be visually more prominent in views into and within the playing fields. The upper boat house extension would double the size of the existing building, but would have a lesser impact on openness as it would be read in the context of the existing building and is in a less prominent location within the playing fields, adjacent to a collection of mature trees. The extension to the steps

would hard surface an area of greenery with the loss of some trees, but in the context of the riverside embankment would have a limited impact on the open character of the Green Belt.

4.25 As noted above in paragraph 4.21, the proposal would not conflict with the functions of the Green Belt and the purposes of including the land within it. There would be no erosion of the setting and historic character of the City. Indeed, the set back of the lower boat house building from the site boundary would benefit views along the public footpath and consequently would be an improvement to the enjoyment of the river environment.

4.26 As such, it is officers' opinion that the proposal would result in additional harm to the openness of the Green Belt, but that it does not conflict with the purposes of including land within the Green Belt listed in paragraph 80. This additional identified harm is also attributed substantial weight.

CHARACTER AND APPEARANCE

4.27 Chapter 7 of the NPPF gives advice on design, placing great importance to that design of the built environment. At paragraph 58 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, establish a strong sense of place, incorporate green and other public space as part of them, respond to local character whilst not stifling innovation, create safe and accessible environments and include appropriate landscaping. Paragraph 64 advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.28 The advice in chapter 7 is replicated in Draft Local Plan policies GP1 (Design) and GP9 (Landscaping) and these policies, therefore, accord with the NPPF. In particular, Policy GP1 which requires new development to respect or enhance its local environment and be of an appropriate density, layout, scale, mass and design compatible with neighbouring buildings and using appropriate materials. Policy GP4a requires development to incorporate sustainable construction methods as well as be sustainable and accessible in its location.

4.29 The lower boat house would be larger in size, re-sited away from the site boundary and would run across the width of the playing fields, thereby dissecting their length and interrupting views across the open space both from within and from outside looking into the site. There are elevated public views of the site from the raised flood embankment to the SE of the playing fields, public views from the riverside path, mainly when approaching from a SE direction heading out of the City Centre and where the site boundary opens up due to the site access to the playing fields and boat house as well as private views by users of the playing fields or

neighbouring occupants who back onto the site. The planning system is concerned with impact to public views.

4.30 The size and location of the proposed lower boat house would impact on the open character of the space occupied by the playing fields and on views into the site from publicly accessible routes and vantage points. However, the building would also be viewed in the context of the playing fields and would improve views and openness along the riverside path by removing the built form of the existing boat house, which is in poor condition and visually prominent due to its position immediately adjacent to the site boundary. This is providing the proposed gate and fencing is designed to be open in nature, which can be controlled through condition. This gate, contrary to the submitted site layout plan should not open over the public footpath and, therefore, the condition should also address its position and/or method of opening.

4.31 The upper boat house extension would be read against the built form of the existing building and the back drop of the mature trees adjacent to it.

4.32 The buildings have a simple design with brick gable ends and metal cladding for the walls and roofs, which are dual pitched. The submitted Design and Access Statement refers to the 'simple, elevational treatment...paired with careful detailing at door and window openings and at junctions between different materials'. It explains that 'a simple co-ordinated palette of materials and colours' has been selected in order to 'create a rural and agricultural aesthetic suitable for the setting'.

4.33 However, the Council's Landscape Architect has expressed concerns about the materials of construction, especially for the large replacement boat house. This is in terms of the use of metal cladding rather than a timber boarding as the existing boat house as well as the use of a dark green colour finish. The Landscape Architect suggests that naturally weathered timber cladding and a living roof would be more appropriate in appearance and character rather than the more metal cladding which is more incongruous in the landscape and 'industrial' in character. At the very least she considers that the roof should be timber and that a mid-grey colour finish be used rather than dark green. This has been discussed with the agent. In response the agent explains that the reason metal cladding has been chosen over timber is due, firstly, to arson attempts at the lower boat house and the vulnerable nature of timber to fires and, secondly, the longevity of metal cladding over timber to regular submersion by flood waters. Whilst timber cladding would provide a softer appearance that is more in-keeping with the nature and character of the building and environment, the reasons put forward by the agent are accepted as justification for the use of metal cladding. It is recommended, however, that a condition be attached to control the type and colour finish of the metal cladding used.

4.34 The proposed increased length of the steps would reduce the extent of the green riverbank and require the removal of some of the trees planted in the bank. The increased hard surfacing of the green bank would have a visual impact, but the presence of steps adjacent to the river is not an incongruous feature and would continue to cover a limited section of a much longer green river bank. The proposals include the replacement of removed trees and tansy plants either within the bank or on St. Peter's School land.

4.35 In summary, the proposal would result in a significant change to the visual appearance of the immediate area, though would not be contrary to the wider character and appearance as a sports field and river bank, subject to condition.

FLOOD RISK

4.36 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but, where development is necessary, making it safe without increasing flood risk elsewhere (paragraph 100). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, and following the sequential test, it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant (paragraph 103).

4.37 The site lies in Flood Zone 3, with the area proposed for the lower boat house and steps lying in Flood Zone 3(b), functional floodplain. In the Framework and its associated Technical Guidance, sites in Flood Zone 3 are classed as areas at risk of flooding, with Flood Zone 3b being functional floodplain, where water has to flow or be stored in times of flood. The proposed development, as outdoor sports and recreation facilities, is classified as water-compatible development, which is appropriate in zone 3b provided it has been designed to meet the following requirements and has passed the Sequential Test (in accordance with Planning Policy Guidance, the Exception Test does not need to be applied):

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

4.38 The application submission explains that the existing lower boat house is currently highly vulnerable to flooding and is regularly inundated resulting in damage to boats, which are unable to be removed due to the access arrangements with one set of doors on the riverside elevation of the building. The proposed boat house is

located further away from the river, constructed on raised foundations with a void underneath and is designed with floor grillages to allow flood water to enter and exit.

4.39 A statement addressing the Sequential Test requirements has been submitted at the request of officers. This refers to the needs of the school to replace an existing facility with another that is water compatible, the requirement of the use to be close to the river and the existing launch steps, the need to be within the school grounds to allow safe and close access for pupils as well as security for the contents, and the lack of alternative locations given inclusion of the playing fields within flood zone 3 and the land adjacent to the river frontage within Flood Zone 3b. Having considered the evidence put forward by the agent and considering the pragmatic approach advised in Planning Policy Guidance accompanying the NPPF, officers are of the opinion that the proposal passes the Sequential Test.

4.40 The Environment Agency initially objected to the proposal on the basis that the proposed lower boat house appeared to result in the loss of flood storage area and cause an obstruction to flows across the functional floodplain. Following further explanation and revisions to the design of the ramps accessing the building to allow voids beneath them, the Agency has lifted its objection subject to the imposition of conditions.

4.41 In light of the lack of any other more suitable location, the nature of the proposal and its use, plus the flood resilience measures built into the design of the scheme, it is considered that the proposal is acceptable in flood risk terms and would not increase flood risk elsewhere. Therefore, subject to condition, the proposal would not result in any additional harm.

HERITAGE ASSETS

4.42 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('1990 Act') imposes a statutory duty on local planning authorities, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interests which it possesses. Section 72(1) of the 1990 Act imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas when determining planning applications. The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply in these circumstances.

4.43 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 12 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 131, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness. Paragraph 132 establishes the great weight that should be given to a designated heritage asset's conservation with a clear and convincing justification being provided to justify any harm or loss. Paragraph 135 requires the effect of an application on the significance of a non-designed heritage asset, such as heritage assets with archaeological interest, to be taken into account in determining an application. Draft Local Plan policies HE2 and HE10 reflect legislation and national planning guidance. In particular, Policy HE2 states that proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.44 The site lies outside the City Centre Area of Archaeological Importance, the Clifton Conservation Area (though parts of St Peter's School fall within it) and does not contain any Listed Buildings or Ancient Scheduled Monuments. However, the area has the potential to contain archaeological deposits including Roman Burials and Medieval features, and is therefore considered to be an Area of Archaeological Interest. A desk-based assessment has been submitted with the application, which does identify that the groundworks may reveal or disturb archaeological features and, therefore, the City Archaeologist has requested conditions be placed on any approval to mitigate potential harm.

4.45 Whilst there are no listed buildings within the site, St. Peters School itself contains various listed buildings and there is a detached dwelling to the NW of the site, Clifton Holme, that is grade 2 listed. The listed school buildings are at a sufficient distance (over 250m) and with other buildings/structures in between, for the setting of these buildings not to be harmed by the proposal. Clifton Holme, lies adjacent to the northern boundary of the sports pitches, and has a close association with the school with no discernible site boundary separating the grounds of Clifton Holme with the school playing fields. It is visible in distant views across the playing fields from publicly accessible vantage points, in particular the riverside footpath. However, the views of the building are restricted in part by the existing boathouses. The proposed extension of the upper boathouse would have a negligible impact. The proposed lower boathouse would continue to restrict views of the listed building, though these may vary due to the re-siting of the replacement building. As such,

and considering the overall impact, the proposal would not harm the setting of this Grade II listed building.

4.46 There would be no impact on the character and appearance of the Clifton Conservation Area, given the distance of the proposed works from the area's boundary and the presence of development in between.

4.47 In light of the above, the proposal would preserve the setting of the adjacent listed buildings as required by section 66(1) of the 1990 Act. The character and appearance of the Clifton Conservation Area would be preserved as required by section 72(1) of the Act. Any harm to archaeological deposits and features can be adequately addressed and mitigated through the imposition of conditions. The proposal, therefore, complies with national and local planning policies in respect of the historic environment. No additional harm is identified.

OPEN SPACE AND RECREATION

4.48 Paragraph 73 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

4.49 The proposal would enhance sporting facilities at the school associated with not only rowing activities, but also indoor training and cricket storage. Whilst located within the school playing fields, the proposed development would not affect the quantity or quality or use of the existing cricket and rugby pitches. As such, Sport England does not object and the Council's Health Improvement Manager is supportive of the proposal as it meets Action 7(f) of the City's Built Sports Facilities Strategy by developing rowing facilities in the City.

NATURE CONSERVATION

4.50 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural local environment by, amongst other things, minimising impacts on biodiversity. Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where significant harm cannot be avoided or adequately mitigated and where development would adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

4.51 The site lies within the regionally important Local Green Infrastructure Corridor, Regional Green Corridor No.1 - The River Ouse, which is a significant multifunctional corridor. There are various Sites of Scientific Interest (SSSI) along

the river corridor, including Clifton Ings and Rawcliffe Meadows SSSI located approximately 530m to the north and Fulford Ings SSSI located approximately 3.9km south. The River Ouse itself is designated as a candidate Site for Importance for Nature Conservation (SINC).

4.52 The potential impact on the SSSIs caused by the loss of flood storage capacity and obstruction to flows across the functional floodplain as a result of the size, siting and design of the proposed lower boat house has been addressed by revisions to the building.

4.53 An Extended Phase 1 Habitat Survey and Bat Survey was undertaken and submitted with the application, which covered the lower boat house and steps extension only. No bat roosts were identified and the immediate embankments relating to the application site were found to be unsuitable to support otter or water vole burrows. The extension to the steps would result in the loss of river bank that is well vegetated with semi-improved grassland and a significant amount of Tansy plants supporting a population of Tansy Beetle (a protected species under the Wildlife and Countryside Act 1981). Himalayan Balsam is present within the application site and would need to be contained and removed to allow the development to proceed as its intentional spread is an offence under the Wildlife and Countryside Act 1981.

4.54 Concerns have been raised by the Council's Landscape Architect and Countryside Officer about the impact of the proposals on trees, particularly the veteran Ash within the site though adjacent to the riverside footpath, and the lack of detailed mitigation for the Tansy plants and Tansy Beetles. Amendments have also been made to the scheme or further survey work undertaken to address nature conservation concerns, including:

- The gravel path to the west of the upper boat house being set further away from the adjacent horse chestnut tree, which has the potential for roosting bats, as well clarification about what the works involve;
- Detailed mitigation being provided for the Tansy plants that would be lost as a result extension to the steps and involve re-planting within the remaining river bank and St. Peter's School grounds;
- Advice from an appointed Arboriculturalist to construct the steps so as to minimise excavations within the root area of the veteran Ash (T1 – identified as a category B tree) and to allow gaseous exchange between the soil and air;
- Advice from the Arboriculturalist to reduce the extent that the land in the area adjacent to the riverside path is lowered in order to avoid harm to the roots of a veteran Ash.

4.55 The Council's Countryside Officer has confirmed that the proposed mitigation for the tansy beetle is appropriate. The Landscape Architect requests conditions to cover the reduction in amount of land removed to allow the gravelled area to be

created and the construction of the steps. Further conditions are requested to include a Construction Environmental Management Plan to ensure there are no adverse impacts on the river or habitats down stream during construction, a tree protection method statement, replacement tree planting and condition covering Tansy Beetle and Ash tree mitigation. Subject to conditions, no further harm is identified.

RESIDENTIAL AMENITY

4.56 One of the core principles of planning outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. Paragraph 120 of the NPPF also states that new development should be appropriate for its location to prevent unacceptable risks from pollution and land instability, with the responsibility for securing a safe development resting with the developer. Paragraph 123 in particular advises that planning decisions should avoid and mitigate any impacts from noise and light pollution. Policy GP1(i) of the Draft Local Plan seeks to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

4.57 There are residential properties adjacent to the site. Occupants would be aware of the proposed buildings, which would be visible from their properties. However, the proposed structures would be unlikely to have any adverse effect on the amenity that the adjacent residents can reasonably expect to enjoy given the separation distances nor is there likely to be any undue noise or light pollution as a result of the development. The planning system does not seek to protect private views. No harm is, therefore, identified to residential amenity.

OTHER CONSIDERATIONS

4.58 The proposal would constitute inappropriate development that would, by definition, be harmful to the Green Belt by reason of inappropriateness. There would also be additional harm caused to openness from the size and location of the proposed lower boat house. No other harm has been identified subject to the imposition of conditions should Members be minded to approve the application. Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development, unless other considerations exist that amount to 'very special circumstances' and that would be sufficient to clearly outweigh identified harm to the Green Belt by reason of inappropriateness and any other harm.

4.59 The planning statement submitted with the application states that 'the potential harm to the Green Belt would amount to very limited and localised reduction in present openness', with 'little or no harm' being caused to openness. However, it does set out the following 'very special circumstances':

- Sports provision;
- Flood resilience;
- Location;
- Safety and security.

Sports Provision

4.60 The proposal would improve the school's sport facilities, primarily rowing but also storage for cricket equipment and indoor fitness and toilet facilities, which are currently not met by the existing boat house and provide additional storage for boats to accommodate more boats and safety launches as a result of an upsurge of interest and participation in rowing. The fitness facilities could continue to be used when the rowing is not possible due to high river levels. A supplementary document by the school's Head of Rowing provides further justification for the development, in terms of the issues faced by the inadequacy of the existing facilities and the need for the size of the proposal. These include: the number of boats and lack of adequate racking due to changes in boat design since the existing boat house was built; the range of rowing boats required to cater for different ages and gender of pupils; the lack of insurance for the boats due to previous claims for loss and damage by flooding of the boat house; lack of adequate changing, showering and toileting facilities; and, logistics and safety of pupils accessing boats within the boat house and the river bank due to the limited launch steps. There would be no loss of playing fields in terms of the number and use of pitches. The planning statement makes reference to national and local planning policy that emphasise the importance of providing adequate recreational facilities and the expansion of existing facilities. In particular, it draws attention to the 2014 Built Sports Facilities Strategy, produced by Active York, which highlights the limited capacity and out-dated facilities at the City's rowing clubs. The Strategy refers to the planned expansion of rowing facilities at the school.

Flood Resilience

4.61 The proposal would improve flood resilience due to the relocation and design of the lower boat house. The relocation further back from the river and a finished floor level 600mm higher than the existing boathouse would reduce the frequency of inundations of flood water, whilst the design of the building would allow it still to flood in order to avoid any adverse impact on the functional floodplain. The increased flood resilience and specific design of the lower boat house, with entry doors at either end, would reduce the loss of and damage to rowing boats.

Location

4.62 The proposal, by its very nature, needs to be within close reach of the River Ouse in order that boats can be easily transported and close to the school to allow ready access by pupils both in safety terms and due to timing restrictions in the

school day. Any location of the buildings within the playing fields would impact on openness and the open character and appearance as the whole of the area is included in the Green Belt. In addition, alternative locations within the school site would be likely to impact on existing sports pitches, the setting of the listed St Peter's School buildings and Clifton Holme or the amenity of adjoining residents as well as potentially being further away from the river. The site is constrained by other development, including housing immediately to the north, the school buildings and flood embankment (within Green Belt) to the east, beyond which is further housing and the City Centre, and the river itself to the south. Sites on the opposite bank of the river or further north along the river would also be within Green Belt and would not be easily accessible by the school or on land within the school's control.

Safety and Security

4.63 The limited size of the existing boat house means that there is insufficient space to store the required number of safety launch boats and provide shower facilities for rowers that fall into the river. The location of the existing boat house means that it has been a target for petty crime and vandalism – the graffiti on the front of the building does little to add to the quality of the environment. The school, following advice from the Police Designing Out Crime Officer, considers that relocating the boat house and providing a boundary enclosure would reduce the vulnerability of the building to burglary and vandalism. A pre-application consultation response from the relevant police officer, which has been submitted with the application, advised that the boat house be relocated into its own secure grounds with no part of it directly abutting public space to address issues of vandalism and crime.

4.64 It is officers' opinion that the above considerations represent compelling reasons that, when taken together, constitute 'very special circumstances' that clearly outweigh the identified harm to the Green Belt by definition and any other harm.

5.0 CONCLUSION

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF and by definition causes harm to the Green Belt. This harm to openness and purposes of the Green Belt, must be afforded substantial weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.2 It is considered that the other considerations set out in paragraph 4.60-4.63 above, together with mitigation of other harm through planning conditions, clearly outweigh the potential harm to the Green Belt, even when affording this harm

considerable substantial weight, and any other harm. This, therefore, amounts to the 'very special circumstances' necessary to justify the development.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

- Drawing no. 2014-273/103 rev.H 'Site Layout Plan' dated 22/09/16;
- Drawing no. 2014-273_B01/201 rev.F 'Proposed Elevations Upper Boat House' dated 24/05/16;
- Drawing no. 2014-273_B01/202 rev.E 'Proposed Floor Plans Upper Boat House' dated 24/05/16;
- Drawing no. 2014-273_B01/203 rev.E 'Proposed Elevations Lower Boat House' dated 15/07/16;
- Drawing no. 2014-273_B01/204 rev.C 'Proposed Floor Plans Lower Boat House' dated 24/05/16;
- Drawing no. 2014-273/205 rev.B 'Proposed Site Section' dated 15/07/16;
- Drawing no. 2014-273/207 rev.A 'Proposed River Bank Steps Plan' dated 24/05/15;

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 work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

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

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

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

5 The works are to be completed in accordance with the emails from O'Neill Associates; to City of York Council (CoYC) dated 18 July 2016; and cc'd to CoYC on 04 August 2016, and drawing no.s 2014-273-103 Rev. H and 2014-273_B01/203 Rev. E.

Reason: To ensure that the proposed development does not result in flood flows being displaced or pushed onto others.

6 The lower boat house is to be designed in such a way that it allows the free ingress and egress of flood flows. Specifically, that the access ramps are suspended so as to allow the free flow and storage of flood waters, that the boat house is to have a void below the floor level of 9.7mAOD with low level louvres that allow the free flow and storage of flood flows, and, the boat house is to be built using flood resilient measures, as a water entry strategy is to be adopted.

Reason: To ensure that the building is not an obstruction to flood flows, and does not displace flood waters onto others.

7 A maintenance regime and plan is to be put in place to keep the void space beneath the lower boat house free from silt and debris, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building.

Reason: To ensure that the void space remains available for the lifetime of the development for the storage and flow of flood waters.

8 There must be no raising of ground levels within the floodplain. All spoil is to be removed from the floodplain.

Reason: To ensure that there is no loss of storage in the floodplain.

9 No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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: To secure practical measures to avoid or reduce impacts to biodiversity features during construction, as appropriate to the scale of development.

10 Prior to the commencement of development of the riverside steps, the detailed mitigation strategy relating to the relocation of the Tansy Plants and Beetles, outlined in the Extended Phase 1 Habitat Survey by Wold Ecology Ltd dated June 2016, and revised and resubmitted on 28.09.16, shall be complied with.

Reason: In the interests of protecting the Tansy Beetle, which is a protected species by virtue of the Wildlife and Countryside Act 1981.

11 Before the commencement of development including demolition, excavations, and/or building operations, an Arboricultural Method Statement (AMS) 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. This statement shall include details and locations of protective fencing, 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, locations and means of installing utilities, and location of site compound. 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 inspection on site at all times.

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. This condition is required to be prior to commencement of development in order to ensure that no trees are adversely affected by any works carried out at the site.

12 Notwithstanding the details shown on the approved plans, there shall be no excavations within 3m of the centre of the trunk of the Ash tree (T1) and the area to the NW of the tree that is shown to be gravelled on the approved plan shall be reduced in height to a level no lower than 300mm above the existing footpath pavement. Prior to the works to lower the land level, details shall be submitted to and approved in writing by the Local Planning Authority showing the transition between the gravelled area and the footpath and the method of construction of the steps to the river in order to ensure that excavations in this area are reduced to a minimum and to allow gaseous exchange between the soil and air. The development shall be carried out in accordance with the approved details.

Reason: To protect the veteran Ash tree (T1), which has been classified as a category B tree and has an amenity and ecological value.

13 Prior to the construction of development, a scheme for the planting and maintenance of 3 no. replacement trees, shall be submitted to, and approved in writing by the Local Planning Authority; the works shall be carried out as approved. These details shall include the position of planting and a maintenance programme. Within 6 months of completion of the development or within 2 years of the date of the removal of the existing trees whichever is the sooner, replacement planting shall be undertaken with 3 no. trees of a similar species and size agreed to be agreed beforehand in writing by the Local Planning Authority. The tree planting stock shall be a minimum of 10-12cm girth (measured at 1m), 3.0-3.5m in height, and be planted, supported and maintained in accordance with good arboricultural practice. The replacement should be planted in a location which is suitable for the trees' successful establishment and development of a healthy mature crown. If within a period of five years from the date of the planting approved in writing by the Local Planning Authority; the works shall be carried out as approved. These details shall include the position of planting and a maintenance programme. Within 6 months of completion period of five years from the date of the planting of that tree, or any tree planted in replacement for it, is removed uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

Reason: To ensure the removed tree is replaced with a suitable species.

14 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 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.

15 Details of the new gate and fence adjacent to the site boundary with the riverside footpath shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences and shall be provided in accordance with the approved details before the development comes into use.

Reason: In the interests of the visual amenities of the area and the security of the site.

16 Notwithstanding the approved plans, the new access gates adjacent to the riverside path shall be fitted so that they do not open outwards over the adjacent public footpath.

Reason: To prevent obstruction to users of the public right of way.

7.0 INFORMATIVES:

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 (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Pre-application advice provided for extension to riverside steps and replacement lower boat house;
- Revisions during the life of the application to address concerns raised relating to flood risk, trees and protected species;
- Imposition of conditions to mitigate potential identified harm.

Contact details:

Author: Hannah Blackburn Development Management Officer

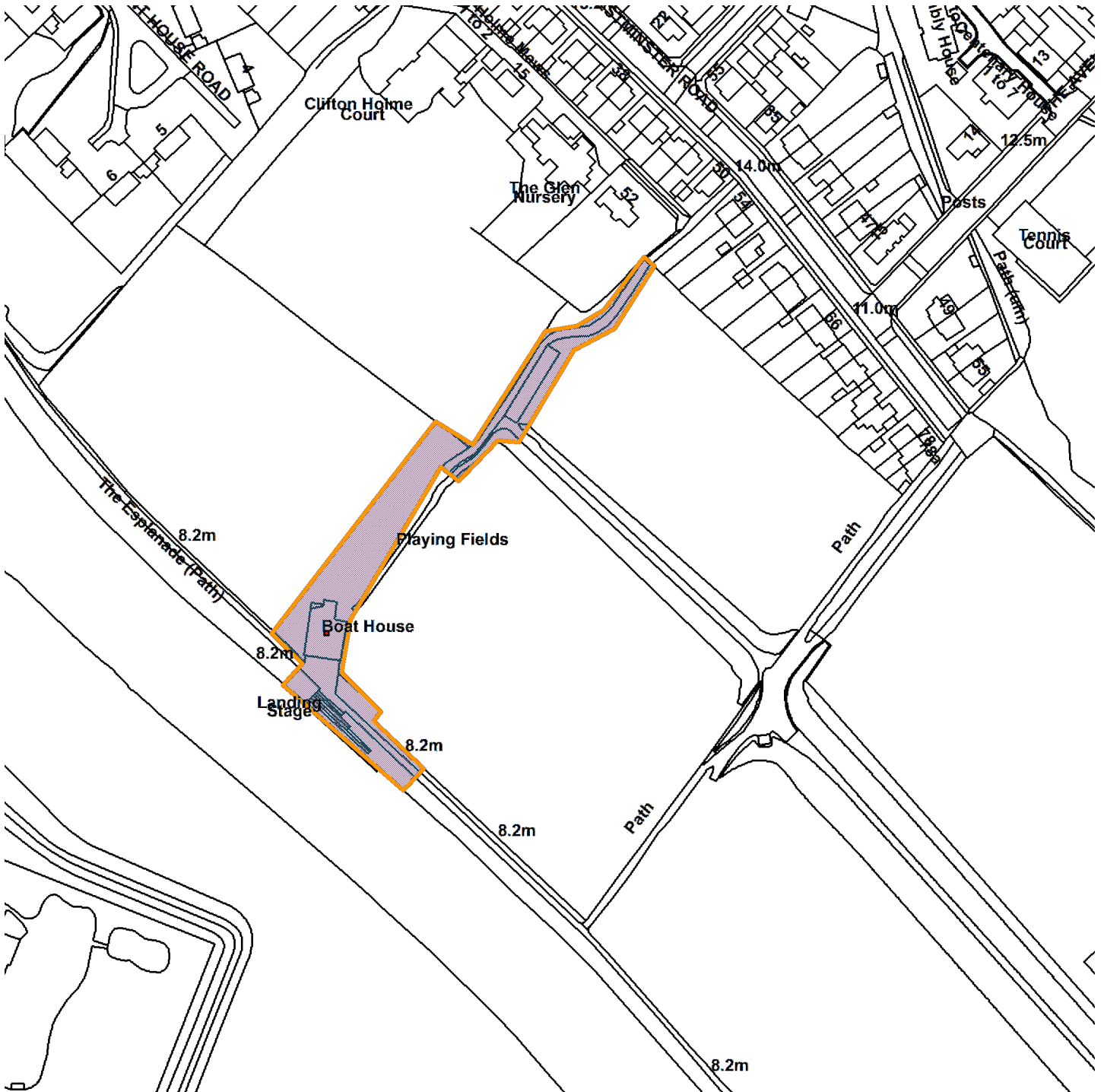
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16/01325/FUL

St Peters Boat House, Westminster Road



GIS by ESRI (UK)



Scale : 1:2147

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Organisation	Not Set
Department	Not Set
Comments	Site plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27.10.2016
Team: Major and Commercial Team
Ward: Micklegate
Parish: Micklegate Planning Panel

Reference: 15/02321/FULM
Application at: Former Unit A1 Parkside Commercial Centre Terry Avenue York
For: Erection of 97 bedroom hotel
By: Mr Paul Manku
Application Type: Major Full Application (13 weeks)
Target Date: 03 November 2016
Recommendation: Approve

1.0 PROPOSAL**APPLICATION SITE**

1.1 The application relates to the former Parkside industrial site on Terry Avenue on the west side of the river. The site previously accommodated single storey buildings; former industrial units dating from the early C20 and areas of hard-standing, with access from Terry Avenue and was part used by the caravan site. Following planning permission 13/01291/FULM, for office development on the site, the buildings were demolished. As part of the 2013 application the part of the caravan park within the site was moved to the south end of the Parkside site.

1.2 Dukes Wharf, a residential development ranging from 4 to 5 storey in height is to the north of the site, Terry Avenue and the river are to the east, the caravan park to the south and Lower Ebor Street, comprising of terraced housing to the west. A flood defence wall runs along the western boundary of the site.

1.3 The land to the immediate south of the site and Terry Avenue between the site and the river are within the green belt. Terry Avenue is within the New Walk / Terry Avenue Conservation area. A main character element of the conservation area is the public cycleway / walkway with a wealth of mature trees and views south of the countryside. The site is within Flood Zone 3 as shown on the Environment Agency flood maps. The York Council Strategic Flood Risk Assessment 2013 places the site in flood zone 3a(i), where, because the site is undefended, there is an annual probability of flooding of up to 1 in 25-year (4%) or greater. An NPPF compliant Sequential Test and Exception Test has been applied and a Site Specific Flood Risk Assessment has been submitted.

PROPOSALS

1.4 The application is to develop an apart-hotel on the site that would have 97 bedrooms. The scheme has been revised and reduced in scale since the original submission and the applicants have presented both schemes to local residents at public meetings facilitated by Cllr Hayes.

1.5 The building footprint generally follows that of the approved office scheme. It is L-shaped in plan with guest rooms accessed from a central corridor. The rear wing would follow the building line of the terrace of houses along Lower Ebor Street. As with the previous scheme, what remains of the evergreen hedge surrounding the former caravan site would be removed to facilitate development. There are also 4 trees (3xsycamore, 1xholly) in the centre of the site that would be removed.

1.6 The main entrance to the building would be at the front, from Terry Avenue with secondary access at the rear. The design intent is to open up views of the site from Terry Avenue (revealing the building within a landscaped setting) by removing the boundary fence.

1.7 It is proposed to re-use the existing vehicle access point. The access road would provide a turning circle, drop-off point and service vehicle access. There are 5 car parking spaces and an outside amenity space at the rear of the building. The footpath along Terry Avenue (by the vehicle entrance) would be improved.

1.8 The building would have a raised ground floor level so it would be safe from flooding. There would be an undercroft, where cycle parking would be, which would be designed to flood. This is the same strategy as the approved office scheme.

1.9 There would be 3 floors of accommodation above the undercroft and a further floor within the roof. The reception and guests lounge would be a double height space. The building design has been revised since the original submission, in part in response to public consultation. The building has been reduced in scale at roof level. Originally the building had a 2-storey flat-ish roof form and this has been reduced to a single storey pitched roof. The amendment significantly reduces the scale of the building from public viewpoints. The elevation drawings show comparison between the scale of the building as proposed in this application and the previous permission.

1.10 The building's main material would be brick, to match the locality. It also features timber cladding and the roof would be copper (brown) coloured.

PLANNING HISTORY

2013 - Application for 3-storey office building approved - 13/01291/FULM

2012 - Application for 4-storey office building withdrawn - 12/02856/FULM

2005 - Application withdrawn for residential development of the site -
05/00618/GRG3

2.0 POLICY CONTEXT

Relevant local policies

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes (DCLP) was approved for Development Management purposes in April 2005. Whilst the 2005 York Draft Local Plan 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. The relevant draft policies applicable to this application include

CYGP1	Design
CYV3	Criteria for hotels and guest houses
CYGP15	Protection from flooding
CYHE2	Development in historic locations
CYHE3	Conservation Area
HE10	Archaeology
CYT4	Cycle parking standards
CYT13A	Travel Plans and Contributions

Emerging Local Plan

2.2 The consultation on the Preferred Sites 2016 document and supporting evidence for the emerging City of York Local Plan is currently subject of an eight week public consultation which started 18 July 2016. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application. Relevant plan policies include;

SD1	Sustainable Development
EC3	Loss of Employment Land
EC5	Tourism
D1	Landscape and Setting
D2	Placemaking
D4	Conservation Areas
R1	Retail Hierarchy & Sequential Approach

2.3 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key

relevant policy issues and it is against this policy Framework that the proposal should principally be addressed.

2.4 The essence of the NPPF is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). A footnote to paragraph 14 gives examples of policies where the presumption in favour of sustainable development does not apply. They include policies relating to designated heritage assets and locations at risk of flooding. Both of these policy areas are relevant to the current application. Therefore, in this case, the presumption in favour of development does not apply. Instead, the application should be judged against, among other things, policies in sections 10 and 12 of the NPPF, which are specific to these areas (flood risk and heritage assets respectively) and which are considered later in this report.

3.0 CONSULTATIONS

INTERNAL

PLANNING AND ENVIRONMENTAL MANAGEMENT

Archaeology

3.1 As an evaluation was carried out on part of the site in 2003 by On-Site Archaeology with little in the way of results, a watching brief will be sufficient as the next archaeological stage for this application.

Conservation

3.2 The building has been redesigned so that its massing, scale and materials relate well to the surrounding natural environment. The majority of trees which screen the site can be retained and enhanced. Development will initially appear as an intrusion into the area as the workshop buildings were low, but its form and footprint have been modelled to appear more of a transition between the existing taller 4&5 storey urban block adjacent and the low scale leisure uses to the south. A concern remains that the tiered entrance decks and the platform lift could harm trees important to the setting of the site and the conservation area. This aspect of the scheme should be reviewed to avoid incurring harm.

3.3 Officer observations are as follows -

- There is a reduction to 4no floors in height from 5no floors (as submitted) facing Terry Avenue. The raised ground floor remains the same. The top floor includes a mezzanine floor under a sloping roof. Most importantly this has allowed the eaves line to be lowered to 13.8m (from ground) which is compatible with the mature tree canopy of 14-16m high.
- The main elevations would be expressed as a highly articulated three storey brick box over a deep plinth. The brickwork parapet (10.8m from ground) would align approximately with the fourth floor of the adjacent apartment block of five storeys. So the building would appear less dominant than before and use elements of a residential scale. The elevation facing Terry Avenue would have deeply set windows, "hit and miss" balconies, and oriel windows to be of interest on the longer public facade.
- The top floor would be set back from the parapet to reduce its prominence in the wider environment and next to the apartment block.
- The use of warm multi-brickwork would be compatible with brickwork in the area and the copper coloured metal cladding proposed for the roof, and for various blanking panels, would be compatible with the colours of the surrounding natural environment.
- The westernmost block close to Lower Ebor Street would have a parapet height of 10.8m (from ground) which is approx 1.5m higher than the ridge of the adjacent terraced house situated the equivalent of 3no houses away. It is the square profile of this solid block which appears incongruous with the terrace, rather than the height.
- The footprint remains as before. This would allow a fringe of trees to be planted adjacent to boundaries south and west and also within the rear courtyard. The latter trees are most important to serve as a buffer between the new development and houses in Lower Ebor Street. This street is particularly narrow and long, and existing views out towards the greener riverside environment contribute significantly to the amenity of the street. The replacement trees need to be semi-mature when planted.

FLOOD RISK MANAGEMENT TEAM (FRMT)

3.4 No objection. The revised site-specific flood risk assessment demonstrates that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. Officers require conditions to secure flood risk mitigation; to ensure the amount of flood water storage on site is not reduced, that surface water run off rates from the site are reduced and that

procedures for flood warning and evacuation are put in place.

3.5 Comments on the proposals are as follows:-

Flood plain storage

- An open undercroft area will be provided under the building footprint to provide flood storage, it will be designed with open sides, thus allowing potential flood water to enter and exit the area unhindered. Providing the undercroft area and maintaining the site levels as existing will maintain the volume of flood plain storage within the site.
- Additional flood plain storage has been provided on the site as a consequence of the recent demolition of buildings, this equates to a volume of circa 6300m³ based on the modelled 1:100 year climate change flood level of 10.590m AOD.

Finished floor levels

- The habitable/accommodation ground floor of the proposed hotel will be set at a finished floor level (FFL) of 11.200m AOD = 600mm above the Modelled flood level (1:100 + 20% cc event) of 10.59m AOD.

Flood warnings

- The building owner/landlord/management company must ensure the onsite facility management subscribe to the Environment Agency flood alert/warning services.
- The applicant's operating business (Roomzzz Apart Hotels) must implement a flood risk plan/policy where appropriate staff is assigned to receive the Environment Agency flood warning and action the flood plan.
- Through the hotel operators booking system potential guests must be advised of the possibility of disruption during their stay should potential flooding events be imminent.

Evacuation

- A safe route in and out of the site has been identified and provided.

Environment Agency (EA) Flood Defences

- The applicant has made an offer to make improvements to the EA flood defences but the FRMT are unsure as how this could be implemented through the planning process. Officers understand a legal agreement would be put in place between

the EA and the owner to allow access for maintenance of their flood defence and consent would have to be sought from the EA to carry out works within their 8m easement of the flood defence.

3.6 The drainage proposals are agreed to by officers and should be secured through condition also. The proposals establish the following principles -

- Foul water drainage will discharge to the existing sewers utilising the existing connections or alternatively a direct connection to Yorkshire Water foul or combined public sewer.
- Surface water drainage shall discharge to the Yorkshire Water 1200mm surface water public sewer to the south or direct to the River Ouse. Maximum permitted discharge rate based on 70% of the existing Brownfield rate of 6.82 l/sec.
- Onsite attenuation would 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.

HIGHWAY NETWORK MANAGEMENT

3.7 Officers have no objection in principle to the proposed development.

3.8 In accordance with national guidance the net impact of development proposals has to be considered, that being the difference between the development proposals and the level of traffic which could be generated by the existing lawful use without the need for further planning consent.

3.9 The site previously had a commercial use. In addition the authority has previously considered and approved a 3620 m² Gross Floor Area office block on the site (13/01291/FULM). Whilst this consent has not been implemented the principle and level of traffic generation has been established.

3.10 In relation to the lawful (historic) use of the site and the consented office scheme the change in volume of traffic using Terry Avenue as a consequence of the proposed hotel would be negligible. The typical level of traffic movements, at peak times, would be estimated as follows :-

Previous industrial use - in the region 13 movements at peak times
Approved office use = 60
Proposed hotel = 30

3.11 The redevelopment of the site would also be likely to lead to a reduction in the number of HGVs visiting the site over that which could be generated by the historic use of the site which is to the benefit of the local area.

3.12 Whilst the scheme only provides 4 car parking spaces this would not raise issues which would prevent the granting of planning consent. Sufficient space has been provided within the site to enable guests to arrive, check in/drop off luggage then park their vehicle elsewhere. It is not considered that on-street parking will become an issue as the surrounding streets are protected by a number of different waiting restrictions which will prevent indiscriminate parking or increased pressure on resident parking schemes.

3.13 Officers recommend conditions to secure highway improvement works along Terry Avenue (to continue the footpath and give pedestrian priority), the layout of the internal area (which includes servicing, drop off and parking areas), provision of cycle parking and for a travel plan to be developed, to encourage sustainable travel.

PUBLIC PROTECTION

Noise

3.14 Officers request planning conditions that require:-

- Agreement of construction management plan
- Noise levels from any plant/machinery to be approved, so such installations do not cause noise disturbance to surrounding residents
- Deliveries only to be allowed between 08.00 and 18.00 / 09.00 and 17.00
Sundays

3.15 It is noted that should guests on site cause noise disturbance, the council would have the power to take action under the Environmental Protection Act 1990 if a nuisance is determined.

Air quality

3.16 When 26 car parking spaces were proposed officers had asked for an electric vehicle charging point and at least one dedicated parking space. Now car parking numbers have reduced, officers consider a dedicated parking space for electric vehicle need not be provided, but a charging facility should still be installed. This would be secured through condition.

Land Contamination

3.17 Conditions are recommended to secure site investigation and if needed remediation and verification.

3.18 The proposed development site has previously been used as a dye works, a timber yard. These past activities have the potential to give rise to land contamination. The Geo-Environmental Report submitted includes the results of a basic site investigation, which did not reveal any significant contamination. However, the investigation does not fully characterise the ground conditions at the site. Soil and water samples were only taken from two locations at the site and they were not analysed for fuel oils or solvents, which are typically associated with dye works and timber yards. In addition, no samples were taken in the vicinity of the former dye works buildings (where contamination is more likely to be present) or in the proposed areas of soft landscaping (where future site users are more likely to come into contact with any soil contamination). Further investigation work is required and remedial action will be needed if land contamination is found to be present.

EXTERNAL

CANAL & RIVER TRUST

3.19 No objection. Suggest a planning condition to agree a suitable landscaping scheme due to the amenity value of existing trees both on site, and between the site and the river.

ENVIRONMENT AGENCY

3.20 This low-lying site is situated adjacent to the River Ouse and is at a high risk of flooding. It lies within flood zone 3ai according to York's Strategic Flood Risk Assessment (SFRA). The SFRA states that this flood zone is only appropriate for 'less vulnerable' uses.

3.21 As a hotel is considered to be 'more vulnerable' development, the council would need to deviate from its policy guidance in order to progress this application.

3.22 The EA advised that if, after careful consideration of the planning balance, the council decided to approve this development against the advice within its SFRA, the following conditions be included on any decision:-

- That the development occurs in accordance with the submitted Flood Risk Assessment (FRA) in particular -
 - The undercroft area shall remain available for the storage of flood waters at all times. A maintenance regime shall be put in place to ensure that any materials (such as silt) which are deposited during a flood are removed from site to ensure that there is no loss of flood storage.
 - Finished floor levels shall be set no lower than 11.2m above Ordnance Datum (AOD)

- A safe route into and out of the site shall be identified and provided.
- That there is no raising of ground levels
- The evacuation plan which shall include details regarding the closure of the hotel before the safe access/egress route is cut-off is agreed.

3.23 The developer has advised the EA that they could increase the height of the flood wall adjacent the site if development were to go ahead. The EA do not require this work to be secured as part of this application but advise they would enter into discussions with the developer to agree and secure this work should the scheme go ahead.

3.24 It is noted that formal consent would be required from the EA for any works within 8m from the flood defences.

MICKLEGATE PLANNING PANEL

3.25 The panel does not object to the principle of hotel use for this site.

3.26 However, on the original scheme the panel had concerns that the top floor and roofline of the building was not of high enough design quality and would be visually intrusive on views from the river.

3.27 The panel is also concerned about the potential increase of traffic along Terry Avenue. Whilst some visitors may arrive by public transport, the majority are likely to come by car. There is a concern that there is insufficient parking provision, which would in turn impact on the local area. Also, given that Terry Avenue is the only means of access for visitors, and that flooding is not unusual, there is a concern about where cars would go in the event of such an event.

YORKSHIRE WATER

3.28 The revised 'Drainage and Flood Risk Statement' (v12 dated September 2016) is satisfactory from Yorkshire Water's viewpoint. In summary, the report states;

- Sub-soil conditions do not support the use of soakaways.
- A watercourse exists near to the site - connection subject to Environment Agency requirements.
- If a direct connection to river is evidentially ruled out, surface water will discharge to public surface water sewer, via storage, with a restricted discharge (of 6.82 litres/second).

POLICE ARCHITECTURAL LIAISON OFFICER (Updated comment 7.9.2016)

3.29 Officers have made the following recommendations and have acknowledged the applicants have addressed these matters -

- Cycle parking should be secure
- The use of CCTV is recommended.
- There should be site management to deal with anti-social behaviour
- Access areas should be well lit.

PUBLIC CONSULTATION

3.30 There was a second round of public consultation when revised plans were received. Comments have also been received from residents who attended the applicant's second public consultation event in September.

3.31 In total 74 objections have been received and 1 comment in support.

3.32 The thrust of objections are around increased noise and disturbance, in particular late at night, in what is a tranquil area; the impact on Terry Avenue due to increased traffic; concerns about guests parking in surrounding streets and flood risk; that it would be inappropriate to develop this site where there is known flood risk as the hotel would have to close annually due to flooding and there are safety concerns if the site had to be evacuated. Then objections are grouped and summarised below:-

Design & visual impact

- The building in the revised scheme would still be out of scale and character with the setting and would reduce light gain into properties on Lower Ebor Street.
- The trees currently provide an attractive vista at the end of the street. This view would be lost, replaced by an imposing building which would be out of character with the terraced street.
- Development will cause a tunnelling effect, due to its scale and that of the neighbouring building.
- Lack of interest on the side elevation facing Dukes Wharf (comment on original scheme)
- Out of keeping with the tranquil and recreational character of Terry Avenue due to increased traffic.

Amenity

- There is a lack of on site supervision and accommodation rates are based on per room, rather than number of guests. It is suggested the rooms will be attractive with visitors coming to York to party, rather than families.

- The site is within a quiet residential area, including Terry Avenue. There is concern from local residents that there would be undue late night disturbance; noise and anti-social behaviour from guests (up to 200), coming and going either on foot or by taxi. In particular those returning from town intoxicated late at night. There would be far more late night disturbance compared to the previously approved office scheme.
- Noise and disruption along Terry Avenue during the construction period, which residents have advised could be up to 12 months.
- Noise from delivery vehicles. The building would be over-bearing; it would overlook rear yards and lead to a loss of light.
- Loss of mature trees within the site will have an adverse effect on neighbour's outlook. The landscape vista at the end of the street would be lost; replaced by an inappropriate building.
- Concerns over impacts on structural integrity of houses and the flood wall during construction.
- The recent success of the 'Bishy Road' community has been built on a balance between small local businesses and a surrounding residential area. The proposed hotel will disrupt this equilibrium and represent an irreversible change in the nature of the local community.

Highway safety

- Terry Avenue can not accommodate the extra traffic that would result as a consequence of this development.
- Terry Avenue is primarily for recreation. It is one way only and single lane and pedestrians and cyclists tend to use the road. The road is already used by caravans and taxis who can drive without care. Additional vehicle movements would have an adverse effect on safety and the setting.
- There is no assessment/detail of arrangements if Terry Avenue were to flood (which occurs annually) and guests would rely upon parking in the surrounding streets.
- Inadequate car parking. There is concern guests will park in surrounding streets (which have no capacity), in particular on Lower Ebor Street and in the private car park serving Lower Darnborough Street. This will harm residential amenity and cause tension.

Flood risk

- To grant permission for the development would contravene York's SFRA which states hotels should not be allowed in zone 3ai. It would be unlikely the building could be evacuated in an extreme flood event, given the lack of warning times.
- There should not be a hotel developed on a site which floods frequently. There would be considerable flood risk if the development needed to be evacuated and it is illogical (and surely unviable) to develop on the site, when the hotel would have to be closed for months each year as Terry Avenue would be flooded.

- Residents asked for re-assurances development will in no way effect integrity of flood defences. There was concern Lower Ebor Street would be susceptible to flooding if the escape onto Ebor Street (which is no longer proposed) were used in times of flooding.
- Lower Ebor Street is identified as emergency escape route. Comments advise that the road is narrow, therefore difficult for vehicles to access and the end of the street did flood in 2015. It is therefore queried whether this means of escape is suitable.

4.0 APPRAISAL

KEY ISSUES

4.1 The key material planning considerations in consideration of this scheme are:-

- Principle of the proposed use
- Flood risk
- Impact on the character and appearance of the conservation area
- Residential amenity
- Highway safety
- Sustainable design & construction
- Archaeology
- Biodiversity

ASSESSMENT

PRINCIPLE OF THE PROPOSED USE

Relevant planning policy

4.2 The application site is outside of the city centre, as defined in the 2005 Draft Local Plan and also the emerging plan. As such, based on paragraph 24 of the National Planning Policy Framework, because a hotel is regarded as a 'main town centre use' a sequential test is required to show the proposed development could not be located in the city centre.

4.3 The NPPF states that the "purpose of the sequential test is to ensure main town centre uses are located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre".

4.4 Policies R1 and R2 of the emerging Local Plan require that main town centre uses are directed to the city, district and local centres. R2 states that proposals for main town centres will be resisted where they would have an adverse effect on the

vitality and viability of existing centres. EC5: Tourism states that the city centre will be the favoured location for hotels, followed by edge of centre sites.

4.5 Of the 2005 Draft Local Plan (DCLP), policy V3 states planning permission will be granted for hotels provided the proposal:

- Is compatible with its surroundings in terms of siting, scale and design
- It Would not result in the loss of residential accommodation which when originally built had less than four bedrooms;
- Would not have an adverse effect on the residential character of the area;
- Is well related in terms of walking, cycling and access to public transport in relation to York City Centre or other visitor attractions

4.6 Policy E3b relates to sites that have been in employment uses. It states planning permission for other uses will only be given where a) there is a sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in both quantitative and qualitative terms, and b) unacceptable environmental problems exist, or c) the development of the site for other appropriate uses will lead to significant benefits to the local economy, or d) the use is ancillary to an employment use.

4.7 National advice in the NPPF asks for more flexibility than the approach required by E3b. It states "Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

ASSESSMENT

Application of sequential test

4.8 The application site has no designation in the emerging Local Plan. In accordance with NPPF requirements the application was supported by a sequential assessment.

4.9 The assessment details city centre sites the applicants had previously identified and subsequently discounted for varying reasons.

4.10 Among the sites previously considered include Holgate Villas (where permission was granted for a hotel, but the building instead was redeveloped as residential), sites along Piccadilly and at the former fire station, which did not meet the applicant's requirements and at Hungate (the site adjacent the Hiscox offices) where another operator has acquired an option to re-develop. Officers are satisfied a reasonable effort was made to acquire a city centre site.

4.11 There are no preferable alternative, deliverable or designated sites for hotel developments identified in the 2005 or the emerging local plans. As such the proposed development passes the sequential test. The application site is a preferred alternative to city centre, according to the NPPF, because it is an edge of centre site in an accessible location; within walking distance of the city centre. The re-development of the site would compliment the vitality and viability of the city centre and the nearest identified local centre in the emerging Local Plan; the Bishopthorpe Road area.

Loss of employment land

4.12 Considering NPPF policy (paragraph 22), to take a flexible approach in the re-use of former employment sites, there is no objection to the loss of employment land on the following grounds –

- To re-instate the former industrial use of the site could potentially be impeded due to the need to prevent noise having an undue impact on neighbour's amenity.
- To re-introduce goods vehicles along Terry Avenue could have an undesirable effect on safety and what is now the established character of the street; a popular recreational route within the conservation area.
- There has been no credible interest in developing the consented office scheme, granted planning permission over 3 years ago.
- To accommodate the proposed use, which is within a growing sector, accords with the thrust of the NPPF; to promote economic growth.

Impact on the city centre

4.13 Due to the size of the proposed development and its location, at the edge of the city centre the NPPF recommends undertaking an impact assessment on the vitality and viability of the city centre.

4.14 Existing hotels in the city centre benefit from their proximity to the cities main attraction, its historic core and proximity to the train station. Hotels in the city have high occupancy rates. This site is at the edge of centre, in a sustainable location and well located for walking into the city centre and its attractions. Due to the scale proposed hotel and the strength of the sector in the city the proposed development would compliment the existing offer. It would not have a significant adverse impact on the vitality and viability of the city centre.

FLOOD RISK

Relevant planning policy

4.15 According to national policy and the Environment Agency flood maps, the site is within Flood Zone 3. According to national policy the proposed hotel use can be allowable in zone 3 provided the sequential and the exception tests have been passed.

4.16 However the site is locally designated (in the York Strategic Flood Risk Assessment) as being within Flood Zone 3a(i), because the site is undefended from flooding, where there is an annual probability of flooding of up to 1 in 25-year (4%) or greater. The York SFRA advises against hotel development in Flood Zone 3a(i).

4.17 Because of flood risk at the site the applicants have developed a robust FRA (the latest version is version 11) in consultation with the EA. The assessment explains how flood risk would not have an undue impact on the proposed business (the hotel would have to close if Terry Avenue were inundated), the proposed strategy for installing a flood risk warning system, the means of escape and how the development would not increase flood risk elsewhere.

4.18 The assessment confirms the hotel would have to close in times of flooding, as the access is via Terry Avenue. The applicants have reviewed the historic frequency of such events (gaining information from the caravan club next door and the EA) and are satisfied they are irregular and would not have an undue effect on the business.

Sequential test

4.19 The aim of the sequential test is to keep development out of flood zones 2 and 3 where possible. The applicants have undertaken a rigorous sequential test, as summarised in paragraphs 4.7 to 4.11, which explains why they have been unable to identify a sequentially preferable site for the scheme. Flood risk aside, the site is also sequentially preferable as it is previously developed land at the edge of the city centre.

Exception test

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

4.21 In assessment of wider sustainability benefits the NPPG advice is as follows -

“Local planning authorities will need to consider what criteria they will use in this assessment, having regard to the objectives of their Local Plan’s Sustainability Appraisal framework, and provide advice which will enable applicants to provide the evidence to demonstrate this part of the Exception Test is passed.

If a planning application fails to score positively against the aims and objectives of the Local Plan Sustainability Appraisal or Local Plan policies, or other measures of sustainability, the local planning authority should consider whether the use of planning conditions and/or planning obligations could make it do so. Where this is not possible, the Exception Test has not been satisfied and planning permission should be refused”.

4.22 The scheme would regenerate a previously developed site and improve the vitality and viability of the area. The building will meet the required BREEAM targets and is in a sustainable location; it is not dependent on private car use. In addition the applicants have responded to public objection to the scheme and reduced the height of the proposed building; it is lesser in scale than the approved office scheme for the site (that could still be implemented) and a detailed landscaping scheme has been prepared which would enhance the setting and biodiversity within the currently derelict site. These are wider sustainability benefits that meet with the York Sustainability Appraisal and justify the scheme.

4.23 The NPPG gives the following advice on the content of site specific flood risk assessments -

- Consider how the site/building will be protected from flooding, including the potential impacts of climate change, over the development’s lifetime
- Ensure that the proposed development and the measures to protect the site from flooding will not increase flood risk elsewhere
- Prevent run-off from the completed development causing an impact elsewhere
- Are there any opportunities offered by the development to reduce flood risk elsewhere?
- What flood-related risks will remain after the measures to protect the site from flooding have been implemented?
- How, and by whom, will these risks be managed over the lifetime of the development? (E.g., flood warning and evacuation procedures).

4.24 The NPPG also advises as follows –

- Appropriate flood warning and evacuation procedures at any site with transient occupants are a requirement.
- To mitigate the impact of flood risk it is especially important to look at ways in which the development could help to reduce the overall consequences of flooding

in the locality, either through its design (recognising that some forms of development may be more resistant or resilient to floods than others) or through off-site works that benefit the area more generally.

- Where access and egress is important to the overall safety of the development, this should be discussed with the local planning authority and Environment Agency. Access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood.

4.25 The building itself would be reasonably safe and defended from flood risk. The finished floor level is above that required by policy (600mm above the 1 in 100 year flood level); the building would not have flooded during the 2015 flood event.

4.26 The access to the site is from Terry Avenue. The intent is for the site to be evacuated if there is a flood, rather than for it to continue to operate. This would be in a similar manner to the caravan site. The arrangements are detailed in the FRA which identifies measures to monitor flood water, the trigger point at which the hotel would be evacuated (when a flood warning is issued by the EA) and details the elevated evacuation route via the caravan park. The need for the emergency services to be involved (using a hoist to lift people over the flood wall) would be in a highly unlikely event whereby no flood warning had been issued by the EA, the applicant's sensors had not detected increasing water levels, the site had been inundated, and the building were still inhabited.

4.27 There will be no increase in flood risk elsewhere due to the following aspects of the proposal -

- There would be no reduction in flood water storage space on the site. The proposed building will have an undercroft designed to flood, in a similar manner to the previously approved scheme. The situation would be improved in comparison to when there were previously buildings on-site.
- In accordance with CYC requirements in the SFRA the existing surface water run off rate would be reduced by 30%.
- The applicants have also proposed to increase the height of the existing flood wall by 600mm. Such works would be undertaken in conjunction with the EA if they were to occur. They are not necessary to make the scheme acceptable in planning terms but would have benefit.

4.28 The proposal satisfies national flood risk requirements and the Environment Agency is satisfied that the development can be made safe subject to planning conditions. However, the York Strategic Flood Risk Assessment (March 2013), locally classifies the Site as Zone 3(a)(i), and advises a presumption against hotel development. This is also a material consideration, that should be read in conjunction with the NPPF, the site specific FRA and EA maps. In this case, Officers consider deviation from the local policy can be justified on the following grounds -

- The site has been previously developed and there is already consent in place for re-development; an office comprising 3624 sq m floor space with the capacity for some 300 employees.
- The proposed use would involve people sleeping over-night onsite; this is the only material change to the approved scheme in terms of flood risk. However the site specific FRA submitted demonstrates the building and its occupants would be reasonably safe from flood risk.
- The local designation is as a consequence of the current condition of the site i.e. it is undefended from flooding. The scheme proposes a design solution to address this; the building would be defended from flood risk. Also as required by national policy flood risk elsewhere would not be increased as flood water storage on-site would be increased (since the industrial buildings which previously occupied the site have been demolished) and surface water run-off rates would be reduced.

IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA

4.29 Of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) Section 72 requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

4.30 The National Planning Policy Framework advises that proposals should sustain or enhance conservation areas. If proposals would have a harmful impact, in order to be justified there must be demonstrable public benefits that would outweigh the identified harm.

4.31 The NPPF requires good design and advises that proposals should aim to:

- Function well and add to the overall quality of the area
- Create and sustain an appropriate mix of uses, including green and public spaces
- Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation
- Be visually attractive

4.32 The building's footprint and massing has been approved previously, being regarded as an acceptable response to the setting; providing a positive frontage to the riverside and being lower in scale at the rear so not to dominate the terraced housing. The revised pitched roof form will compliment the setting and compared to the approved office scheme and the original submission, reduce the prominence of the proposed building.

4.33 The proposed building would appear in a landscaped setting, set back behind what will become a landscaped garden between it and Terry Avenue. The boundary fence and low lying vegetation adjacent Terry Avenue would be removed. For visual amenity trees would be introduced alongside boundaries with the caravan park and Lower Ebor Street and in the courtyard at the rear. Existing planting at the north boundary would remain as would the trees lining Terry Avenue. A condition is proposed to agree the detailing of the hard landscaping by the front entrance, so that it would not damage trees. The applicants advise the platform lift at the front entrance would require a concrete base, no deeper than 30cm, and other items would be akin to domestic garden deck and could be accommodated without tree root damage. Any future works to trees fronting Terry Avenue would require consent as they are in a conservation area.

4.34 The buildings materials would be harmonious with the setting – red brick is intended to respect buildings in the Clementhorpe area. The timber and brown copper cladding; secondary materials, would compliment the brick and the landscaped setting. Terry Avenue would be improved by continuing the footpath by the site's vehicle entrance.

4.35 The scheme meets the NPPF criteria on design. A contemporary scheme, of good quality architecture, is proposed in a landscaped setting. Considering the site is presently gated and derelict, the character and appearance of the conservation area would be enhanced.

Secure by Design

4.36 A more open aspect onto Terry Avenue would be introduced to help identify the hotel entrance. There will be natural surveillance, from the reception / residents lounge area and guestrooms which look onto the landscaped surrounds. This increased surveillance and change in use of the site would deter the anti-social behaviour previously associated with a site when it was vacant/un-occupied. As such it is not proposed to have a fully gated site with restricted access. This could be revisited at a later date if necessary.

RESIDENTIAL AMENITY

4.37 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. DCLP 2005 policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

Impact on Dukes Wharf

4.38 The proposed building would not have an undue impact on Dukes Wharf. The scheme has been designed so the elevation of Dukes Wharf which looks into the site would be orientated so windows looked either beyond the front of the proposed building or toward the courtyard amenity space at the rear. Outlook would be improved as a consequence of landscaping proposed for the site. The buildings would be some 22m apart; windows on the proposed building would be orientated to look away from Dukes Wharf. Dukes Wharf is to the north of the proposed building and would not be overshadowed or suffer a loss of light.

Impact on Lower Ebor Street

4.39 The rear wing of the building would be aligned with the terrace of houses on Lower Ebor Street. The wing would be higher than the terrace, but spaced 15 m away. The massing and footprint of this part of the building are the same as the approved office scheme.

4.40 There are no windows that would unduly overlook neighbouring houses or yards. The rear elevation of the main block would have windows looking towards Lower Ebor Street. They would look indirectly towards back yards on the end houses. The yards would be approx 28m away and trees are proposed at the site boundary to add amenity value.

4.41 The building would not be unduly over-dominant. There would be no undue overlooking and based on BRE guidelines no impact on sunlight or natural light.

4.42 Residents have raised concern there would be late night disturbance as a consequence of the proposed hotel development; that there would be increased activity late at night. Guests returning would create extra noise, either by traffic movements or raised voices which would exceed current background noise levels. The concern is that night time noise levels are currently low in the area due to lack of activity and as those who use Terry Avenue respect it; this would not be the case with transient guests.

4.43 The walkways on both sides of the river are popular routes for pedestrians. The site is next door to the caravan club which has capacity for around 100 pitches and space for camping. Whilst residents concerns are acknowledged this noise issue has not been raised as a potential cause of concern from the police and we do not have substantiated evidence that guests of the hotel would create any more noise or disturbance compared to other users of the public route.

HIGHWAY SAFETY

4.44 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

Access arrangements

4.45 The scheme will include alteration at the site access, to give pedestrians priority, through continuing the footpath. This would slow vehicle speeds and to give pedestrian priority is advocated in the NPPF.

4.46 There would be 4 car parking spaces on site (down from 26 as visitor car parking is no longer proposed in the undercroft), to be used by staff and disabled guests only. Guests arriving by car would be encouraged to use Nunnery Lane car park. The applicants have entered into discussions with the council over arrangements whereby spaces in the car park would be allocated to the hotel. This does not raise any capacity issues.

4.47 All the surrounding streets, apart from Lower Ebor Street are covered by the res-park. The only site access would be from Terry Avenue. As such it is unlikely guests would park on surrounding residential streets.

4.48 The site layout incorporates a drop off point, provision for deliveries and there would be cycle parking in the undercroft (so covered and secure).

4.49 Terry Avenue already provides access to the caravan park and Rowntree Park. Due to the access arrangements there would not be a material change in volumes of traffic using Terry Avenue. Furthermore there would be less traffic (and fewer HGV) using Terry Avenue in comparison to the historic industrial use of the site (when there were over 20 car parking spaces) and also compared to the approved office scheme which had 22 car parking spaces on site. Note that the office scheme can potentially still be implemented.

Sustainable travel

4.50 A travel plan will be secured through a planning condition; to promote sustainable means of travel and ensure those arriving by car are aware of formal arrangements and that there is no parking onsite. The cycle parking provision is adequate based on Local Plan standards. There would be 24 spaces at the outset which would be both covered and secure. The applicants are planning to offer a

bike hire service to guests. An electric car charging point can also be secured through planning condition.

SUSTAINABLE DESIGN & CONSTRUCTION

4.51 Due to the size of the proposed development under current local requirements - in the Sustainable Design and Construction Interim Statement - it is a requirement the scheme achieves a BREEAM rating of at least Very Good. A BREEAM pre-construction assessment has been undertaken which shows that the rating can be comfortably achieved. The required rating would be required through a planning condition.

ARCHAEOLOGY

4.52 The site is within an area of nationally designated archaeological importance. DCLP 2005 policy HE10 requires archaeological deposits of national importance to be preserved in situ. To fulfil this requirement developers are required to undertake an archaeological survey to assess archaeological value.

4.53 The investigation undertaken by YAT informs that until the post medieval period the site was undeveloped. Officers are content that due to the low potential for archaeology of importance to be present, a watching brief on groundworks would be adequate in this case.

5.0 CONCLUSION

5.1 Officers recommend that permission be granted, subject to conditions on the following grounds -

- The principle of developing a city centre use at this edge of centre site has been accepted previously and is again justified for the proposed hotel use; there would be no material impact on the vitality and viability of the city centre.
- The scheme adheres to the design principles approved previously. The design and proposed materials are appropriate to the locality and the landscaping scheme would improve the condition of the site. There would not be harm to the conservation area.
- The building would be reasonably safe from flooding and would not increase flood risk elsewhere. Appropriate management arrangements would be put in place to protect future users. The proposal meets the requirements of the NPPF sequential and exception tests and is acceptable when considered against national planning policy on flood risk. There is justification to outweigh the presumption against developing a hotel on this site established in the local SFRA

which dates from 2013, when read in conjunction with the NPPF and Environment Agency advice.

- The scheme discourages private car use and the car parking provision on site is minimal. There would be no material impact on highway safety along Terry Avenue and its use for recreation would not be compromised.
- Terry Avenue is a popular recreational route and the site is next door to a caravan site. There is no substantiated evidence that users of the hotel would cause additional noise disturbance compared to other users of the avenue at night. The scheme would improve the appearance of the site and the building has been designed so there would be no undue impact on neighbour's amenity. There are no amenity grounds to oppose the application. Officers' view is that there is no unacceptable harm to amenity on which grounds the application could reasonably be refused.
- The scheme is policy compliant in other respects.

COMMITTEE TO VISIT

6.0 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 Development in accordance with approved plans:-

Site Plans

P(01)AP - 001 revision B, 002 B

Floor Plans

P(02)AP - 000B, 001B, 002B, 003B, 004B, 005B, 006B

Elevations

P(04)AE - 001B, 002B, 003B, 004B

Materials and finishes

P(06)AM001 B

P(06)AM002 B

Landscaping Proposals

L001B, L002B, L003B, L004B, L001_PO1

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

3 Investigation of Land Contamination

Prior to development commencing, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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. As such it is necessary works commence before construction.

4 Submission of a Remediation Scheme

Prior to development commencing, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and approved in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site

management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

5 Drainage

Prior to development commencing, the following drainage details shall be approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

- a) Site specific details of the flow control device manhole limiting the surface water to the 6.82 lit/sec.
- b) Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored.
- c) Details of the future management / maintenance of the proposed drainage scheme.

Reason: To avoid increased flood risk. Details are required pre-commencement because this infrastructure needs to be installed at the outset of the construction process.

6 ARCH2 Watching brief required

7 Construction Management

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

The CEMP shall detail times/types of working and times of deliveries.

Reason: To protect the amenity of local residents and businesses

8 HWAY31 No mud on highway during construction

9 Tree protection during construction

Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Before the commencement of development, including demolition, building operations, or the importing of materials and any excavations, a 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. This statement shall include details and locations of protective fencing.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. Unless otherwise approved by the Local Planning Authority, none of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation or deep-digging, parking or manoeuvring of vehicles; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, or pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which make a significant contribution to the amenity of the area.

10 Materials

Samples of the external materials to be used shall be approved in writing by the Local Planning Authority prior to the commencement of construction of the building. The development shall be carried out using the approved materials (samples to be provided on site for inspection).

Sample panels of the brickwork to be used on the buildings 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 of the pertinent building. 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: 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 in the conservation area.

11 Large scale details

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 relevant part of the development and the works shall be carried out in accordance with the approved details.

- Typical sections of each elevation at 1:50
- Plinth detail
- Gable end
- Plant louvres in roof
- The tiered entrance platform (including foundation design)
- Details of any increase in height to the flood defence wall

Reason: So that the Local Planning Authority may be satisfied with these details, in the interests of the character and appearance of the conservation area.

12 Verification of Remedial Works

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

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

13 Hard landscaping / servicing arrangements

Prior to first occupation or use, the areas shown on the approved plans for parking and manoeuvring of vehicles and cycles 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.

14 Cycle parking/storage

The cycle storage facilities as shown on the approved floor plans shall be provided prior to first use of the development hereby permitted and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for storage and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National

Planning Policy Framework.

15 Electric vehicle charging facilities

An electric vehicle recharging point shall be provided on-site prior to first use of the development hereby approved and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority.

REASON: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

16 Terry Avenue improvements

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

Required works - continuation of the pedestrian priority footpath along Terry Avenue, past the vehicle entrance to the site, as shown on the approved site plan.

Reason: In the interests of the safe and free passage of highway users, and to promote pedestrian movement in accordance with Manual for Streets.

17 Flood risk

The development hereby approved shall be carried out and operated in accordance with the JPG Drainage and Flood Risk Statement AMF/DFS/4455.v11 at all times, including in particular the following mitigation -

- The undercroft area shall remain available for the storage of flood waters at all times. A maintenance regime shall be put in place to ensure that any materials (such as silt) which are deposited during a flood are removed from site to ensure that there is no loss of flood storage.
- Finished floor levels shall be set no lower than 11.2m above Ordnance Datum (AOD)

- A safe route into and out of the site shall be identified and provided

Reason: To prevent flood risk.

18 Flood warning and evacuation plan

A detailed flood warning and evacuation plan shall be agreed in writing by the Local Planning Authority prior to first use of the development hereby approved and shall be adhered to at all times. This plan shall include details regarding the closure of the hotel when there is no access via Terry Avenue.

Reason: To prevent flood risk.

19 Landscaping

A detailed landscaping scheme, following the principles shown on the approved landscaping plans, shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the development hereby approved. The development shall be carried out in accordance with the approved details.

Details shall be provided showing how the landscaping/stepped entrance around the front/east entrance will be introduced without harm to tree roots.

The hard landscaping measures shall be implemented in accordance with the approved scheme prior to first occupation.

The soft landscaping measures shall be implemented in accordance with the approved scheme within 6 months of first occupation.

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 visual amenity and the character and appearance of the conservation area.

20 Travel Plan

A travel plan, for employees and visitors; setting out measures to promote sustainable travel and reduce dependency on private car journeys, shall be submitted to and approved in writing by the Local Planning Authority within six months of first use of the development hereby approved. The plan shall specifically explain how guests arriving by car will be informed of parking arrangements/local car park facilities and details of measures to prevent vehicles using Terry Avenue

and indiscriminate parking on local streets.

The travel plan shall be developed and implemented in line with Department of Transport guidelines and be updated and provided to the Local Planning Authority annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Reason: To reduce private car travel in accordance with paragraph 36 of the National Planning Policy Framework and policy T13a of the City of York deposit Draft Local Plan.

21 BREEAM

The development hereby approved shall be constructed to a BREEAM standard of 'very good'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 6 months of first occupation (unless otherwise agreed). Should the development fail to achieve a 'very good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'very good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

22 Ground levels

There shall be no raising of ground levels as part of the development. All excess spoil arising from the works shall be removed from site.

Reason: to ensure that there is no loss of flood storage as a result of the works, and that flood flows are not pushed onto others.

23 Plant / Machinery

The combined rating level of any fixed plant or equipment installed at the site shall not exceed 35dB(A), measured at the site boundary, 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 surrounding occupants from externally generated noise and in accordance with the National Planning Policy Framework.

24 UNEXPECTED CONTAMINATION

In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken, and where remediation (cleanup) 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.

INFORMATIVE: Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part 2A of the Environmental Protection Act 1990.

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.

7.0 INFORMATIVES:

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 (paragraphs 186 and 187) 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 revised plans and through the use of planning conditions.

2. REQUIREMENT FOR EA PERMIT

Any works to or within 8m of the toe of the defence will require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency. A permit will also be required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Ouse, designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> .

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

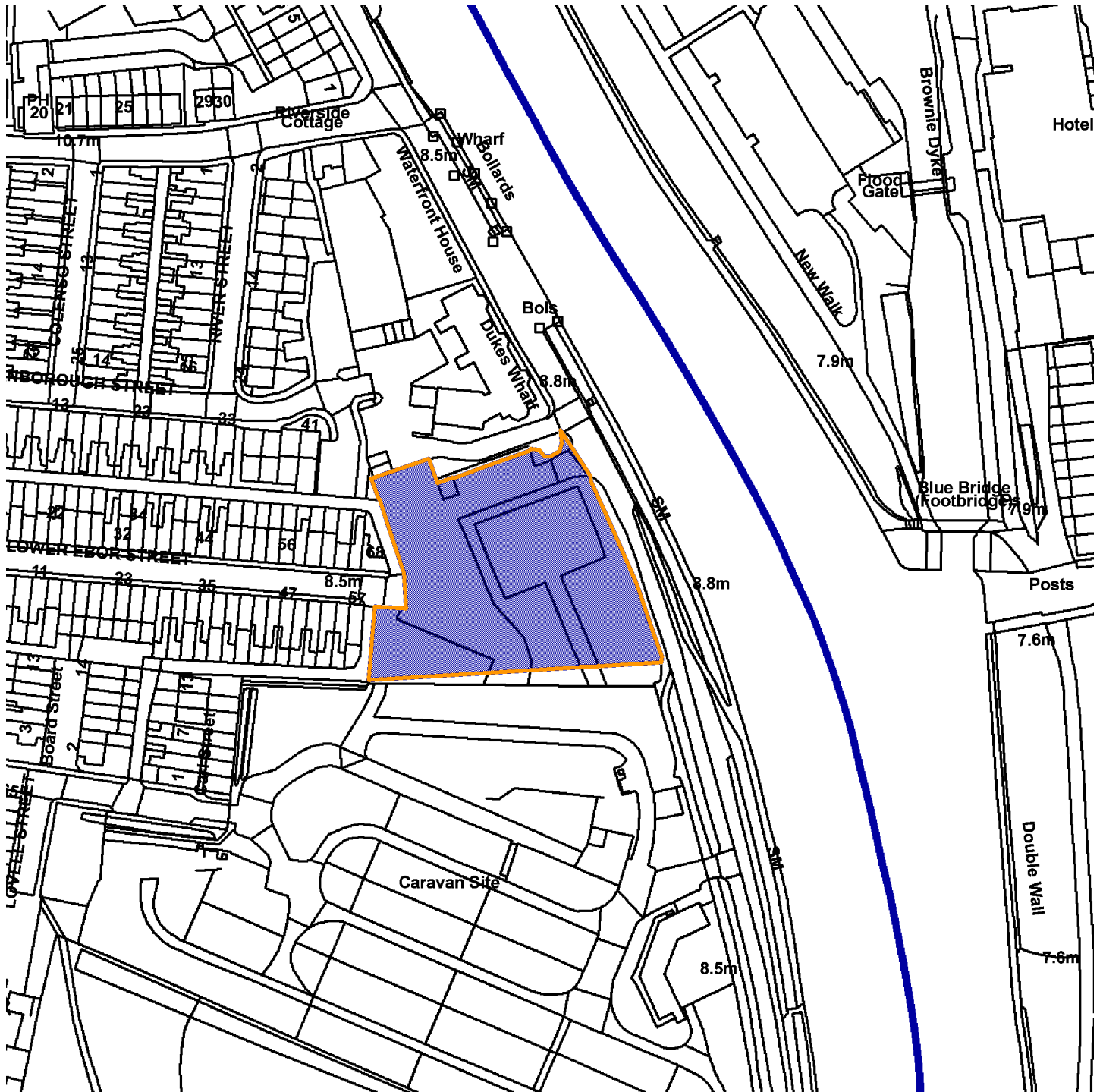
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15/02321/FULM

Former Unit A1, Parkside Commercial Centre, Terry Avenue, York



GIS by ESRI (UK)



Scale : 1:1527

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Organisation	Not Set
Department	Not Set
Comments	Site Plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Wheldrake
Team: Major and **Parish:** Naburn Parish Council
Commercial Team

Reference: 16/01853/FUL
Application at: Naburn Lock Caravan Park Naburn Lock Track Naburn York
For: Use of the land for the siting of 15 touring caravans / camping pitches
By: Mr & Mrs Wilkinson
Application Type: Full Application
Target Date: 18 October 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 Naburn Lock Caravan Site comprises a 100 pitch touring caravan site on land within the Green Belt to the south of Naburn village. Planning permission is sought for change of use of an area of land to the south of the site presently used for caravan and tent rallies for a period of 28 days a year as Permitted Development to house a further 15 formal touring caravan pitches. The proposal represents a revised re-submission of an earlier proposal ref:- 14/02806/FULM which was previously refused planning permission on the grounds of adverse impact upon the open character of the Green Belt. A subsequent appeal was dismissed. The revised proposal reduces and re-sites the number of pitches, removes the previously proposed amenity buildings and other structures and provides a more naturalistic and locally appropriate form of landscaping.

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

2.2 Policies:

CGP15A - Development and Flood Risk

CYGB1 - Development within the Green Belt

CYV5 - Caravan and camping sites

CYHE4 - Listed Buildings

3.0 CONSULTATIONS

INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal.

3.2 Strategic Flood Risk Management were consulted with regard to the proposal on 25th August 2016. Views will be reported orally at the meeting.

EXTERNAL:-

3.3 Naburn Parish Council raise no objection to the proposal.

3.4 The Environment Agency raise no objection to the proposal.

3.5 The Ouse and Derwent Internal Drainage Board raise no objection in principle to the proposal subject to any permission being conditioned to require the submission and prior approval of a detailed scheme of surface water drainage.

3.6 122 Letters of Representation have been received, including from a number of neighbouring residential properties. The following is a summary of their contents:-

* Concern in respect of the increasing difficulty in booking pitches at the main site for large parts of the year;

* Concern in respect of problems of anti-social behaviour at other touring caravan sites in the locality;

* Support for the provision of an additional 15 pitches at the site.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the open character and purposes of designation of the York Green Belt;
- Impact upon the setting of Naburn Banqueting House, a Grade II Listed Building;
- Impact upon the residential amenity of neighbouring properties.

PLANNING POLICY CONTEXT:-

4.2 GREEN BELT:- The general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central

Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies. Central Government Planning Policy as outlined in paragraph 87 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances.

Paragraph 88 establishes the weight to be given to a submitted case to establish "very special circumstances". This clearly argues that when considering a planning application Local Planning Authorities should ensure that substantial weight should be given to any harm to the Green Belt. "Very special circumstances" will not be held to exist unless the potential harm by reason of inappropriateness and any other harm are clearly outweighed by other considerations.

4.3 IMPACT UPON DESIGNATED HERITAGE ASSETS:- Central Government Planning Policy in respect of safeguarding the setting of Listed Buildings and other Designated Heritage Assets as outlined in paragraph 132 of the National Planning Policy Framework urges Local Planning Authorities to give great weight in considering the impact of proposed development on the significance of a Designated Heritage Asset, to the Asset's conservation.

4.4 IMPACT UPON RESIDENTIAL AMENITY:- Central Government Planning Policy in respect of amenity as outlined in paragraph 17 of the National Planning Policy Framework "Key Planning Principles" urges Local Planning Authorities to give significant weight to the need to secure a good standard of amenity for all new and existing occupants of land and buildings.

IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.5 Policy GB1 of the York Development Control Local Plan sets out a firm policy presumption that planning permission for development within the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and it is for one of a number of purposes identified as being appropriate within the Green Belt including agriculture and forestry. Central Government Policy as outlined in paragraph 79 of the National Planning Policy Framework establishes their fundamental characteristics as being their openness and permanence.

4.6 The proposal envisages the formal layout of a further 15 pitches at the south eastern edge of an existing field used for occasional caravan rallies and camping events under the Permitted Development Rights attaching to the site. The field has a partially metalled access track running from the north with a limited number of service points providing electricity and water which the users of the proposed pitches would have access to. The previously refused proposal included a much larger number of pitches with amenity buildings provided centrally within the field.

The current proposal removes the amenity buildings with pitch users accessing the existing shop and other amenity facilities directly to the north. Significant landscaping has also been undertaken within the field at the break of slope to the south facing Naburn Banqueting House since the previous application was determined.

4.7 Paragraphs 89 and 90 of the National Planning Policy Framework outlines a number of types of development both operational and material changes of use which are felt to be appropriate in the Green Belt providing they do not harm its openness. Caravan sites are not expressly included within paragraph 89 or 90 and therefore are by definition harmful to the open character of the Green Belt. An exception exists in respect of facilities for outdoor recreation that are deemed to be appropriate providing they give rise to no additional harm to openness. The scheme as previously envisaged did give rise to a significant degree of harm to openness however, the removal of the additional amenity facilities, the landscaping of the western and south western boundaries of the site in line with the local form of boundary treatment and the relocation of the proposed pitches into the least prominent section of the site would largely address that issue.

4.8 In order to overcome the usual presumption against inappropriate development within the Green Belt paragraph 87 of the National Planning Policy Framework seeks the submission of a case for "very special circumstances". Furthermore paragraph 88 seeks that such a case must be demonstrated to clearly overcome harm by reason of inappropriateness together with any other harm in order to amount to "very special circumstances". A case for "very special circumstances" has been brought forward in the current case taking account of two elements, the sustainability of the location and significant evidence of unmet demand for caravan pitches in the surrounding area.

4.9 In terms of sustainability the caravan site is located on a major bus route accessing the City Centre with a bus stop directly adjacent serving the site. A main cycle route and public footpath also lies a short distance away along the Ouse river bank feeding into the City Centre. The site is generously provided for in terms of on-site amenities with a shop/tea room and laundry and other recreational cycle and walking routes lie in close proximity. At the same time the proposed development as amended involves a minimal amount of additional built development simply comprising a change of use of a section of the existing field with no additional hard standing created.

4.10 In terms of unmet demand for/need for additional pitches evidence has been brought forward from Visit Yorkshire of a potential additional annual tourism spend within the City of £285,000 per additional pitch which has not come forward due to lack of either hotel bed spaces or caravan pitches. At the same time there is a lack of alternative sites suitable for development or expansion within reasonable proximity of the City Centre and its associated visitor attractions which are not

affected by a Green Belt designation with its associated presumption against such development. A significant number of letters of support have also been submitted in respect of the proposal which highlight difficulties in accessing suitable pitches with suitable sites full for long periods of the spring and summer along with issues of anti-social behaviour at other sites and others being converted to static and residential occupation.

4.11 In terms of overall impact upon the Green Belt it is felt that the submitted material does represent a case for "very special circumstances" that would clearly outweigh the harm caused to the character of the Green Belt by reason of inappropriateness. At the same time the reduction in the overall number of pitches from the previous refused scheme, the removal of the amenity buildings, the landscaping of the site boundary and the reconfiguration of the location of the proposed pitches, in combination all effectively remove the previous harm to the openness of the Green Belt. Any permission would be conditioned to further secure the total maximum number of caravans, motor homes or tents within the site in order to further secure the character of the Green Belt and to restrict the use to holiday occupancy only.

IMPACT UPON THE SETTING OF NABURN BANQUETING HOUSE (LISTED BUILDING) :-

4.12 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. This is reflected in paragraph 132 of the National Planning Policy Framework and Policy HE 4 of the York Development Control Local Plan(2005 4th Set of Changes). Naburn Banqueting House is Listed 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 behind. Since the refusal of permission for the previous larger proposal the break of slope within the associated field has been planted with a substantial hedge using native species and to a design and layout reflecting the local practise in terms of boundary treatment. As a consequence the visual relationship with the Banqueting House has been transformed and the inter-visibility between the two sites removed. No harm would therefore be caused from the proposal to the setting of the Listed Building, provided that the screening is retained for the lifetime of the development

IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.13 Policy GP1 of the 2005 York Development Control Local Plan sets out a presumption in favour of new development proposals which respect or enhance the local environment, are of a scale, mass and design that is compatible with

neighbouring buildings, spaces and the character of the area and ensure that residents living nearby are not unduly affected by noise, disturbance or dominated by overbearing structures. Two residential properties lie directly to the south and to the south east of the proposal. That to the south is some 16 metres from the site and that to the south east is some 28 metres from the site. The reduction in the scale of the development together with the degree of additional landscaping which has taken place would it is felt effectively mitigate against any harm to residential amenity to adjoining properties.

5.0 CONCLUSION

5.1 . As described above, it is considered that a case for "very special circumstances" has been submitted in respect of the proposed development which would clearly outweigh any harm caused to the Green Belt by reason of inappropriateness together with any other harm. The potential impacts of the previous proposal upon the setting of Naburn Banqueting House and the residential amenity of neighbouring properties have also been effectively addressed. The scheme is therefore recommended for approval subject to conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing Refs:- Proposed Site Layout Plan Dated 12th July 2016

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

3 This permission is restricted to the siting of the following types of holiday accommodation only: touring caravans, motor homes and tents. At any one time there shall be no more than an overall combined total of fifteen touring caravans and/or motor homes and/or tents within the site.. At no time shall static caravans be permitted on site.

Reason: In the interests of the protection of the openness of the Green Belt as static caravans and a larger number of touring vans/ tents would have a materially greater impact on the openness of the green belt and would be likely to require increased amenity facilities.

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

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site and to secure the setting of Naburn Banqueting House, a Grade II Listed Building.

5 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and 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.

6 The use of the land for the siting of touring caravans, motor homes and tents hereby approved shall not be used for residential purposes other than holiday letting. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 nights in any one calendar year. The site operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the accommodation on site, including dates and durations of each stay by each occupier, and shall make this register available for inspection at all reasonable times when requested by the Local Planning Authority. No individual caravan, motor home or tent (whether occupied or otherwise) shall be located on the site hereby permitted for a total of more than 28 nights in any one calendar year.

Reason: In order to prevent the full time residential occupation of the site. The site is not considered appropriate for full time

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 (paragraphs 186 and 187) 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:

Application Reference Number: 16/01853/FUL

Item No: 4e

Clarification as to the case for "very special circumstances" to justify the proposal.

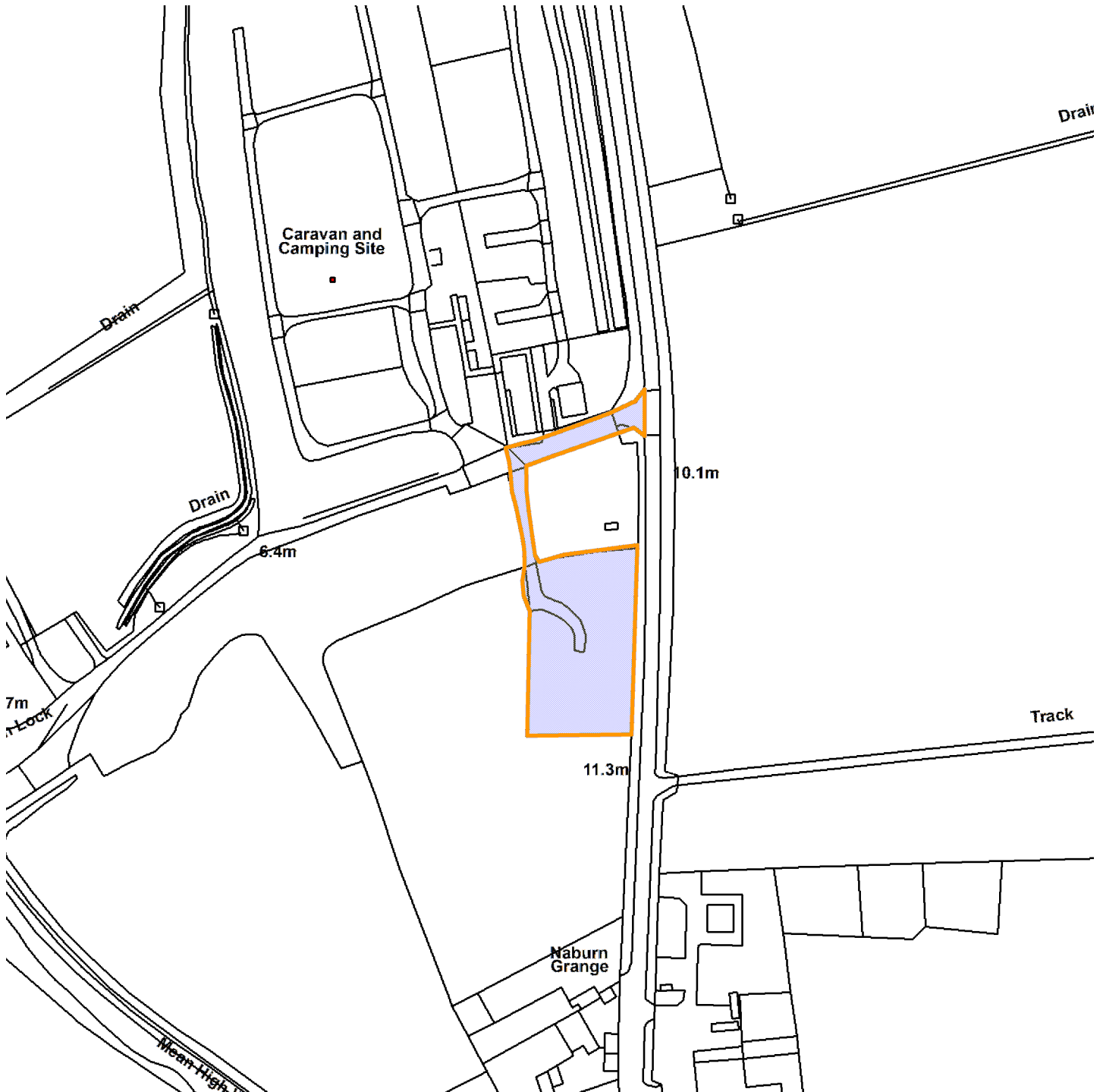
Contact details:

Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

16/01853/FUL

Naburn Lock Caravan Park Naburn Lock Track, Naburn



Scale : 1:2147

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Organisation	Not Set
Department	Not Set
Comments	Site plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Fulford And Heslington
Team: Major and **Parish:** Fulford Parish Council
Commercial Team

Reference: 16/01483/FUL
Application at: York Designer Outlet St Nicholas Avenue York YO19 4TA
For: Change of use of part of car park to 12 hole artificial all weather putting course
By: Drew Kirby
Application Type: Full Application
Target Date: 7 September 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to the construction of a 12 hole artificial all weather putting course adjacent to the southwest entrance into the McArthur Glen "Designer" outlet. The course would occupy an existing area of car parking (approximately 1000 sq metres) replacing 26 parking spaces out of a total of 2,700 (i.e. approximately 1% of the total). A dedicated "Shambles" style kiosk/clubhouse is included in the design for operating the course, supplying clubs, balls and supervising play. Each hole would be approximately 8 - 12 metres in length. It is anticipated that the average play time would be 30 - 40 minutes, with a difficult and easy route to appeal to visitors of all ages and abilities. It is proposed that the putting course would be open to the public between the hours of 10.00 and 20.00 Monday to Friday, 09.00 to 20.00 on Saturdays, and 10.00 to 18.00 on Sundays.

1.2 Within each hole there would be timber or stone features to act as hazards and which would reflect the historical context of York (e.g. Clifford's Tower, St. Mary's Abbey, City Walls, Viking longboat) in addition to localised mounding and contouring. There would also be seating areas, benches and litter bins throughout the course, which would be enclosed by 1.5 metre high mesh fencing supplemented by indigenous tree and shrub planting. It is intended that the facility would complement the existing retail use of the site rather than be a destination in itself.

SITE HISTORY

1.3 The following applications are considered to have some relevance to the proposal:

Ref: 12/01456/FUL - Construction of miniature railway including station building and engine shed - approved 21/06/2012

Ref: 12/03184/FUL - Installation of canopy and car wash facility - refused
20/12/2012

Ref: 12/00656/FUL - Siting of hand car wash and valeting service - refused
19/05/2014

Ref: 16/00215/FUL - Use of car park for siting of ice rink and funfair - approved
13/06/2016. The ice rink and funfair operate between November and mid-January
and the planning permission is conditioned accordingly. The granting of this
planning permission allows the ice rink and funfair to operate during these months
on a permanent basis followed the granting of a series of temporary planning
permissions.

2.0 POLICY CONTEXT

Please see Section 4 for the relevant planning policy context for this application.

3.0 CONSULTATIONS

3.1 INTERNAL

Highway Network Management - No objections to the proposed development. The
Course will be sited on existing parking spaces within a large car park. The number
of spaces lost to facilitate the course is 26 which will equate to 1% of total car-
parking at the outlet. Most of the visits to the course will be linked trips to the
shopping park. We therefore do not expect a material impact on the highway. Cycle
parking has not been detailed and there is no indication of where existing provision
is. 3 Sheffield cycle stands within 50m of the course to cater for staff and visitors are
recommended to be conditioned.

Public Protection - No objections. The proposed putting course is located to the far
south of the site, at a distance of 150 metres away from the nearest property at
Acres Farm and 300m plus away from properties on Naburn Lane. No additional
lighting is proposed.

Landscape Architect – Comments to be reported.

3.2 EXTERNAL

Fulford Parish Council make the following comments:

1. Diversification

Remain concerned about further diversification of use of a site that was originally
approved solely as a retail outlet.

2. Green belt

States the site is currently within the green belt and the proposal is inappropriate development (and harmful by definition). The applicant has not put forward any very special circumstances to justify relaxation of green belt policies. Until the Local Plan is adopted, there is no certainty that the site will be removed from the green belt and applications of this nature are therefore premature. The height and bulk of the kiosk seems excessive for its intended use - some reduction in the 4 metre height would reduce its impact on openness.

3. Parking

The loss of more parking spaces will result in additional pressure during peak periods. Further loss should not be permitted unless additional parking provision is approved to compensate for the losses resulting from this application.

3.3 PUBLICITY

Site notice posted on 19 July – no responses received.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues in this case are considered to be:

- Green Belt
- Design and layout
- Loss of car parking

PLANNING POLICY

Development Plan

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the retained policies of the Yorkshire and Humber Regional Spatial Strategy (RSS). These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies require the inner and the rest of the outer boundaries to 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.

The key diagram to the RSS includes the Designer Outlet site in the general extent of the Green Belt. Whilst the emerging Local Plan proposes to remove the whole of the site from the Green Belt, in accordance with Para 216 to the NPPF this carries very limited weight at this stage in the plan process. However, the evidence base underpinning the emerging plan policy is capable of being a material consideration in determining the planning application
National Planning Policy Framework (NPPF)

4.3 Paragraph 14 of the NPPF says that there is a presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. Restrictions are referred to in a footnote to paragraph 14. The restrictions include Green Belt locations. As the site is located within the general extent of the Green Belt around York the presumption in favour of sustainable development does not apply to the proposed development, instead the more restrictive policies concerning green belt apply.

4.4 The core planning principles at Paragraph 17 include the expectation that planning should proactively drive and support sustainable economic development, always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings, take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions.

4.5 Paragraph 19 states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

4.6 In seeking to promote sustainable transport paragraph 34 states that Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and at paragraph 37 states that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities

4.7 Section 9 of the NPPF 'Protecting Green Belt Land' states that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. Paragraph 88 says that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 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. Paragraph 89 states that the construction of new buildings is inappropriate. Exceptions to this include provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

2005 Development Control Local Plan

4.8 The Development Control Local Plan (DCLP) was approved for development control purposes in April 2005, and whilst it is not an adopted plan for the purposes of Section 38 of the 1990 Act, it is capable of being a material planning consideration where it is consistent with the NPPF. Policy GP1 "Design" is a general policy which expects new development to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. Policy GB1 "Development in the Green Belt" is similar in its effect to paragraph 89 of the NPPF and states that within the Green Belt, planning permission for development will only be granted where: a) the scale, location and design of such development would not detract from the open character of the Green Belt; and b) it would not conflict with the purposes of including land within the Green Belt; and c) it would not prejudice the setting and special character of the City of York. Amongst the developments that are considered appropriate are essential facilities for outdoor sport and outdoor recreation. (The NPPF uses the word "appropriate" facilities rather than "essential", and takes precedence). Policy NE1 seeks to protect trees, woodlands and hedgerows, which are of landscape, amenity, nature conservation or historical value.

4.9 The Development Control Local Plan (DCLP) shows the site as being within the Green Belt. Within the plan the site is designated as a major developed site; such a designation is no longer recognised by Government policy and is no longer relevant to the consideration of planning applications. Given the conflict with this aspect of the DCLP Green Belt policy and with the wording of GB1, in terms of Green Belt implications it is considered more appropriate to assess the proposal against the NPPF and any evidence base emerging in the Local Plan.

Emerging Local Plan

4.10 The emerging publication draft local plan seeks to remove the site from the Green Belt. However, policies in the emerging draft Local Plan are not considered to be sufficiently far advanced to be material to the consideration of this application.

4.11 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and the statutory development plan (the Regional Spatial Strategy which shows the site within the Green Belt). It is against this Framework and the RSS that the application proposal should principally be addressed.

GREEN BELT

4.12 A key issue in this case is whether the proposal constitutes inappropriate development within the Green Belt. The Designer Outlet is operated by a single management company with the car parking and ancillary facilities such as toilets and entrance areas providing amenities for users of the retail units. The site operates as a single unit, of which the area for the putting course would be a very small part. However, it would be enclosed by a fence and would occupy an area of 1000 square metres. It would have a different character and appearance to the car park and buildings that surround it, and would be visually completely distinct from them. As such, it is considered that the proposal would constitute a change of use of land and would not, therefore, fall within the exceptions listed in paragraphs 89 and 90 of the NPPF. Thus it would constitute inappropriate development in the Green Belt, and in accordance with paragraph 88, should not be approved except in very special circumstances.

4.13 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, one of the exceptions to this is the provision of appropriate facilities for outdoor sport and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. It could be argued that the kiosk and other structures associated with the putting course fall within this category, subject to the impact on openness and purposes of including land within the Green Belt being assessed.

Openness

4.14 The site is located on part of the car park to the rear of the shopping centre. The development would reduce the overall amount of hard surfacing within the site although would result in the introduction of a small kiosk and structures for each of the putting holes. However, the structures would be relatively small (maximum height 2.5 metres) and would be spread around the course. The kiosk/clubhouse has a footprint of 5 metres by 3 metres, and in response to the comments of the Parish Council, its height has been reduced from 4 metres to 3 metres. The site occupies a commercial (albeit landscaped) setting within an existing car park, and is screened by landscaping and tree planting both within the site and around its perimeter. Given the commercial setting and the existing use of the site as a car park, it is not considered that the development would result in a very limited loss of openness.

Purposes of Green Belt

4.15 Paragraph 80 of the NPPF sets out the purposes of including land within the Green Belt. These include, amongst others, to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns merging into one another, to assist in safeguarding the countryside from encroachment, and to preserve the setting and special character of historic towns. As the site is contained within the Designer Outlet boundary and is located on an existing area of car parking it is not considered that the purposes of including the land within the Green Belt would be undermined.

OTHER CONSIDERATIONS

DESIGN AND LAYOUT

4.16 The proposal consists of a 12 hole putting course occupying an enclosed area of approximately 1000 square metres. The kiosk and other structures signifying each hole are relatively small in scale. Existing mature trees to the east, between the putting course and the southernmost retail building would be retained. Although one small tree would be lost (in the vicinity of the kiosk), this would be replaced and a number of other trees and additional landscaping would be planted both within and around the course. Given the setting within a large car park and adjacent to a substantial commercial building, no objections are raised from a visual amenity standpoint.

LOSS OF CAR PARKING

4.17 The putting course would be sited on existing parking spaces within a large car park. The number of spaces lost to facilitate the course is 26 which will equate to approximately 1% of total car parking at the outlet. It is anticipated that most of the visits to the course will be linked trips to the shopping park and, given its scale, is unlikely to become a destination in itself. For these reasons, highway officers do not expect a material impact on the surrounding highway network. The provision of additional cycle parking (3 Sheffield cycle stands are recommended) can be conditioned.

4.18 The site is within flood zone 1, which is at low risk of flooding. As the site is hard surfaced (in tarmac), there would be no increase in surface water run-off as a result of the proposal, and therefore no drainage issues. The site is removed from residential properties, and the proposal would have no impact on the amenity or living conditions of local residents.

VERY SPECIAL CIRCUMSTANCES

4.19 Paragraph 81 of the NPPF states that once Green Belts have been defined, local planning authorities should plan positively to enhance its beneficial use by, among other things, looking to provide opportunities for outdoor sport and outdoor recreation. The NPPF is also supportive of development that is beneficial to the rural economy. It is considered that the proposal would complement the existing retail function of the site, potentially making it more attractive as a retail destination thus bringing economic benefits to the area.

4.20 A further consideration is the lack of harm to both openness and the purposes of including land within the Green Belt as described above, by the introduction of the proposed development within the existing commercial setting of the site and its existing use as a substantial car park. The putting course would provide a complementary facility that can be accessed sustainably, being on a good bus route and next to a park and ride facility. The applicant has stated that the facility would increase dwell time at the site and offer an additional activity for families and customers in addition to the current retail and leisure offer.

5.0 CONCLUSION

5.1 The application site forms a small part of the extensive car park serving the Designer Outlet retail development. Whilst the putting course would constitute inappropriate development in the Green Belt, the proposal would have no significant impact on openness, nor would the proposal conflict with the purposes of including land in the Green Belt. It is considered that the proposal would complement the existing retail function of the site, potentially making it more attractive as a retail destination thus bringing economic benefits to the area.

5.2 It is considered that taken together, the site circumstances and other considerations referred to above, even when attaching substantial weight to the harm to the Green Belt, amount to very special circumstances in this case that are sufficient to clearly outweigh the potential harm to the Green Belt and any other harm. Taking into account all other relevant planning matters as described, the application is therefore recommended for approval.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Application Reference Number: 16/01483/FUL

Item No: 4f

Location Plan and Block Plan received 5 July 2016
Illustrative details of major course features received 12 July 2016
Revised kiosk details received 7 October 2016
Drawing WAG 14 Rev "A" Hard Landscaping received 7 October 2016
Drawing WAG 14 Rev "A" Soft Landscaping received 7 October 2016

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

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

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

INFORMATIVE: It is recommended that a minimum of 3 Sheffield cycle stands be provided in association with the development

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 (paragraphs 186 and 187) 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:

Secured a reduction in the height of the proposed kiosk/clubhouse
Secured revised landscaping details
Use of planning conditions

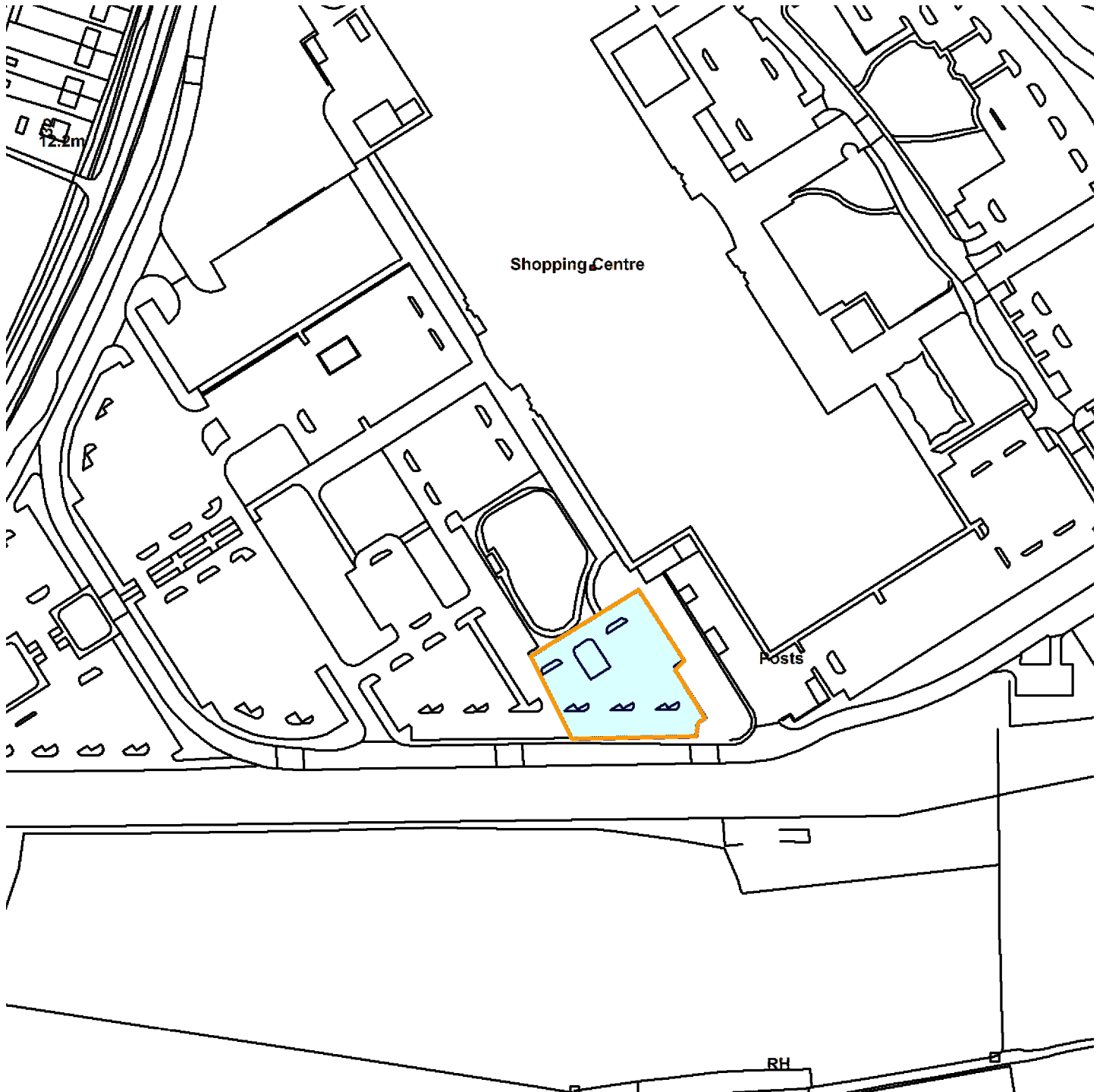
Contact details:

Author: Simon Glazier Principal Development Management Officer
Tel No: 01904 551322

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16/01483/FUL

York Designer Outlet St Nicholas Avenue



Scale : 1:2319

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Organisation	Not Set
Department	Not Set
Comments	Site plan
Date	17 October 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 16/01073/OUTM
Application at: Land To The North Of Avon Drive Huntington York
For: Erection of 67 dwellings
By: Pilcher Homes Ltd
Application Type: Major Outline Application (13 weeks)
Target Date: 4 August 2016
Recommendation: Refuse

1.0 PROPOSAL

1.1 Outline application for the erection of 67 dwellings. All matters are reserved except access. The application is accompanied by a masterplan, which is illustrative only. The application includes 1, 2, 3 and 4-bedroom units. The development would be bounded to the north by a landscaped buffer between the housing and the ring road. Two access points would be created via two vacant plots on the north side of Avon Drive. The gross density would be 14dph. The net density (after excluding open space, the landscaped buffer and 0.2ha for surface water attenuation) would be approximately 27.9dph.

1.2 The application is a resubmission of 15/00798/OUTM, which was for the erection of up to 109 houses. The application was refused due to:

1. Harm to the Green Belt and other harm for which no very special circumstances had been put forward by the applicant; and
2. Impact upon unknown buried archaeological features within the site.

1.3 The main differences between the current proposal and the refused scheme are that the current proposal has:

- Less developable area, 2.4ha down from 3.3ha.
- More public open space, 2.2ha up from 1.3ha.
- A wider/denser landscaped buffer alongside the ring road.
- Mainly bungalows along the southern boundary with Avon Drive.
- Longer gardens along the southern boundary with Avon Drive.
- New internal road layout.
- Secondary access from Avon Drive is now for pedestrians only.

1.4 The indicative housing mix is broadly as before. The main access into the development is as before. Affordable housing remains at 30% as before.

1.5 The application does not constitute Schedule 1 development as set out in The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Nor, in the council's view, is it Schedule 2 development. No environment impact assessment has been requested by the council, nor has it been offered by the applicant.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

National and local planning policy context is explained and assessed at paragraph section 4.0 below. The relevant local planning policies are listed as follows:

2005 Draft York Local Plan (4th set of changes):

SP2 – The York Green Belt
SP3 – Safeguarding the Historic Character and Setting of York
GB1 - Development in the Green Belt
GB6 – Housing Development Outside Settlement Limits
CYGP1 - Design
CYGP4A – Sustainability
CYGP9 – Landscaping
CGP15A – Development and Flood Risk
HE10 – Archaeology
NE7 – Habitat Protection and Corridors
H2a – Affordable Housing
H3c – Mix of Dwellings on Housing Sites
L1c – New Open Space in Development
C6 – Developer Contributions Towards Community Facilities

City of York Local Plan – Publication Draft 2014:

DP1: York Sub Area
DP2: Sustainable Development
DP3: Sustainable Communities
SS1: Delivering Sustainable Growth for York

SS2: The Role of York's Green Belt
SS3: The Creation of an Enduring Green Belt
H1: Housing Allocations
H2: Density of residential Development
H3: Balancing the Housing Market
H4: Housing Mix
H9: Affordable Housing
D7: Archaeology
GI2: Biodiversity and Access to Nature
GI4: Trees and Hedges
GI6: New Open Space Provision
GB1: Development in the Green Belt
T4: Strategic Highway Network Capacity Improvements
T5: Strategic Cycle and Pedestrian Network Links and Improvements
T10: Safeguarding Routes and Sites
DM1: Infrastructure and Developer Contributions

3.0 CONSULTATIONS

INTERNAL

PLANNING AND ENVIRONMENTAL MANAGEMENT (FORWARD PLANNING)

3.1 Objection. For the purposes of determining this application, the site should be treated as falling within the Green Belt in accordance with the RSS and both the City of York Council Local Plan incorporating the 4th set of changes and the emerging Local Plan. Certain types of development (including residential proposals) are inappropriate development in the Green Belt. As such, it is necessary for the applicant to demonstrate very special circumstances to justify why the presumption against development should not apply.

3.2 The applicant suggests that the site only performs a limited Green Belt role and puts forward 'very special circumstances' to support the application. We do not agree with the applicant's assessment and would strongly contend that the site remains as Green Belt. It is not considered that a strong argument for 'very special circumstances' has been put forward that would outweigh the harm to the Green Belt.

HOUSING STRATEGY AND DEVELOPMENT

3.3 The application complies with the council's interim affordable housing approach for green field sites by providing 30% affordable housing.

HIGHWAY NETWORK MANAGEMENT

3.4 The proposed access arrangements are in accordance with national guidance. The indicative Masterplan/site layout plan is, subject to minor revisions, in accordance with Manual for Streets principles which seek to restrain vehicle speeds through design and give priority to non-car movement. It is envisaged that the internal layout would be designed, constructed and offered for adoption under the Highways Act. The council as highway authority is satisfied that sufficient land would remain for future improvement of the A1237 outer ring road. Financial contributions or measures should be provided by the developer to maximise the sustainability of the development.

PUBLIC PROTECTION

3.5 With appropriate mitigation, the proposals would provide suitable living conditions for the occupiers. If planning permission were to be granted, appropriate planning conditions should be attached to cover: (1) submission of noise mitigation measures, construction nuisance, unexpected contamination and electric vehicle recharging.

FLOOD RISK MANAGEMENT

3.6 The development is in low risk Flood Zone 1. No objections subject to conditions regarding (1) separate systems of foul and surface water drainage (2) Submission of drainage details including details of any balancing works and off-site works (3) no piped discharge of surface water prior to the completion of the approved drainage works.

ENVIRONMENTAL MANAGEMENT (Archaeology)

3.7 The proposed development north of Avon Drive, Huntington lies outside the Area of Archaeological Importance but in a wider area which has produced evidence of deposits from the Romano-British period. Any ground disturbance deeper than 0.4m below the present ground surface would adversely affect significant archaeological deposits so further archaeological mitigation is needed. Add conditions regarding excavation and reporting in advance of development.

ENVIRONMENTAL MANAGEMENT (Ecology)

3.8 There are no statutory or non-statutory nature conservation sites within or immediately adjacent to the site. The main habitats on the site are not significant in their own right but they contribute to the green networks of the area. It is unlikely that great crested newts have colonised the pond on the site. More mobile species of common wildlife would not be significantly affected by the development. If the

application were to be approved add conditions requiring an ecological design strategy, updated ecology surveys and sensitive lighting.

ENVIRONMENTAL MANAGEMENT (Landscape)

3.9 Although the visual impact would be slightly less than the previous submission, the proposed development would have a detrimental impact on the open character of the Green Belt, by way of urban encroachment, especially as viewed from the outer ring road, and would increase the effect of coalescence between Huntington and Earswick.

PUBLIC REALM/SPORT & ACTIVE LEISURE

3.10 For a development of this size we would be expect to see all the necessary amenity and play space to be on site. Based on the house mix proposed we would expect to see a total of 6,164 m² of open space (play, amenity and sports pitches). Sports pitch requirements could be addressed through an off-site contribution, in which case it would be allocated to Huntington Sports Club. The indicative footpath network is overly complex and eats into the useable green spaces - reducing "informal run around space". The indicative tree/shrub planting at key path junctions reduces passive surveillance opportunities.

EDUCATION

3.11 No financial contribution currently required for primary education as sufficient places are available but we reserve the right to reconsider this should the situation change. The development would generate an additional 6 secondary places requiring a contribution of £91,104. Huntington is the catchment secondary school but has no capacity to expand its roll. The funding should therefore be commuted to nearby Joseph Rowntree School for internal adaptations to enable the extra pupils to be accommodated. Eight early years places would be generated totalling £48,888 for provision within 1.5km of the development. The total financial contribution is therefore £139,992.

EXTERNAL

HUNTINGTON PARISH COUNCIL

3.12 Objection. A precedent has been set on two previous occasions due to the need for future dualling of the A1237. The land is designated as Draft Green Belt in the Draft Local Plan. The development would exacerbate road safety on an already difficult section of road. Impact on residential amenity and the character of the neighbourhood. The development would exacerbate existing drainage problems resulting in sewage polluting residential gardens and driveways.

JULIAN STURDY MP (ON BEHALF OF LOCAL RESIDENTS)

3.13 The land is in the Green Belt. Housing need is not counted as an exceptional circumstance when development in the Green Belt is proposed under the NPPF. Approval would hinder the council's ability to achieve its goal of dualling the A1237. The development would exacerbate existing congestion and issues. The community is concerned over the impact of the development on school places, health facilities, etc. It is crucial that drainage from the site is not made worse for residents. Development would exacerbate the existing drainage of the site and gardens along Avon Drive.

COUNCILLORS ORRELL, CULLWICK AND RUNCIMAN

3.14 The site is in the Green Belt. Building on the land would mean that the communities of Huntington and Earswick would be joined. The site is needed for the future dualling of the ring road. More houses would add to the traffic problems of Huntington and the ring road. The infrastructure of the area is already under considerable strain.

YORKSHIRE WATER

3.15 If planning permission is to be granted conditions should be attached to protect the local aquatic environment and YW infrastructure. Yorkshire Water is satisfied that the development would not encroach along the 15m corridor of the large diameter water main that crosses the site. It would appear that the 100 mm diameter public sewer within part of the site is unlikely to be affected by the proposal. Foul water domestic waste should discharge to the 225 mm diameter public foul/combined water sewer recorded in Avon Drive.

FOSS INTERNAL DRAINAGE BOARD (FIDB)

3.16 The site is in an area where drainage problems exist. Development should not be allowed until the local planning authority is satisfied that surface water drainage has been satisfactorily provided for. Given the size of the development and the sensitivity of the flooding issue, the Board is concerned about this application in its current form. If the Local Authority is minded to grant planning permission conditions should be attached requiring drainage works, including attenuation, to be agreed.

HIGHWAYS ENGLAND

3.17 No objection in principle. Add a condition requiring submission of a Construction Management Plan/Travel Plan, for approval by the local planning authority.

POLICE (DESIGNING OUT CRIME)

3.18 The site lies in an area that has relatively low levels of crime and anti-social behaviour. Any new development has the potential to increase these levels if the designing out of crime is not considered and implemented. In general the overall design of the development is to be commended as it includes many designing out crime principles and reduces the opportunity for crime and disorder. If planning permission were to be granted a condition should be attached requiring any reserved matters application to include details of crime prevention measures to be incorporated into the development.

PUBLIC CONSULTATION

3.19 The consultation period expired on 28 June 2016. 37 objections have been received raising the following planning issues:

- Contrary to green belt policy and purposes
- There are no very special circumstances to justify the development
- Loss of green space
- The changes from the 2015 scheme are not significant
- Development should be on brownfield sites
- Would increase sprawl
- Would worsen existing traffic
- Traffic is already set to increase due to other approved major developments
- Would reduce highway safety
- Site is needed for dualling of A1237 ring road
- Would inhibit widening of the A1237 ring road
- No further development until ring road is dualled
- The site has already been rejected for housing
- There are no spare places in local schools
- Would put pressure on infrastructure/services
- Inadequate foul and surface water drainage
- Would worsen existing flood problems
- Pollution, noise and loss of amenity in Avon Drive
- Loss of privacy to occupiers of No.3 Avon Drive
- The site is not in a sustainable location
- There are already enough allocated housing sites in Huntington
- Loss of habitats
- Loss of rural character
- Loss of site for dog walking would increase risk of dog fouling on the highway
- Would set a precedent for housing development in the Green Belt.

3.20 Six letters of support have been received welcoming the inclusion of realistically-priced and affordable housing.

4.0 APPRAISAL

4.1 KEY ISSUES:-

- Policy Context
- Housing Need and Housing Supply
- Harm to the Green Belt
- Landscape Character
- Highway Matters
- Leisure and Open Space
- Affordable housing
- Biodiversity
- Neighbour and Occupier Amenity
- Archaeology
- Local Services
- Flood Risk and Drainage
- Community Involvement
- The Planning Balance

POLICY CONTEXT

4.2 Section 38(6) of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy (the Yorkshire and Humber Plan) relating to the general extent of the Green Belt. Policies YH9 and Y1(C1 & C2) and the key diagram on page 214 of the RSS form the statutory Development Plan for the City of York administrative area. The site lies within the general extent of the Green Belt as shown on the Key Diagram of the RSS. 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.

4.3 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the National Planning Policy Framework (NPPF). It is against this Framework that the application proposal should principally be addressed. Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Paragraph

14 states that there is a presumption in favour of development, which should be seen as a golden thread running through plan-making and decision-taking. Footnote 9 of paragraph 14 contains restrictions where this presumption in favour of sustainable development does not apply, including land designated as Green Belt. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking. They include seeking high quality design and protecting the Green Belt.

4.4 Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of s.38(6) 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. The most relevant Draft (2005) policies are listed and summarised at paragraph 2.2 of this report.

4.5 Paragraph 216 of the NPPF states that decision-takers may also give weight to relevant policies in emerging plans 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 this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

4.6 The emerging Plan is progressing; consultation on the Preferred Sites ended on 12th September 2016. The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage of the statutory process, such weight is limited.

THE APPLICATION SITE

4.7 4.83ha of fringe agricultural land between suburban residential dwellings to the west and south (Strensall Road and Avon Drive respectively) and the Outer Ring Road (A1237) to the north and east. The boundaries to the north and east are edged by mature trees and hedges. The ring road in this location is a single carriageway. The site is between the defined settlement limits at Huntington and Earswick and is within the general extent of the York Green Belt.

HOUSING NEED AND HOUSING SUPPLY

4.8 Paragraph 14 of the NPPF says that Local Planning Authorities should positively seek to meet the development needs of their area. Paragraph 47 says that to boost housing supply local authorities should use their evidence base to ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing, including identifying sites which are critical to the delivery of the housing strategy over the plan period. Plans should be deliverable as set out in paragraph 173. Although the emerging Local Plan policies can only be afforded very limited weight in accordance with paragraph 216 of the NPPF, the evidence base that underpins the emerging policies is a material consideration in the determination of this planning application.

4.9 The Preferred Sites Consultation (2016) puts forward the Council's latest evidence base with respect of a Strategic Housing Market Assessment (SHMA) and Employment Land Review (ELR), a proposed portfolio of sites to meet the housing and employment needs of the city over the plan period along with an updated Local Development Scheme (LDS) which sets out the timetable for the Local Plan.

4.10 The SHMA produced by consultants GL Hearn presents an objectively assessed need (OAN) for York of 841 dwellings per annum. This work takes into account the Government's recent release of the 2014 based Sub-National Population Projections (SNPP) released by the Office for National Statistics (ONS) on 25th May 2016 however it pre-dates the July 2016 release from CLG of the 2014 based sub national household projections.

4.11 To satisfy the emerging OAN the City of York Local Plan Preferred Sites Consultation comprises sufficient land to provide about 10,100 dwellings in total. In addition the supply includes 4,112 dwellings with existing planning consent (at 1st April 2016). Allowing for a small site windfall allowance comprising sites under the allocation threshold of 0.2ha and changes of use and conversions this would effectively lead to an approximate 2.2-year oversupply by year 15 of the plan period.

4.12 The application site has been considered in the site selection process but has been dismissed in favour of more suitable and sustainable sites as set out in the Preferred Sites Consultation 2016.

4.13 Further work will be undertaken on the OAN and deliverability and viability as the Plan progresses to its Publication stage. Therefore for the purposes of this application the Council is unable to demonstrate an NPPF compliant five year housing land supply.

ASSESSMENT OF HARM TO THE GREEN BELT

4.14 The site lies within the general extent of the Green Belt as shown on the Key Diagram of the RSS and as Green Belt on the proposals map of the 2005 City of York Draft Local Plan. The NPPF makes clear at section 9 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (paragraph 79). Furthermore that the essential characteristics of Green Belts are their openness and their permanence. Paragraphs 89 and 90 of the NPPF specify the types of development that are 'not inappropriate' in the Green Belt. All other development is inappropriate and, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering planning applications local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

4.15 The applicant argues in the submitted planning statement that:

- Green Belt designation has not been confirmed in a formally adopted local plan;
- National Green Belt policy does not apply to a Green Belt whose boundaries have not been formally adopted;
- The land cannot be considered statutory Green Belt when the council is considering land for housing up to 2031;
- In the absence of a local plan the application must be considered afresh in the context of the sustainability-based policies of the NPPF and current housing needs;
- It is unlikely that the 2005 local plan, which is over 10 years old and not subject to formal public scrutiny, can carry material weight in 2016;
- If these arguments are not agreed there are very special circumstances that, cumulatively, would allow the council to grant planning permission as an exception to normal policy.

4.16 The RSS states that the outer boundary of the Green Belt should be about 6 miles from York city centre (policy Y1C) and that the inner boundary should be defined by the local plan in order to establish long term development limits for the city (policy YH9C). This is being done in accordance with the local planning process in the NPPF. Although the approximate outer limit is set at six miles there is no mention of an inner limit; the RSS does not exclude any open land around the edge

of York from the Green Belt. The application site lies beyond the built-up extent of York and comprises open agricultural land completely devoid of built development. It is the Council's position that until a Local Plan for York is adopted, development management decisions relating to proposals falling within the general extent of the Green Belt are made on the basis that the land should be treated as Green Belt. This is consistent with previous decisions by the Secretary of State. In the case of Germany Beck/Metcalf Lane (APP/C2741N/O5/1189897 and APP/C2741N/O5/1189885) the Secretary of State did not consider that the lack of a defined boundary to be sufficient justification to arbitrarily exclude any site contained within the general extent of the Green Belt. Until such time that the detailed boundaries of the York Green Belt are defined in a statutorily adopted local plan or framework, the Secretary of State's view was that both sites should be treated on the basis that they lay within the Green Belt.

4.17 Paragraph 14 of the Framework states that when taking decisions the LPA should grant permission unless specific policies in the Framework indicate development should be restricted. In this case, the Council considers that the restrictive test set out in Section 9 of the Framework applies, due to the Green Belt status of the site.

4.18 Paragraph 88 of the NPPF says that when considering any planning application local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The application proposal does not fall within any of the categories of appropriate development in paragraph 89 of the NPPF. It therefore constitutes inappropriate development. Paragraph 87 explains that inappropriate development is, by definition, harmful to the Green Belt and 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.

4.19 In assessing harm to the Green Belt the proposal can be judged against the five purposes of the Green Belt as set out in Paragraph 80 of the NPPF. These are:

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

4.20 Tested against these purposes:

- The site is sizeable and projects significantly from the city's urban area into the open countryside.
- The site is clearly open, in that it has no appreciable structures and it mainly comprises agricultural land.
- The site is located between Huntington and Earswick, which is the narrowest gap between the main urban area of York and any of its satellite settlements.
- Extending northwards towards the ring road would (even with boundary landscaping) increase the urban character of the ring road, which has a generally open, rural character and contributes to the setting of York.
- Although the site lies outside the areas identified in the Local Plan evidence base as being most valuable in terms of the historic character and setting of York, this does not mean that it isn't considered to have any role in relation to this purpose.
- Restricting development on the green field margins of York would encourage recycling of derelict and urban land.

4.21 In summary, the site serves all five purposes of the Green Belt as set out in the NPPF. The proposed development would be a significant encroachment into open countryside, have a detrimental impact on its open character, increase the effect of coalescence between Huntington and Earswick and be detrimental to the character and setting of York.

4.22 The published site selection documents for the emerging local plan make clear that, after allowing for future widening of the ring road, the remaining part of the site would be needed to provide a landscaped setting, maintain the openness of the site and prevent the coalescence of Huntington and Earswick.

4.23 The NPPF states (paragraph 7) that to achieve sustainable development the planning system has to perform three roles (economic, social and environmental) and that these roles should not be undertaken in isolation because they are mutually dependant. The planning system should play an active role in guiding development to sustainable solutions (paragraph 8). The application site is not in a sustainable location because its development for housing would be detrimental to our natural and built environment and therefore contrary to paragraphs 7 and 8 of the NPPF.

4.24 The applicant argues that the site is suitable for development because the site is not protected open space or subject to any environmental asset designation. In response, a site does not require such designation in order to have openness or to serve the purposes of the Green Belt.

4.25 In summary, the proposal represents inappropriate development in the Green Belt, would cause a considerable loss of openness and would conflict with the purposes of including land within the Green Belt. The proposal is therefore harmful to the Green Belt to which substantial weight should be given. The application should be refused unless other considerations are shown to exist to clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm caused. There is no presumption in favour of development as argued by the applicant in the submitted planning statement. Whether there are such other considerations, amounting to very special circumstances, is assessed below in The Planning Balance section of this report.

LANDSCAPE CHARACTER

4.26 The site consists of one large field within which there is evidence of ridge and furrow. A remnant hedgerow marks the old field pattern before the introduction of the ring road. A key characteristic of York is the setting of the city within a largely open rural surround with outlying villages. The site makes up part of the land, both physically and visually, that separates Huntington and Earswick village. Key views from the ring road reinforce this image by way of a foreground of fields and a separation between the city and the neighbouring settlements. The ring road passes through this landscape form; its alignment is not the natural or intended extent of the built-up area of York. Some sections of the ring road do not respect this pattern whereby the road passes through open landscape on both sides; e.g. the retail/business park at Clifton Moor. Whilst the visibility of Clifton Moor is good for identification and economics, it is detrimental to the setting of the city in this respect.

4.27 The application site is largely experienced from the ring road by passing traffic. The site is mostly screened from the west and south due to existing housing on Strensall Road and Avon Drive respectively. The site is relatively well-screened in the summer months due to the established hedge and trees located alongside the ring road, along with the flat terrain. The hedge however is not a solid screen. There is an awareness of openness beyond the hedge, before the building line of Avon Drive, which is set back a considerable distance. The presence of a large number of houses on the site, as proposed, would be obvious in the winter months and there would be a consciousness of their proximity in the summer months. Street lighting and internal lighting would render the development more visible in the landscape during hours of darkness.

4.28 In landscape terms the scheme is an improvement over the previous submission (15/00798/OUTM). The extent of built development has been pulled back from the ring road by approximately the depth of one average plot, resulting in a wider linear park along the northern boundary, greater separation from the ring road and more scope for additional tree planting. Thus the visual impact from the ring road would be slightly reduced. However there would still be an overall detrimental impact on the openness of the Green Belt landscape.

4.29 This greater width of the linear park would accommodate a proposed footpath/cycle way which would provide a more comfortable and pleasing route through green space along this stretch of the ring road, and therefore would provide a wider public benefit.

4.30 This revised submission also includes a formal open space amongst the proposed houses which, as well as providing additional play facilities, would be beneficial to the amenity and identity of the development.

4.31 The revised scheme also has only one vehicular access off Avon Drive, the second being limited to pedestrians and cyclists, thereby resulting in a reduced physical and visual impact on Avon Drive.

4.32 Although the visual impact would be slightly less than the previous application, the proposed development would have a detrimental impact on the openness of the Green Belt and the landscape character of the area.

AFFORDABLE HOUSING

4.33 The application is in outline only and does not include details of the housing mix and layout. However the applicant has agreed to provide 30% affordable housing, i.e. 20 units. If outline planning permission were granted the mix and layout of the affordable units would be for agreement between the applicant and the council at a later date. Provision of affordable housing would be secured by a s.106 agreement.

HIGHWAY MATTERS

4.34 One of the main objections to the application is that it would increase congestion on neighbouring roads, particularly Strensall Road and the ring road. Highways officers have assessed the transport statement submitted with the application and are satisfied that the assessment used is robust. The development would generate in the region of 39-42 two-way vehicle movements during the AM/PM peak periods, which equates to less than 1 additional vehicle per minute during the peak periods. Assessment of the impact of this small increase in traffic on the adjacent junctions, using nationally recognised software has demonstrated that the development would not have a material impact on the operation of the adjacent

road network. Avon Drive/Strensall Road junction currently operates well within capacity and is expected to continue to do so post-development.

4.35 The widening of the ring road is an option of the council, as highway authority, for the alleviation of traffic congestion around York. Whether the council proceeds with widening will depend in part on the level of growth consequent to the adoption of the emerging local plan. Widening in the vicinity of the application site would require a strip of land along the northern edge of the site. The applicant has stated that if the current planning application for housing were to be granted planning permission he would be happy to dedicate the land, which officers understand is in his ownership, to the council as public highway. The illustrative masterplan shows this area as landscaping and public open space. Highways officers are content that the proposed houses would not prejudice road widening. However, road widening would reduce the amount and design of the proposed public open space and bring the road closer to the proposed houses.

4.36 Vehicular access into the site would be taken from the western end of Avon Drive, in the vicinity of its junction with Strensall Road. A new site access junction would be formed. The proposed access, including width and visibility, is in accordance with national guidance. A pedestrian/cycle-only access would be created alongside No.39 Avon Drive. If outline planning permission were to be granted details of the two accesses into the site from the public highway (Avon Drive) should be made a condition of approval. The layout and design of the internal road layout would be part of a reserved matters application.

4.37 Financial contributions or measures would be required from the developer to maximise the sustainability of the development. For example, improvements to adjacent bus stops; choice of either a 12 month bus pass or equivalent value towards a free cycle/cycle accessories for first occupiers; a minimum 3.5m wide pedestrian/cycle path running along the site's northern boundary to be adopted as public highway. The applicant has agreed to make a financial contribution to these sustainable transport measures recommended by the council's Highways officers.

LEISURE AND OPEN SPACE

4.38 For a development of this size all the necessary amenity and play space should be on site. Based on the house mix proposed we would expect to see a total of 6,164sqm of open space (play, amenity and sports pitches). This is significantly less than is shown on the illustrative masterplan. Sports pitch requirements could be addressed through an off site contribution, in which case it would be allocated to Huntington Sports Club.

4.39 No proposals have been put forward as to who would manage the open space in the future. This would be for negotiation between the council and the applicant, (as would the type of play equipment, seating, pond, etc) so that future maintenance

obligations would be minimised. The preference of the council's Leisure officers would be for the space to remain the responsibility of the developer or site management company. If the council or parish council were to manage the site a commuted sum would be required.

4.40 The layout is an improvement over the previous application in that the amount of open space has increased and the play area is closer to the centre of the site. Nevertheless, notwithstanding that the layout is indicative, some of the previous concerns of Leisure officers about the layout remain. If planning permission were granted these concerns would be addressed in the detail design. Provision of open space would be incorporated into a s.106 agreement

BIO-DIVERSITY

4.41 There are no statutory or non-statutory nature conservation sites within or immediately adjacent to the site. Approximately 100m to the south, immediately east of Witham Drive, is North Lane Meadow candidate Site of Importance for Nature Conservation, which is noted for its neutral grassland habitat. Also to the south, approximately 40m from the site is Huntington Tree Plantation Site of Local Interest (SLI) which is an area of new native woodland. The main habitat on the site is semi-improved grassland with hedgerows, scattered trees and areas of plantation woodland. There is also a pond. Although these habitats are not significant in their own right they do contribute to the green networks of the area.

4.42 The amphibian surveys undertaken in 2012 found no evidence of great crested newts. The pond on the site is of poor suitability for great crested newts due to a lack of aquatic or marginal vegetation and heavy shading. It is therefore unlikely that great crested newts have colonised the pond since the surveys in 2012.

4.43 More mobile species of common wildlife that may be found on the site, such as roe deer, pheasants and foxes, would not be significantly affected by the proposed development because they would easily be able to use the surrounding habitats east and south of the site.

4.44 The revised scheme shows a larger area of public open space along the northern boundary. If designed and managed well it would provide greater habitat connectivity than the previous scheme, although some of this land is expected to be needed for the future widening of the ring road. The original scheme design required the removal of two sections on native hedgerow, totalling around 165m. The ecological appraisal found that these hedgerows meet minimum criteria for consideration as a Natural Environment and Rural Communities Act (2007) habitat; although both are relatively short, species-poor and are isolated from links in the wider local landscape. They also support some mature trees. The new scheme should be able to accommodate and enhance these in the landscaping proposals.

4.45 Whilst the applicant intends (if planning permission were to be granted) to design the open space with guidance from an ecologist, this area is not big enough to maintain a coherent ecological link from the River Foss, a regional green Infrastructure corridor to the west, into the candidate SINC, SLI and open fields to the east/south. This area would also be impacted by a proposed upgrade to the A1237/Strensall Road roundabout and vulnerable to future requirements to upgrade the A1237 ring road. Consideration would need to be given to potential conflict between use of the area (e.g. for dog walking) and biodiversity, which could reduce the site's ecological value. If planning permission were to be granted a landscape and ecological management plan should be produced for the site.

4.46 The proposed development should use a sensitive lighting scheme to avoid excess light spill onto surrounding habitats incorporate features for birds and roosting bats.

4.47 If the application were approved, conditions should be attached requiring (i) submission of an ecological design strategy addressing mitigation and enhancement (ii) updated ecology surveys if development does not commence within 2 years (iii) submission of a sensitive lighting scheme.

NEIGHBOUR AND OCCUPIER AMENITY

4.48 The reduced number of houses now proposed has enabled the separation distance between the proposed houses and the ring road to be increased. In terms of traffic noise from the ring road a noise impact assessment has been submitted with the application. Based on the findings the proposed houses would have double glazing and acoustically-treated trickle vents. According to the applicant's noise consultant internal levels would, as a result, comply with BS8233 and the World Health Organisation guidelines on community noise. The council's Public Protection officers are satisfied that, with appropriate mitigation, the proposals would provide suitable living conditions for the occupiers. No updated noise assessment has been provided to determine the impact of noise in the gardens of the proposed gardens. However the council's Public Protection officers anticipate that the provision of acoustic barriers around the garden areas to the north of the site would be sufficient to ensure that noise levels in gardens would not exceed the desirable standard of 50dB(A), as defined in BS8233. If planning permission were to be granted, these mitigation measures should be secured by appropriate planning conditions.

ARCHAEOLOGY

4.49 The National Planning Policy Framework (NPPF) requires (at paragraph 128) that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Paragraph 129 states that local planning authorities

should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

4.50 The site lies outside the Area of Archaeological Importance but is in a wider area which has produced evidence of deposits from the Romano-British period. The likelihood of deposits being found on the site justifies a programme of intrusive archaeological evaluation by trial trenching. When the previous application was being considered no such investigation had been carried out, hence its inclusion in the reasons for refusal. The applicant has since carried out this work, which identified a series of Romano-British features (ditches). Pottery in one of the ditches could mean that there was settlement in the vicinity of the site in the 2nd/3rd century. Any ground disturbance deeper than 0.4m below the present ground surface will adversely affect significant archaeological deposits so there is a requirement for further archaeological mitigation. This should take the form of an Open Area Excavation in advance of development. If planning permission is granted this excavation should be made a condition of planning permission (ARCH1). A further condition should be attached requiring a full report on the archaeological excavation to be submitted to and agreed in writing by the local planning authority.

LOCAL SERVICES

4.51 Some local residents are concerned that the proposal would put unacceptable pressure on local services, particularly local schools. The site lies within the catchment of Huntington Primary school and Huntington Secondary school. If planning permission were to be granted no financial contribution would be currently required for primary education as sufficient places are available. However, the council's Education officers would wish to reserve the right to reconsider this if the number of available places were to change prior to the planning permission being implemented. The illustrative mix of housing units currently proposed would generate the need for an additional 6 secondary places requiring a contribution of £91,104. Huntington is the catchment secondary school but has no capacity to expand its roll. The funding should therefore be commuted to nearby Joseph Rowntree School for internal adaptations to enable the extra pupils to be accommodated. Eight early years places would be generated totalling £48,888 for provision within 1.5km of the development. The total financial contribution would therefore be £139,992.

4.52 The applicant has agreed to the principle of a financial contribution calculated in accordance with the council's standard formula and for the contribution to be incorporated into a section 106 agreement.

4.53 Health services are outside the control of the local planning authority. Any shortfall in provision would be a matter for the appropriate health authority.

FLOOD RISK AND DRAINAGE

4.54 The site is in low risk flood zone 1 and is unlikely to suffer from river flooding. The development of the site for housing would increase the surface water run-off from what is currently agricultural land. Notwithstanding that there appears to be a suitable surface water outfall from the site to river Foss, if planning permission were granted surface water runoff from the development would need to be attenuated. The need for attenuation has been accepted by the applicant. The council's flood risk officers and the internal drainage board would require the discharge rate to be no greater than 6.7l/s (which equates to a greenfield run-off rate of 1.4l/s/ha). If planning permission were to be granted conditions should be attached regarding (i) separate systems of foul and surface water drainage (ii) submission of drainage details including details of any attenuation and off-site works (iii) no piped discharge of surface water prior to the completion of the approved drainage works.

4.55 The applicant proposes that foul water would be discharged to the existing foul water network in Avon Drive. This would be an acceptable arrangement. Any current problems with the efficacy of the foul water network in the vicinity of the site would be a matter for Yorkshire Water.

COMMUNITY INVOLVEMENT

4.56 Prior to submission of the previous application the applicant consulted occupiers in Huntington by means of a leaflet drop of approximately 500 properties. It included a summary of the proposals and a copy of the illustrative masterplan. A larger version was made available for viewing on the planning agent's website. The applicant's statement of community involvement says that the response rate was approximately 5%. Of those respondents opposed to the development, the main concerns were about: the highway implications of the development (particularly regarding existing problems on Strensall Road and future improvements to the ring road); the capacity of schools and GP surgeries; and the Green Belt location.

4.57 In support of the current application the applicant has submitted an Engagement Update Note setting out the consultation, community involvement and stakeholder engagement activities that the applicant has carried out in connection with the current application. They include a facebook page and letters to the local MP, ward councillors, York Civic Trust, York Chamber of Commerce and local businesses. An information leaflet was also distributed to 5000 homes in the area.

THE PLANNING BALANCE

4.58 Planning policy dictates that substantial weight should be given to any harm to the Green Belt and that inappropriate development should not be permitted unless very special circumstances exist. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

4.59 The applicant has advanced the following other considerations, which they argue constitute very special circumstances that outweigh any harm that the development would cause:

- o Delay in progressing the new local plan;
- o Shortage of housing land;
- o Suitability of the site for development;
- o Sustainability of the site and its deliverability, availability and suitability for development;
- o Design changes to the scheme in light of previous public consultation.

4.60 Officers acknowledge that the proposal has benefits and that the scheme is an improvement over the previous application, for the reasons given above.

Nevertheless, whilst acknowledging that the scheme has benefits, officers do not consider that they individually or cumulatively constitute very special circumstances to justify inappropriate development in the Green Belt. The most significant benefit is the provision of much-needed housing, including affordable housing. But the NPPG states that unmet housing need is in itself unlikely to outweigh the harm to the Green Belt and other harm to constitute very special circumstances justifying inappropriate development on a site within the Green Belt.

4.61 The council's highways officers are satisfied that the road could be widened and environmental protection officers are satisfied that noise mitigation measures could be provided. But whilst improvements to a trunk road could constitute very special circumstances the current housing proposal does not; other legislation exists to secure the land required for the works. Provision in the scheme for future widening of the ring road does not outweigh harm to the Green Belt.

4.62 The development would create some employment and provide some support to the local economy but these benefits would be limited (and the construction jobs would be short-lived). They would not justify the permanent loss of openness when judged against the Green Belt's essential characteristics, which are openness and permanence.

4.63 Contributions would be made towards highway works, open space and education but these are in mitigation, they are not benefits of the scheme.

4.64 As set out above, substantial weight must be given to the harm caused by reason of the scheme's inappropriateness; and substantial weight should also be given to the harm caused to the openness of the Green Belt, the scheme's impact on the character of the landscape and the visual harm that the scheme would cause. Whilst the scheme would deliver benefits, key amongst which being the provision of much needed open market and affordable housing, it is concluded that the harm that the scheme would cause would substantially outweigh its benefits, and that no very special circumstances exist here to justify the grant of permission.

5.0 CONCLUSION

5.1 Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site is located in the Green Belt as identified in the 2005 City of York Draft Local Plan. It is considered that the proposed development of up to 67 houses and associated infrastructure constitutes inappropriate development in the Green Belt as set out in section 9 of the National Planning Policy Framework. Inappropriate development is by definition harmful to the Green Belt. No 'very special circumstances' have been put forward by the applicant that would outweigh harm by reason of inappropriateness and any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within Green Belt. The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt Land' and policy GB1 'Development in the Green Belt' of the 2005 City of York Draft Local Plan.

6.0 RECOMMENDATION: Refuse

1 Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site is located in the Green Belt as identified in the 2005 City of York Draft Local Plan. It is considered that the proposed development of up to 67 houses and associated infrastructure constitutes inappropriate development in the Green Belt as set out in section 9 of the National Planning Policy Framework. Inappropriate development is by definition harmful to the Green Belt. No 'very special circumstances' have been put forward by the applicant that would outweigh harm by reason of inappropriateness and any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within Green Belt. The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt Land' and policy GB1 'Development in the Green Belt' of the 2005 City of York Draft Local Plan.

7.0 INFORMATIVES:

Contact details:

Author: Kevin O'Connell Development Management Officer

Tel No: 01904 552830

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Land to the North of Avon Drive Huntington



Scale : 1:2467

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SLA Number	Not Set

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