



## Notice of a public meeting of Planning Committee

**To:** Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Lomas and Fisher

**Date:** Thursday, 8 October 2020

**Time:** 4.30 pm

**Venue:** Remote Meeting

### AGENDA

#### 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 1 - 10)

To approve and sign the minutes of the meeting of the Planning Committee held on 9 July 2020 and 13 August 2020 (to follow).

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

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at remote meetings. The deadline for registering at this meeting is at 5.00pm on Tuesday 6 October 2020.

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

### **Webcasting of Remote Public Meetings**

Please note that, subject to available resources, this remote public meeting will be webcast including any registered public speakers who have given their permission. The remote public meeting can be viewed live and on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts).

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

#### **4. Plans List**

This item invites Members to determine the following planning applications:

##### **a) Land South of The Residence, Bishopthorpe Road, York [18/02582/FULM] (Pages 11 - 46)**

Erection of 85 apartments in two blocks with seven town houses with associated parking, cycle storage and landscaping (revised scheme) [Micklegate Ward]

#### **5. Urgent Business**

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

#### Democracy Officer

Angela Bielby

Contact details:

- Telephone: 01904 552599
- Email: [a.bielby@york.gov.uk](mailto:a.bielby@york.gov.uk)

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

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

Contact details are set out above.

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

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	9 July 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), D'Agorne, Daubeney, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Rowley (Substitute), Cuthbertson (Substitute) and Widdowson (Substitute)
Apologies	Councillors Ayre, Barker, Doughty, Wartors

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**54. Declarations of Interest**

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

Cllr Daubeney declared a prejudicial interest in relation to agenda item 4a Spark York Piccadilly York 20/00561/FUL.

Cllr Kilbane wished to place on record that he had lodged his support for the approval of the original Spark application as a member of the public, having sought advice from legal he confirmed that this was not a prejudicial or pecuniary interest.

**55. Minutes**

Resolved: That the minutes of the last meeting held on 12 March 2020 be approved and then signed by the chair as a correct record.

**56. Public Participation**

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

**57. Plans List**

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

**58. Spark York, Piccadilly, York [20/00561/FUL]**

[Cllr Daubeney exited the meeting for the consideration of Spark York, Piccadilly, York [20/00561/FUL] at 10:34.]

Members considered a full application to by Mr Samuel Leach to vary condition 2 of the original permission, that would allow Spark to remain onsite until 31.3.2022.

Officers gave a presentation based upon the slide at pages 146-152 and provided an update, reporting:

- the receipt of a letter signed by 4 local residents requesting the Committee apply more stringent measures for the applicant to adhere too.

In response to questions from Members, Officers confirmed that:

- the Mitigation Plan would be enforced through appropriate conditions;
- the amended conditions placed conditions regarding seating only areas after a specific time and the use of a sound limitation device;
- the expected outcome of legislation not yet passed by Government would extend the lifetime of the existing permission into next year. Ensuring that Spark's existing consent and conditions could run until 1 April 2021.

Members then debated the proposals after which Cllr Kilbane moved, and Cllr Douglas seconded, that the application be approved, subject to the conditions listed in the report. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, D'Agorne, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Rowley, Widdowson, and Cullwick all voted in favour of this proposal, and it was;

Resolved: That the application be approved, subject to:

- i. Conditions 1-11 as set out in the report.

Reason: for the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority and to ensure use of vacant land prior to its expected longer term regeneration, in the interests of vitality and viability of the city centre.

[At 11:30, the meeting was adjourned to enable the registered public speakers for the next item to be brought in. It was re-convened at 12:00]

**59. Axcel Group Limited, 36 - 44 Piccadilly, York YO1 9NX  
[19/02293/FULM]**

[12:00 Cllr Daubeney re-joined the meeting and Cllr Rowley gave his apologies and left the meeting]

Members considered a major full application by Axcel Group Limited for Partial demolition of existing building and construction of 3 to 5 storey hotel with ancillary restaurant/bar, landscaping and retention of the Banana Warehouse façade.

Officers gave a presentation based upon the slides at pages 153-173 of the agenda and provided an update, reporting:

- the information submitted indicated that the building would achieve a rating 67.8% BREEAM (Very Good) score, this falls short of the 70% required to achieve the 'Excellent' rating. The building was designed to reach 'Very Good' and would be inhibited in trying to reach 'Excellent' due to the retention of the Banana Warehouse façade, the operational use proposed as a hotel, and that some credits would have to have been achieved prior to this current stage;
- the scheme would however, achieve the minimum standards required for the 'Excellent' rating in the following categories: management, energy, water, materials, and waste;
- that officers could review the decision to recommend against photovoltaics on the grounds of visual impact on the skyline;

- a detailed design was being worked on for 'greening' Piccadilly Street by the Council;
- amendments to the report were noted as:  
Amendment to paragraph 1.4 of the report: The hotel would provide 70 jobs: 40 full time and 30 part time positions.

that a revision be made to Condition 36 as on balance it is considered that the non-compliance with Policy CC2, does not significantly and demonstrably outweigh the benefits of the proposed development (as set out in the committee report). It is considered that the above recently submitted information would not alter the recommendation made by officers. The revised wording was proposed as follows: The hotel building 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 12 months of first use of the building (unless otherwise agreed).

Reason: In the interests of achieving a sustainable development in accordance with the requirements of the NPPF.

Condition 2 (Approved Plans) Replace plan reference BW-CDA-01-SW-DR-A-PL-0002 Rev P2 with BW-CDA-01-SW-DR-A-PL-0002 Rev P1.

Condition 26 (Flood Risk) The development shall be constructed and occupied in accordance with the Flood Risk Assessment Re: 42344/4001 Revision A dated October 2019 by Peter Brett Associates (Including the Flood Warning and Evacuation Plan) and the subsequent Technical Note - Re: 42344 TN001 dated March 2020 by Stantec and the following mitigation measures it details:

- (i) Finished floor levels shall be set no lower than 11.00 metres above Ordnance Datum (AOD),
- (ii) Compensatory storage shall be provided in accordance with the details submitted within the Technical Note - Re: 42344 TN001 dated March 2020 and the Flood Storage

Analysis Plan - Re: 42344/4001/002 Revision H dated 18th March 2020, and  
(iii) Provision of a floodable void as shown on the Flood Flow Routes Plan - Re: 42344/4001/004 dated 18th March 2020

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

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Condition 27 (Details of floodable void) Alterations to part (ii) of the condition as follows:

(ii) Details of the proposed low level river bank wall which according to the Technical Note (Re: 42344 TN001 dated March 2020 by Stantec) will have gaps/slots in it to ensure the free access and egress of flood water.

In response to questions from Members, Officers confirmed that:

- It would be unreasonable to condition a specific percentage for the BREEAM rating instead of one of its categories 'Very Good' or 'Excellent';
- The proposal does not break the skyline of the city from the top of Clifford's Tower and therefore in relation to other developments does not harm views of the skyline.

### Applicant

Angela Schembri the agent of the applicant addressed the Committee, and responded to Members' questions along with the 4 additional experts and the applicant in attendance at the meeting. It was confirmed that:

- The hotel would provide 70 jobs in the city alongside 200 jobs in the during the construction process;
- The proposal would retain the historic Banana Warehouse frontage;

- The application had targeted a 'Very Good' BREEAM rating as this was the requirement to be achieved when the scheme began. Achieving an 'Excellent' rating would be challenging due being unable to obtain certain credits at this stage of the project and the operational challenges presented to a hotel at achieving certain credits;
- The applicant was still open to considering installing a heat pump;
- Subject to architectural approval the applicant was open to installing charging points for electric bikes.

Members then debated the proposals, after which Cllr Fenton moved, and Cllr Pavlovic seconded, that the application be approved, subject to the conditions listed in the report, with the amendments to conditions identified in the officer update and the additional conditions discussed at the meeting. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, Daubeney, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Widdowson, and Cullwick all voted in favour of this proposal, and it was

Resolved: That the application be approved, subject to:

- i. Conditions 1-36 as set out in the report/updated by officers in the meeting.
- ii. Additional conditions:
  - (i) That a scheme be submitted for approval in relation to photovoltaics or equivalent;
  - (ii) That local jobs and apprenticeships be secured for the construction of the scheme.

The final wording of the conditions to be delegated to officers along with Chair and Vice Chair of the meeting.

Reason: to promote the creation of jobs in the city, as well as, the removal of derelict buildings while retaining the historic frontage of the Banana Warehouse.

[At 13:20, the meeting was adjourned to enable the registered public speakers for the next item to be brought in. It was re-convened at 13:44]

**60. North Selby Mine, New Road, Deighton, York YO19 6EZ  
[19/00078/OUTM]**

[13:44 Cllrs Cllr D'Agorne and Widdowson both gave their apologies and left the meeting]

Members considered a Major Outline Application by Harworth Estates Investments Limited for the redevelopment of the former North Selby Mine site to a leisure development comprising of a range of touring caravan and static caravans with associated facilities.

Officers gave a presentation based upon the slides at pages 174-178 of the agenda and provided an update, reporting:

- a response from a landowner on New Road was not included in the officers report section 4.1. They raised that the road should be done to an adoptable standard and that a path, suitable signage, and speed bumps should be added to New Road;
- the receipt of 1 additional objection;
- an amendment to Condition 2 to read as: Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the change of the use of land, as well as, building/engineering works, and the development shall be carried out in accordance with such details:

These details shall include: appearance, landscaping of site, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006;

- amendment to Condition 4 to read as: The static and mobile caravans and tents shall be occupied for holiday purposes only and not as a person's sole or main place of residence. The site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority. The

Council's definition of holiday letting is that the same person, group of persons, or family are not to exceed 28 nights per calendar year and also that no motorhome, caravan, or tent to stay more than 28 nights per calendar year.

Reason: This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation;

In response to questions from Members, Officers confirmed that:

- the junction would not be considered for an upgrade as it was already 'over designed' for the level of traffic that would use the junction even with the proposed development;
- New Road was a privately owned road but that the council would wish to see at the reserved matters stage proposals for how different users of the road could pass each other safely;
- that there currently no horticultural green houses or anaerobic digestion facilities on the site due to the operator pulling out of that scheme;
- that there had been no objections raised subject to conditions, in relation to the protection of Willow Tit habitat this would need to be submitted as part of the management plan for the sink which is outlined in the conditions;
- officers could raise on behalf of the committee to the highway authority in regards to a potential speed limit change in the area.

### Public speakers

Anthony Dixon, local resident spoke in **objection** to the application, raising issues in relation to the speed limit, the lack of proposed dedicated path, and the potential over use of the road as it was proposed making it unsafe for walkers, cyclists, and horse riders.

### Escrick Parish Council

Cllr Lilian Coulson raised concerns but was not speaking in objection to the application. She raised concerns about the extra use of New Road due to the proposal and that cycle and

pedestrian paths should be added to improve safety for users of the road.

### Applicant

Liam Toland the agent of the applicant addressed the Committee, and responded to Members' questions, it was confirmed that:

- mitigations had been agreed with planning officers that would allow for the proposal to be carried out in an environmentally acceptable way;
- the applicant had explored a number of proposed uses for the site and that the proposal was in their opinion the most feasible at present;
- the proposal should have a financial benefit to York's economy;
- the applicant was willing to upgrade the surface of New Road, add passing bays, and introduce speed limiting measures;
- the applicant would be happy to look at a proposal for an additional path and further electric charging points for vehicles at a reserved matters stage of the application;
- there had been no further discussions with the University of York since they removed interest in the site in 2011.

Members then debated the proposals, after which Cllr Fenton moved, and Cllr Daubeney seconded, that the application be approved, subject to the conditions listed in the report, with the amendments to conditions identified in the officer update and the additional conditions discussed at the meeting. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, Daubeney, Fenton, Fisher, Hollyer, Widdowson, and Cullwick voted in favour of this proposal and Cllrs Douglas, Fitzpatrick, Kilbane, Lomas, and Pavlovic voted against the proposal, and it was

Resolved: That the application be approved, subject to:

- i. Conditions 1-2 and 4-32 as set out in the report updated by officers in the meeting;
- ii. The removal of Condition 3 unless otherwise agreed in writing;
- iii. Officers raising with the highway authority the Committee's request to consider the altering of the

speed limit to the section of the A19 near the site to reflect the same speed limit in the wider area.

Reason: Due to the maintenance of the site, the limited other viable options available for the sites current usage, and as the proposal will mainly be constructed on a brownfield site.

Cllr C Cullwick, Chair

[The meeting started at 10.30 am and finished at 2.50 pm].

**COMMITTEE REPORT**

**Date:** 8 October 2020      **Ward:** Micklegate  
**Team:** Major and      **Parish:** Micklegate Planning  
Commercial Team      Panel

**Reference:** 18/02582/FULM  
**Application at:** Land South Of The Residence Bishopthorpe Road York  
**For:** Erection of 85 apartments in two blocks with seven town houses with associated parking, cycle storage and landscaping (revised scheme)  
**By:** Mr D Coppack  
**Application Type:** Major Full Application  
**Target Date:** 13 October 2020  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Terry's Chocolate Works, Bishopthorpe Road comprises the former manufacturing base for the Terry's chocolate and confectionary business. Since closure in 2006 the site has been partially cleared and an Outline Planning Permission ref:- 09/01606/OUTM was given for the partial re-development of the site for housing.

Planning permission is now sought for the erection of 85 apartments in blocks of three and four storeys and 7 town houses on land to the south west of the former Multi-Storey Factory a Grade II Listed Building. It lies both within the setting of the Listed Building and the Terry's/Racecourse Conservation Area. The proposal has been amended since submission to address concerns in respect of its impact upon the setting of the former Multi-Storey Factory and also to address concerns in terms of landscaping and access layout. It has subsequently been further amended to reduce the number of units and to introduce an element of town houses to the scheme. Further detail has also been submitted in respect of traffic generation modelling and also to update surveys in respect of the ecological value of the site.

## **2.0 POLICY CONTEXT**

### 2.1 Publication Draft City of York Local Plan (2018)

SS14 Terry's Extension sites

H1 Housing Allocations

H2 Density of Residential Development

H3 Balancing the Housing Market

H10 Affordable Housing

D1 Placemaking

D2 Landscape and Setting

D4 Conservation Areas

D5 Listed Buildings

CC2 Sustainable Design and Construction of New Development

ENV2 Managing Environmental Quality

ENV5 Sustainable Drainage

T1 Sustainable Access

G12 Biodiversity and Access to Nature

DM1 Infrastructure and Developer Contributions

### 2.2 York Development Control Local Plan (2005) Policies

CYGP1 Design

CYGP4a) Sustainability

CYGP4b) Air Quality

CYGP9 Landscaping

CYHE2 Development in Historic Locations

CYHE3 Conservation Areas

CYHE4 Listed Buildings

CYH2a) Affordable Housing

CYH3c) Mix of Dwellings on Housing Sites

CYH5a) Residential Density

CYED4 Developer Contributions to Educational Facilities

CYL1c) Provision of Open Space on Development Sites

CYNE6) Species protected by law

CYGP13 Planning Obligations

CYT4 Cycle Parking Standards

## **3.0 CONSULTATIONS**

INTERNAL

Public Protection:

3.1 Raise concerns in respect of the proximity of the site to the active area of York Racecourse and recommend a pre-commencement condition in respect of noise insulation should permission be given. Conditions covering remediation of contaminated land together with provision of electrical charge points are also recommended.

Highway Network Management:

3.2 Raise no objections to the scheme as amended on the basis that the modelled traffic generation would not lead to material harm to the safety and convenience of road users on the surrounding highway network. An additional pedestrian/vehicular access through the boundary to Racecourse Road is recommended and has been agreed to by the applicant. That may be subject to condition on any planning permission. In the event of permission being given it is recommended that a sustainable travel plan be conditioned. Section 106 contributions of £15,000 in respect of traffic management measures on Bishopthorpe Road and Campleshon Road, £27,600 to secure implementation of the sustainable travel plan and a contribution of £400 in respect of a bus pass/cycling voucher and £200 in respect of City Car Club Membership for each unit.

Design, Conservation and Sustainable Development (Landscape)

3.3 Raised concerns in relation to the scheme as first submitted relating to the proximity of the western section of the proposed apartments to the surrounding tree cover and the poor layout of the site which gives rise to cumulative harm to the surrounding townscape when combined with the impact of the parking area to the adjacent Multi-Storey Factory. No comment has been made in respect of the revised scheme currently under consideration.

Design, Conservation and Sustainable Development (Design)

3.4 Raise no objection to the proposal as amended on the grounds that the proposed design and mix are acceptable subject to amenity issues being addressed. The impact of the scheme upon the setting of the adjacent Listed Building is now felt to be acceptable taking account of the scale and massing of the previously approved "hybrid" scheme.

## Design, Conservation and Sustainable Development (Ecology)

3.5 Raise no objection to the proposal subject to any permission being conditioned to require the submission and prior approval of a Biodiversity Enhancement and Management Plan for the wider development.

## Strategic Flood Risk Management

3.6 Raise no objection to the proposal subject to any permission being conditioned to require submission and prior approval of detailed surface and foul water drainage schemes.

## Adult and Housing Services

3.7 Raise no objection to the proposal subject to provision being made within the site to comply with the adopted urban brown field land threshold and secured by means of a Section 106 Agreement. Such provision would comprise 18.4 units with 18 units provided on site and an additional commuted sum.

## Children's Services (Education Places)

3.8 Following the withdrawal of pooling restrictions now seek a financial contribution of £446,451 for an estimated additional 23 places required, primary, secondary and early years education contributions in the wider locality.

## Community Sport and Recreation

3.9 Raise no objection to the proposal subject to an offsite financial contribution of £8,608 in respect of sports pitches with informal and children's play space being provided by enhancement of the existing Memorial Garden both of which could be secured by Section 106 Agreement.

## EXTERNAL:-

### Historic England

3.10 No longer object in respect of the revised scheme which it is felt would not lead to material harm to the setting of nearby Listed Buildings.

The North Yorkshire Police Force Designing Out Crime Officer

3.11 Raises no objection to the proposal.

Yorkshire Water Services

3.12 Raise no objection to the proposal subject to any permission being conditioned in respect of surface water drainage.

York CAAP.

3.13 Raise concerns in respect of the poor relationship of the amended scheme to its townscape context and specifically the setting of the adjacent Listed former factory building.

Micklegate Planning Panel

3.14 Object to the proposal on the grounds that even as amended it would be an over-development of the site, it would harm the setting of the adjacent Listed Building and it does not make adequate provision for cycle and vehicle access.

Environment Agency

3.15 Raise no objection to the proposal.

National Trust

3.16 Continue to raise concerns in respect of the level of Heritage related information accompanying the submission and expect a full analysis to be undertaken of such impacts. It is acknowledged that views of the managed site at Goddards are limited by virtue of the surrounding landscaping.

York Civic Trust

3.17 Object to the proposal on the grounds that the proposal represents an over-development of the site, the overwhelming dominance of residential use at the site leads to the creation of an imbalanced community, the development is too tall and would thereby harm the setting of the adjacent former factory building, and it is poor in design terms lacking any clear reference in the wider locality.

Vale of York CCG

3.18 Object to the proposal on the grounds of the pressure it would give rise to in respect of available GP places and facilities within the wider area but in the event of a permission being given they seek a commuted sum contribution of £169,456 by means of a Section 106 Agreement to provide four additional consulting rooms and ancillary facilities at surgeries in the local area. It is estimated that the proposed development would give rise to a short fall of 89 square metres in practise space at the two practises which principally serve the site with a generated need of an additional 200 patients.

#### **4.0 REPRESENTATIONS**

4.1 The proposal was publicised by press advertisement and site notice in the locality and a number of neighbouring properties were notified by individual letter. A further publicity exercise was subsequently undertaken in respect of the amended scheme. The proposal has generated a significant degree of public comment and a summary of comments received is outlined below.

4.2 York Racecourse raises concerns in respect of the proximity of residential development to the active racecourse.

4.3 The Terry's of York Planning Action Group (TOYPAG) object to the proposal on the following grounds:

- i) the proposal would give rise to substantial harm to the setting of the Terry's Racecourse Conservation Area by virtue of the loss of the presently open views across the site;
- ii) the proposal would give rise to substantial harm to the setting of the former Multi-Storey Factory, a Grade II Listed Building without a substantial public benefit to outweigh the harm;
- iii) the proposed apartments would be constructed at too high a density with the consequence that the site would be over-developed;
- iv) the additional levels of traffic generated by the proposal would not be readily accommodated by the designed road layout and would give rise to substantial harm to the safety and convenience of highway users on the surrounding network;
- v) the site can no longer be classified as previously developed land by virtue of the degree to which it has reverted back to nature.

4.4 The Chocolate Works Residents' Association object to the proposal on the grounds that:

- i) the proposal would give rise to substantial harm to the setting of the Terry's/Racecourse Conservation Area by virtue of the loss of the presently open character of the site;
- ii) the proposal would give rise to substantial harm to the setting of the Multi-Storey Factory, a Grade II Listed Building without any substantial public benefit to outweigh the harm;
- iii) the density of the proposed development would be too high and would represent an over-development of the site;
- iv) the additional levels of traffic generated by the proposal would be too great for the designed road layout and would give rise to substantial harm to the safety and convenience of highway users on the local network.

4.5 Some 169 letters of objection received to the proposal outlining the following planning issues:

- i) the proposal would lead to an oversupply of apartments both within the Terry's development and within the wider area when conventional family housing is required;
- ii) the density of development for the site is too high with the result that the site would be over-developed;
- iii) the proposal would give rise to overflow parking on surrounding side streets and would give rise to conditions prejudicial to the safety and convenience of highway users;
- iv) the proposal would be located too close to the operational racecourse with the result that the amenity of prospective occupants of the site would adversely affected;
- v) comings and goings via the access road to the development would adversely affect users of the Peace Garden public open space and children's play area;
- vi) the development would adversely affect the setting of the Multi-Storey Factory, a Grade II Listed Building;
- vi) the development would adversely affect the setting of the Terry's/Racecourse Conservation Area by virtue of the loss of the presently open character of the site;

vii) the development represents very poor quality design with very little respect paid to the surrounding context;

viii) the proposal would harm the residential amenity of apartments within the lower stories of the former Multi-Storey Factory by virtue of a loss of aspect.

4.6 A further publicity exercise was undertaken in respect of the further amendments which has led to the submission of a further 45 letters raising the following further planning issues:

- i) The adequacy of the ecological surveys in respect of the application site;
- ii) Potential harm to a bat roosting/foraging site;
- iii) The continuing high density of accommodation proposed compared with the quantum of development identified in the Publication Draft Local Plan;
- iv) Concern that the proposal is premature in respect of the progress of the Publication Draft Local Plan pending resolution of the number and mix of new dwellings to be constructed during the duration of the plan period and the final inner boundary of the York Green Belt;
- v) Concern that the application site no longer falls within the NPPF definition of previously developed land by virtue of the extent to which it has returned to its natural character;
- vi) Concern in respect of the lack of mention of the provision of affordable housing within the site;
- vii) Concern that the applicant has failed to examine the impact of the proposal upon the setting of the Listed Building in line with Historic England Guidance on Setting of Heritage Assets;
- viii) Concern that the original approved proposal ref 09/01606/FULM has been disaggregated to avoid complying with the requirements of the original EIA.

## **5.0 APPRAISAL**

### **KEY CONSIDERATIONS**

#### **5.1 KEY CONSIDERATIONS INCLUDE**

- Principle of the Development;
- Prematurity;
- Impact upon the setting of the Multi-Storey Factory, a Grade II Listed Building;
- Impact upon the setting of Goddards and its Listed Park and Garden;

- Impact upon the setting of the Terry's/Racecourse Conservation Area;
- Impact upon the Biodiversity and Ecological Value of the Site;
- Design and Layout of the Scheme;
- Impact upon the amenities of prospective occupants of the scheme;
- Impact upon residential amenity of Neighbouring Properties;
- Impact upon the safety and convenience of highway users;
- Impact upon the provision of Health Services in the locality.

#### National Planning Policy Framework 2019 (NPPF)

5.2 The National Planning Policy Framework revised in February 2019 sets out the government's planning policies and how these are expected to be applied. Its planning policies are material planning considerations to the determination of planning applications. It sets out that the planning system should contribute to the achievement of sustainable development (paragraph 7) and, that to achieve sustainable development, the planning system has three overarching objectives: economic, social and environmental objectives.

#### PUBLICATION DRAFT LOCAL PLAN (2018)

5.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the Local Plan were undertaken in December 2019. In accordance with paragraph 48 of the NPPF, the 2018 Draft Plan policies can be afforded weight according to:

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

5.4 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of applications. Of relevance to this application, the evidence base includes:

Strategic Housing Market Assessment (SHMA) (June 2016)

Strategic Housing Market Assessment Update (SHMA) (2017)

Strategic Housing Market Assessment Addendum (June 2016)]

Strategic Housing Market Assessment (SHMA) (June 2016).

Open Space Study (2014)

Open Space and Green Infrastructure Update (2017)

Development Control Local Plan (2005)

5.5 The City of York Draft Local Plan (DCLP) incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF, although the weight that can be afforded to them is very limited.

POLICY CONTEXT:-

5.6 IMPACT ON HERITAGE ASSETS: Sections 16 (2) and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires the Local Planning Authority, when determining planning applications for development that affects a listed building or its setting, shall to 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. Section 72 of the 1990 Act requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

5.7 Paragraph 190 of the NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset (such as a conservation area) that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

5.8 Paragraph 190 states that in determining applications, local planning authorities should take account of:

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

5.9 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 states that any harm to the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

5.10 The NPPF sets out where a proposed development would lead to substantial harm to the significance of a designated heritage asset or to total loss of significance, consent should be refused, unless this is necessary to achieve substantial public benefits that outweigh that harm or other specified factors apply (paragraph 195). Paragraph 196 goes on to say that where a 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 including, where appropriate, securing its optimum viable use.

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

5.12 Case law has made clear that when deciding whether harm to a conservation area or to a listed building or its setting is outweighed by the advantages of a proposed development, the decision-maker must give particular weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. There is a "strong presumption" against the grant of planning permission in such cases.

5.13 IMPACT UPON BIODIVERSITY: Central Government planning policy as outlined in paragraph 170 d) of the NPPF indicates that planning decisions should minimise impacts upon and provide net gains for biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures.

5.14 RESIDENTIAL AMENITY:- Central Government Planning Policy as outlined in paragraph 127f) of the NPPF indicates that planning policies and decisions should create places which provide a high standard of amenity for all existing and future users.

#### PRINCIPLE OF THE DEVELOPMENT

5.15 Section 5 of the NPPF contains the Government's objective of significantly boosting the supply of homes. Section 11 promotes the effective use of land. It states "Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions". It goes on to state that planning decisions should "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively".

5.16 PREVIOUSLY DEVELOPED LAND: Concern has been expressed by objectors that the application site has ceased to be previously developed and therefore lesser weight should be afforded to its suitability for re-development in that regard. The glossary to the NPPF identifies previously developed land as being land which is or was occupied by a permanent structure including the curtilage of such land (although it should not be assumed that the entirety of such land should be developed) including fixed surface infrastructure. Land which has been previously developed but where the remains of the previous structure or fixed surface have blended in with the local landscape would not be so counted as being previously developed. The site forms the site of an area of warehousing dating to the 1960s and 70s with hard standings associated with the wider chocolate works site and as such forms a clearly defined and integral part of its curtilage. It has been the subject of an Outline Planning Permission for a mix of office uses although that is no longer extant through Reserved Matters having not been applied for.

5.17 The concrete foundation bases and hardstandings remain in place but in recent times have been covered by a thin growth of moss and grass and so to an extent the site could be argued to have returned to nature. However, the site remains part of the curtilage of the wider development site and so is still considered to be

previously developed land. Furthermore even if not falling within the definition of previously developed land the site is otherwise felt to be suitable for residential development. The city has demonstrable housing need and this is an accessible, central, sustainable location. Policy is in favour of the proposed re-use of the site in principle.

5.18 DENSITY: 2018 Draft Plan Policy H2 requires an appropriate density of development on sites to ensure the efficient use of land. In respect of the application site which is within the urban area the target net density is 50 dwellings per hectare which the development is felt to be consistent with. The current site achieves a net density of 70 per hectare. In respect of strategic sites such as that currently being the policy further goes on to indicate that a higher density may be acceptable where other Plan objectives are being met. Draft Policy H3 states that "proposals for residential development will be required to balance the housing market by including a mix of types of housing which reflects the diverse mix of need across the city. This includes flats and smaller houses for those accessing the housing market for the first time, family housing of 2 to 3 beds and homes with features attractive to older people".

5.19 The housing mix proposed is 5 X 3 bedroom town houses, 2x 4 bedroom town houses, 15 x1 bedroom apartments, 43 x 2 bedroom apartments, and 27 x 3 bedroom apartments. Consequently the proposals do not conflict with the approach proposed in draft policy H3. The content of the draft policies H2, H3 and H10 have each been considered at the Local Plan hearings (Phase 1) in the light of the objections and it is felt that moderate weight can be afforded to each in policy terms.

5.20 Affordable housing is proposed in line with draft Policy H10 of the 2018 Draft Plan and is discussed later in the report.

## PREMATURITY

5.21 Objectors have raised concerns that the development may be seen as premature in relation to the delivery of the 2018 Draft Plan in the context of the setting of the inner boundary of the York Green Belt and also the proposed housing number and dwelling mix. Central Government planning policy as outlined in paragraph 49 of the NPPF states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

5.22 Concern has been focussed on two very specific areas, the site is allocated as a strategic allocation giving quantum of 56 dwellings in Policy SS14 of the 2018 Draft Plan (Strategic Allocations) and also the inner boundary of the Green Belt. The proposal envisages the construction of a total of 92 units comprising a mix of 85 apartments and 7 town houses. The figure of 56 units was arrived at as an indication of the possible development capacity of the site based upon a calculation of the site area and the target density for the locality in the Draft Local Plan. It is not a definitive indicator of the maximum or minimum capacity of the site.

5.23 As a strategic allocation the site is of significance in delivering a five year housing land supply as required by paragraph 67 of the NPPF and as such is a material consideration in itself. The greater number of units would secure that contribution and would lessen potential pressure in respect of alternative sites. The 2018 Strategic Housing Land Availability Assessment Addendum which forms part of the evidence base of the Local Plan identifies that with the strategic allocations in place there would be a deliverable 5 year Housing Land Supply. However at present there is as little as a 2.77 year supply making reliance on the allocations and their delivery critical. It is felt that the additional numbers are not of such a scale as to be prejudicial to the Local Plan process.

5.24 In terms of the boundary of the general extent of the Green Belt as defined in saved RSS policies YH9( c ) and Y1(C1 and C2), the boundary lies beyond the site to the south west. Historically the site has been developed from an early stage to house a variety of ancillary structures associated with the chocolate manufacturing process. It has therefore a high degree of functional association with the former multi-storey factory and not with the more low intensity open uses associated with the racecourse and with Bustardthorpe allotments beyond. It was in that context that permission was given in the part implemented Outline permission 09/01606/OUTM for a mixed use scheme on the site.

5.25 To consider the five purposes of Green Belt designation as outlined in paragraph 134 of the NPPF, specifically to check the unrestricted sprawl of urban areas; to prevent encroachment into open countryside and to safeguard the setting of Historic Cities, it is felt that the application site is clearly urban land albeit located at the urban fringe. It should not therefore be treated as falling within the general extent of the Green Belt. .

## IMPACT UPON THE SETTING OF THE MULTI-STOREY FACTORY

5.26 ASSET SIGNIFICANCE- The former Multi-Storey Factory which is the closest of the retained structures from the former chocolate works to the development is a Grade II Listed Building. The former Time Office which is also in close proximity to the site is similarly Grade II Listed. The wider complex is designed to a simple Neo Classical metaphor characteristic of the early 1920s with each building constructed in brick with art-stone detailing. The remainder of the complex lies to the rear aligned on the former principal access, now the Boulevard, with prominent Art Deco detailing in art stone on the Clock Tower and Liquor Store to the rear. The complex is a strong group in architectural terms presenting a clear strong architectural style reflecting the position and strength of branding of the Terry's Chocolate firm at the point where the complex was developed. The complex also has strong historic interest representing the best surviving evidence of York's pivotal role in the development of the industry with the Multi-Storey Factory and the Clock Tower making their own particularly iconic contribution to the City skyline.

5.27 ASSESSMENT OF IMPACT- The setting of the building is characterised by the iconic view of the Multi-Storey Factory on the approach to the City from Bishopthorpe to the south west and from the environs of the Racecourse nearby. The view is characterised by a high degree of visual permeability particularly during the winter months when the surrounding trees and other landscaping are not in leaf. The scheme as initially submitted envisaged the erection of two four storey apartment blocks in an inverted U plan providing some 123 units. That would however, have effectively taken away the visual permeability of the site and thereby eroded the setting of the Multi-Storey Factory.

5.28 Subsequently the scheme has been amended to significantly reduce its scale. The fourth storey on each block has been recessed. Block 2 has been significantly reduced in size and made linear running parallel with Bishopthorpe Road. At the same time, a block of 7 town houses of 3 stories are proposed running parallel with the boundary of the adjacent Peace Garden. The central section of Block 1 has also been lowered to two storeys. The amendments result in the visual permeability of the site being retained and taking account of the previous office based scheme approved within 09/01606/OUTM, it is felt that the setting of the former factory would be broadly safeguarded. Taking account of paragraph 196 of the NPPF it is felt that the level of harm to the setting of the former factory from the scheme as amended would be within the range of "less than substantial". The harm would be clearly

outweighed by the public benefit of the development of a sustainably located previously developed site for residential use in line with the requirements of the NPPF with associated additional construction employment.

## IMPACT UPON THE SETTING OF GODDARD'S AND ITS HISTORIC PARK AND GARDEN

5.29 Concerns have been raised by objectors in respect of the impact of the proposals on the setting of Goddard's the Grade I Listed former home of the Terry family with its historic park and garden on the north side of the Racecourse. Within the terms of the NPPF these are designated Heritage Assets. It is suggested that the original factory complex was constructed to be clearly intervisible with the family residence and as such forms part and parcel of its wider setting.

5.30 ASSET SIGNIFICANCE: Goddard's comprises a Grade I Listed Victorian brick built house set within large grounds lying behind the Tadcaster Road frontage on the western approach to the City Centre. It was the principal residence of the Terry family, operators of the chocolate works and its gardens, which are also Listed as historic park and garden at Grade II, were modelled to create views across the area of the racecourse of the Chocolate Works beyond. As such both complexes of buildings form part of a wider functional setting.

5.31 ASSESSMENT OF IMPACT: Goddard's House lies in significant landscaped grounds accessible from Tadcaster Road to the north west of the site beyond the Racecourse. The principal views of the former Chocolate Works from Goddards are of the western and north western elevations of the former Multi-Storey Factory set across the background of the Racecourse. Whilst it is clearly acknowledged that there has been some significant harm to the visual inter-relationship of Goddards with the former chocolate works by virtue of developments at the Racecourse it is felt that the alignment of the proposed development together with the mature landscaping at the site boundary mean that any harm arising from the new proposal would effectively be minimal. Within the terms of paragraph 196 of the NPPF it is felt that the level of harm arising to Goddards and its associated historic park and garden is less than substantial at the lower end of the scale. It is felt that the public benefit brought about by the development of a sustainably located previously developed site for residential use in line with the requirements of the NPPF with associated additional construction employment would more than outweigh any harm.

## IMPACT UPON THE SETTING OF THE TERRY'S/RACECOURSE CONSERVATION AREA

5.32 ASSET SIGNIFICANCE: The Terry's/Racecourse Conservation Area comprises the retained buildings of the Chocolate Works complex together with the Racecourse complex. It is characterised by agglomerations of comparatively high buildings some of which such as the Racecourse main stand, the Multi-Storey Factory and the Clock Tower have iconic status within the wider City skyline. The former Terry's character area includes all the retained buildings of the former complex. It is of special interest by virtue of the high quality design approach with the factory layout aligned in a grid with two points of access, with the generally inward facing nature of the site. The key spaces are the main boulevard, the forecourt to the Headquarters Building and the garden to the south west.

5.33 ASSESSMENT OF IMPACT: The proposal as originally submitted would have resulted in a physically divorced but visually poorly related development that would have competed visually with the well ordered iconic layout of the Conservation Area. The scheme as amended would be more subservient in its scale and massing and by introducing a more linear and visually permeable element in closest proximity to Bishopthorpe Road safeguard the relationship of the site to the wider complex. The setting of the Conservation Area is thereby secured. It is felt in the context of paragraph 196 of the NPPF that the level of harm to the setting of the Conservation Area would be less than substantial and the harm would be outweighed by the public benefit of the development of a sustainably located previously developed site for residential use in line with the requirements of the NPPF with associated additional construction employment.

## CONCLUSION ON HERITAGE ASSETS

5.34 It is felt that there would be a demonstrable impact from the proposal upon the setting of designated Heritage Assets within the immediate area. Impact upon the setting of the Listed former Multi-Storey Factory is probably the more notable with the development proposal set within the iconic view of its south western elevation. It is however felt that the amended scheme would lead to a level of harm that would be less than substantial in terms of paragraph 196 of the NPPF and that the harm would be clearly outweighed by the public benefit of returning the land to a reasonable beneficial use consistent with the re-development of the wider area. The harm arising from the impact upon the setting of the Terry's/ Racecourse Conservation along with Goddard's House and its park and garden is similarly felt to

be less than substantial with the public benefit of the development of a sustainably located previously developed site for residential use in line with the requirements of the NPPF with associated additional construction employment, outweighing any harm.

## IMPACT UPON THE ECOLOGICAL AND BIODIVERSITY VALUE OF THE SITE

5.35 Draft Policy G12 of the 2018 Draft Plan indicates that new development should result in a net gain to and help improve biodiversity. In view of the low level of objection to the Policy and the position following on from the first phase of hearings it is felt that the Policy carries moderate weight. The site comprises an area of previously developed land surrounded by a belt of mature trees on three sides which define its character within the wider townscape.

5.36 The proposal has been accompanied by a phase 1 Ecological Report in which the possible presence of a series of protected species is examined. Features potentially of use to bats have been identified within the tree belt surrounding the site on three sides although no direct evidence of bat roosting has been found within the area of the application site. Anecdotal evidence has been forthcoming in respect of bat foraging taking place within the wider area particularly within the adjacent racecourse site and also the Peace Garden. Subsequent to submission of the application further detailed surveys have been undertaken which confirm that there is no evidence of bat roosting within the boundaries of the site although there is evidence of foraging activity within the wider area.

5.37 The submission and prior approval of a Biodiversity Enhancement and Management Plan as part of a wider approval would secure the value of that habitat. The proposed development would not give rise to direct harm to that activity although external mounted lighting of any description would have a clearly disruptive impact. It is therefore recommended that any planning permission be conditioned to require the formal approval of any lighting scheme and also to provide suitable bat nesting facilities within the new buildings.

5.38 In terms of other species significant to local biodiversity ground conditions are not suitable to provide habitat for Great Crested Newt or other species of amphibian or reptile. Badgers and hedgehogs are recorded anecdotally as being present within the wider area but surveys undertaken at the site have not shown any evidence of their direct presence nearby. In terms of bird species there is no evidence of ground nesting birds within the site and no work is proposed to the existing tree cover within

the site boundaries. The submitted arboricultural method statement furthermore sets out measures to protect nesting birds whilst construction work takes place.

5.39 Subject to any permission being conditioned in terms of external lighting and also to provide bat nesting facilities within the new building the development is felt to be acceptable in terms of biodiversity and the requirements of Policy G12 are complied with.

#### DESIGN AND LAYOUT OF THE SCHEME:

5.40 Central Government Planning Policy as outlined in paragraph 127 b), c) and d) of the NPPF indicates that planning decisions should create places which are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history including the surrounding built environment and landscape setting and establish a strong sense of place using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live. Paragraph 130 also indicates that obviously poor designs that fail to take account of opportunities for improving the character and quality of the area should be refused.

5.41 Policy HW7 of the 2018 Draft Plan indicates that new residential developments should demonstrate that they incorporate well designed streetscapes which encourage people to spend time outdoors, provide good, easy to navigate pathways to encourage physical activity and good connections to neighbouring communities and green spaces. Draft Policy D1 indicates that development proposals should demonstrate that the proposed density would be appropriate to the proposed use and its surrounding context.

5.42 The scheme as originally submitted envisaged the construction of two substantial four storey blocks of apartments on a built footprint which would have covered almost the entire width of the site with much of the remainder of the site taken up with car parking which would have been co-terminous with the parking area for the former Multi-Storey Factory directly to the north. The result was a physically inward looking site which paid scant reference to its surroundings and gave an appearance of clear “over development” all set within a sea of parking. The scheme has subsequently been progressively amended. The overall parking area has been reduced in size and broken up with the incorporation of individual trees and landscaping beds.

5.43 In terms of the design of the scheme, overall numbers have been reduced by 31 units and the layout in itself has been re-designed in part to safeguard the setting of the Listed factory building and the Terry's/Racecourse Conservation Area. The effect of the amendments has been to add a greater degree of variety in terms of forms and materials at the same time as reducing the overall quantum of development. The U shaped Block 1 now has a much lower central section with the upper storeys of the wings set back. Block 2 is now linear in form and paired with a linear block of 7 townhouses. The overall result is to create a development that much more clearly respects its context and secures compliance with Policy D1 of the 2018 Draft Plan as well as paragraph 127 of the NPPF.

#### LIVING CONDITIONS OF FUTURE RESIDENTS

5.44 Central Government Planning Policy as outlined in paragraph 127f) of the NPPF indicates that planning policies and decisions should create places which give rise to a high standard of amenity for all existing and future users. The proposal envisages the erection of 85 residential apartments and 7 town houses located close to the boundary with York Racecourse directly to the North West. In addition to conventional race meetings the race course hosts music concerts and other "noisy" events throughout the year into late evening.

5.45 Those apartments within the western block would be highly vulnerable to noise and related disturbance from activities taking place directly adjacent. The submitted application details indicate an approximate distance of 80 metres between the north west of the apartments and the edge of the active race course. Complaints in respect of noise nuisance from events at the race course have been frequent in respect of earlier phases of the development scheme. The impact upon the occupants of the current proposal would be more severe by virtue of the closer proximity to the active areas of the race course and the lack of shelter afforded by high rise elements of the race course development.

5.46 The degree of harm to amenity would be mitigated by a scheme of internal noise insulation which can be conditioned as part of any permission. Further concerns have previously been raised by consultees in respect of the amenity relationships between several of the units. These have now been resolved in respect of the most recent amendments. As a consequence impact upon the amenities of prospective residents of the development would not be sufficient as to amount to a reason for refusal in itself.

## IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES

5.47 Concern has been expressed by residents of apartments within the lower floors of the Multi-Storey Factory in respect of a loss of aspect arising from the proposed development. The new development would be approximately 73 metres from the Multi-Storey Factory at its closest point. The significant distance between the two buildings would not result in any issue of over-looking, over-shadowing or loss of privacy. In terms of a loss of aspect the application site is presently characterised by its openness with longer distance oblique views of the area of the racecourse to the south. The significant degree of amendment to the scheme which has re-introduced a degree of visual permeability as well as greater degree of variation in the overall layout, as a result it would not now give rise to a material loss of aspect.

## IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS

5.48 Draft Policy T1 of the Draft Local Plan indicates that development will be supported where safe and appropriate access is provided to the adjoining highway, sufficient secure cycle parking is provided for user's needs and safe and secure layouts are provided for motorised vehicles. Concerns have been expressed by objectors in respect of the level of vehicle parking proposed within the site and the potential for a significant issue of overflow parking in surrounding side streets together with the capacity of the vehicular access to the site to cater for the anticipated traffic flows. The applicant has submitted a revised Transport Statement which identifies trip generation as significantly below that modelled in respect of the office development approved for the site in respect of 09/01606/FULM. The provision of secure cycle parking in respect of the proposed town houses is at the same time confirmed at the rate indicated in the Authority's parking standards.

5.49 120 car parking spaces and 132 cycle parking spaces would be provided. The car parking spaces provide a rate of 1.25 spaces per unit supported by sustainable transport measures and parking controls in surrounding streets. The rate of provision parallels that previously approved in respect of the David Wilson Homes development to the north. A vehicular access to the site was previously constructed in combination with the residential conversion of the former Multi-Storey Factory on the basis of the application site being developed for a large hotel. In addition to a link for vehicular traffic this provides access for cyclists and pedestrians to Bishopthorpe Road, the Peace Garden, the nearby Sustrans cycle route and the remainder of the wider development. A further pedestrian and cycle link from the site onto Racecourse Road to the south west has been suggested to improve

connectivity. This has been accepted by the applicant and can be secured by a Grampian style condition as part of any planning permission. The requirements of Policy T1 are now felt to be complied with in respect of the amended scheme.

## DRAINAGE AND FLOOD RISK

5.50 Paragraph 163 of the NPPF indicates that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. The application site is in Flood Zone 1 and therefore at the lowest assessed risk of flooding. The wider site has been subject to a comprehensive surface water drainage scheme which the development would connect into and which has capacity to receive the associated flows the development is therefore felt to be acceptable in drainage/flood risk terms. Subject to any permission being conditioned to require the submission and prior approval of a surface and foul water drainage scheme the proposal is felt to be acceptable in drainage terms.

## LANDSCAPE/PUBLIC REALM

5.51 Policy D1 of the Draft Local Plan indicates that development proposals should enhance the existing pattern of landscape, planting and boundary treatment. The application site is located within clearly defined landscaped boundaries that would be protected during the course of development. The principal apartment block is centred around a courtyard amenity area facing southwards to take advantage of its relationship with the landscape treatment. At the same time the proposed hard landscaping materials would reflect those previously adopted for the earlier elements of the wider development to the north. The amended scheme is therefore felt to be acceptable in terms of the requirements of Policy D1.

## IMPACT UPON LOCAL HEALTH SERVICES

5.52 Concern has been expressed by the local CCG in respect of the impact of the proposal upon access to local GP facilities. Policy DM1 of the Publication Draft Local Plan indicates that development should be supported by appropriate physical, social and economic infrastructure and that new development will not be permitted unless the infrastructure required to service the development is available and the necessary infrastructure to meet the local and strategic demand generated by the development can be provided and co-ordinated.

5.53 The CCG have further indicated requirements in terms of the provision of four consulting rooms with ancillary facilities at surgeries in the wider area which could be secured by commuted payment of £169,456 by means of a Section 106 Agreement. It is estimated that coming on top of the significant growth in patient demand coming from the remainder of the development that the proposal would result in the order of an additional 200 patients. This would result in a short fall of 89 square metres of practise space equating to four practise rooms principally at the two practises at Cherry Lane and Bishopthorpe Road which cover the site. In order to be acceptable such contributions must be seen as compliant in all respect with Regulations 122 and 123 of the 2014 CIL Regulations. The need for such support arising from the development is accepted in principle. The applicant has agreed in principle to make the contribution subject to it being demonstrated in detail as arising from the development currently put forward. It is therefore recommended that the requirement be accepted subject to the detailed resolution of requirements as part of a Section 106 Agreement.

#### OTHER ISSUES

5.54 Concern has been expressed by an objector in respect of references made to the Outline Planning Permission ref 09/01606/OUTM on the basis that it has never been implemented and is not therefore a material consideration. It is also contended that the Outline Planning Permission was subject to Environmental Impact Assessment under Schedule 2 of the Regulations and that the site has subsequently been developed piecemeal in order to avoid the need for a further EIA. The Outline Planning Permission has however been partially implemented in respect of the northern part of the site although the subsequent pattern of development would negate its further implementation. The site has been developed in sections with individual stand alone schemes as a consequence solely of subsequent land ownership issues. The larger schemes have been re-screened where within the relevant threshold of the current EIA Regulations.

#### SECTION 106 ISSUES

5.55 Draft Policy DM1 of the 2018 Draft Plan indicates that the Local Planning Authority will seek financial contributions from developers to ensure that the necessary infrastructure is in place in order to support the development. Development will not be permitted unless that infrastructure is available and able to cater for the local and wider strategic demand generated by the proposal.

5.56 SUSTAINABLE TRANSPORT- Financial contributions of £400 per dwelling are sought in respect of an annual cycle contribution/bus pass on first occupation of each unit and £200 per dwelling in respect of City Car Club membership. In addition contributions of £15,000 towards enhancement of parking management on Bishopthorpe Road and Campleshon Road are sought together with £27,600 to secure the implementation of the sustainable travel plan.

5.57 EDUCATION- In terms of Educational provision contributions are sought of a total of £446,451. Broken down this comprises some £182,370 in respect of early years provision, £99,948 towards the Millthorpe School Phase 2 improvement project and £164,133 to reconfigure small group teaching/work rooms at Knavesmire School.

5.58 OPEN SPACE- A contribution of £8,608 towards improvements to playing pitches within 2 kilometres of the site is sought with improvements to the existing children's play space within the adjacent Peace Garden which is in the control of the applicant. The detail of the improvements would be resolved through an itemised plan to be agreed via a Section 106 Agreement.

5.59 AFFORDABLE HOUSING- The proposal falls to be considered within the remit of Policy H10 of the Publication Draft Local Plan. The policy has a target of 20% affordable housing on brownfield sites within the urban area. 18 units would be provided on site with an off-site financial contribution in respect of 0.4 of a unit. The detailed tenure mix would be resolved through a Section 106 Agreement.

5.60 HEALTH SERVICES- The proposal falls to be determined under the remit of Policy DM1 of the Publication Draft Local Plan as being for locally generated infrastructure directly as a consequence of the development. A contribution of £169,456 is sought to cover a shortfall of 89 square metres in surgery floor space generated by an estimated additional 200 patients generated by the proposal. It is therefore recommended that a detailed itemised plan be agreed as part of Section 106 Agreement.

5.61 The proposed obligations are considered to comply with Regulation 122 of the 2010 CIL Regulations in that the obligations are;

- a) necessary to make the development acceptable in planning terms,
- b) directly related to the development, and
- c) fairly and reasonably related in scale and kind to the proposed development.

## 6.0 CONCLUSION

6.1 The application proposes a development of 92 residential units (85 apartments and 7 townhouses) on previously developed land in a sustainable location. The development would make an appreciable contribution to the City's five year housing land supply as required by paragraph 67 of the NPPF. Outline planning permission has previously been given for the office element of a mixed use scheme on the site with a similar scale and massing. Considerable importance and weight is given to the desirability of avoiding harm to the designated heritage assets in accordance with the statutory duties. It is felt that the scheme as amended would give rise to less than substantial harm to the heritage assets, namely the setting of the Multi-Storey Factory, Goddard's House and its park and garden, and the Terry's Racecourse Conservation Area. The harm identified is felt to be outweighed by the public benefits of the development of a previously developed site in a sustainable location for residential use with in line with the requirements of the NPPF with associated additional employment in construction. The scale and design of the proposal would not harm the living conditions of nearby residents and subject to any permission being appropriately conditioned the amenity of existing residents would be safeguarded. Parking would be provided in accordance with the standards outlined in the DCLP and traffic generation would be lower than that previously identified in respect of the approved Outline scheme.

6.2 In the light of these conclusions, there are no protective policies within the NPPF which provide a clear reason for refusal. The application of the presumption in favour of sustainable development in paragraph 11 of the NPPF therefore means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The proposal is felt to be acceptable in planning terms and approval is recommended subject to a Section 106 Agreement to provide financial contributions towards; sustainable transport measures; off site parking management; off-site play provision and open space; provision of educational places; provision of additional GP facilities and to secure affordable housing provision.

## 7.0 RECOMMENDATION:

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

- a. the completion of a Section 106 Agreement to secure the following obligations:

1. Sustainable travel - £200/dwelling contribution towards cycle provision and £200/dwelling towards car club (£400 in total per dwelling)(Index linked) £15000 towards enhancement of parking management on Bishopthorpe Road and Campleshon Road
2. Affordable housing - £53,940 contribution towards off-site provision (index linked)
3. Off-site play provision - £8608 (index linked) towards improvement of playing pitches within 2 kilometres of the site. Improvements to be sought to the children's play space within the adjacent Peace Garden, by means of a detailed itemised plan, details to be agreed
4. Education- £182,370 in respect of early years provision, £99,948 towards Millthorpe School Phase 2 improvement project and £164,133 to reconfigure small group teaching rooms at Knavesmire School.
5. Affordable Housing - an offsite contribution in lieu of 0.4 equivalent of a dwelling unit.
6. Health Services - £169,456 to cover provision of additional facilities at the GP surgery covering the site by means of a detailed itemised plan, details to be agreed.

b. the conditions set out below.

ii The Assistant Director of Planning and Public Protection be given delegated authority to finalise the terms and details of the section 106 Agreement.

iii The Assistant Director of Planning and Public Protection be given delegated powers to determine the final detail of the planning conditions.

## Conditions

1 TIME2 Development start within three years

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

Drawing Refs:7988 (500) 100 K ;7988 P (000) 050 C ;7988 P(000)000 N ;7988 P(000)001 A ; 7988 P(000)010 G ; 7988 P(000)011 I ; 7988 P(000)012 I ; 7988 P(000)013 I ; 7988 P(000)014 F ; 7988 P(000)015 H ; 7988 P(000)016 G ; 7988 P(000)017 H ; 7988 P(000)020 H ; 7988 P(000)030 E ; 7988 P(000)100 I ; 7988 P(000)101 I ; 7988 P(000)102 B ; 7988 P(000)200 B ; 7988 P(000)201 ; 7988P(000)030 E ; 7988 P(000) 000 M ; 7988 P(000) 001 B ; 7988 P(000) 020 I ; 7988 P(000) 050 E ; 7988 P(000) 100 J ; 7988 P(000) 101 J ; 7988 P(000) 102 C ; 7988 P(000) 110 E ; 7988 P(000) 111 D

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 beyond foundation level. 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.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works beyond foundation level. This panel 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.

5 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences beyond foundation level and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties.

6 LAND1 IN New Landscape details

7 The development hereby approved shall be undertaken in strict accordance with the requirements of Arboricultural Method Statement Ref: AWA2427 AMS. Dated November 2018.

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

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

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

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

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

9 No development shall take place until a detailed scheme of noise insulation Measures for protecting the approved residential buildings from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

INFORMATIVE TO CONDITION 9: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

10 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the

guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the living conditions of nearby residential property.

#### INFORMATIVE TO CONDITION 10

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

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

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

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

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to

complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

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

11 Prior to occupation, each off street parking space shall incorporate a suitably rated electrical socket to allow 'Mode 2' charging of an electric vehicle using a standard 13A 3 pin socket and a 3m length cable.

Reason: To provide facilities for charging electric vehicles in line with the NPPF and CYC's Low Emission Strategy.

#### Notes

Optionally, a suitable 'IEC 62196' electrical socket (minimum rated output of 3.7kw /16A) can be provided in addition to the standard 13A 3 pin socket to allow 'Mode 3' charging of an electric vehicle. Mode 3 charging, using a suitable cable and charging point, allows faster charging of electric vehicles. Further advice can be provided by City of York Council's Public Protection team on request.

All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015)."

12 LC2 Land contamination - remediation scheme

13 LC3 Land contamination - remedial works

14 LC4 Land contamination - unexpected contam

15 The development hereby approved shall not be occupied until a Full Travel Plan for the college has been 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 first occupation of the development approved 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 local and national transportation and planning policies 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.

16 The building shall not be occupied until 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.

17 NOISE7 Restricted hours of construction

18 The covered and secure cycle parking facilities and storage facilities shall be provided in accordance with the approved plans prior to first occupation of the development hereby approved. The cycle storage shall have lockable doors and the internal space shall have facilities for locking cycles (using Sheffield type stands or similar). The cycle storage area and stands shall be retained thereafter.

Reason: In the interests of visual and residential amenity and to promote sustainable travel in accordance with paragraphs 108 and 127 of the NPPF.

19 The building shall not be occupied until the approved the bin storage area has been provided in accordance with the approved drawings and retained thereafter.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with paragraph 127f) of the NPPF.

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

Reason: In the interest of satisfactory and sustainable drainage

21 No development 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.

Design considerations

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort

therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then Greenfield sites are to limit the discharge rate to the pre developed run off rate. The pre development run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size).

Where calculated runoff rates are not available the widely used 1.4l/s/ha rate can be used as a proxy, however, if the developer can demonstrate that the existing site discharges more than 1.4l/s/ha a higher existing runoff rate may be agreed and used as the discharge limit for the proposed development. If discharge to public sewer is required, and all alternatives have been discounted, the receiving public sewer may not have adequate capacity and it is recommend discussing discharge rate with Yorkshire Water Services Ltd at an early stage.

In some instances design flows from minor developments may be so small that the restriction of flows may be difficult to achieve. However, through careful selection of source control or SuDS techniques it should be possible to manage or restrict flows from the site to a minimum 0.5 l/sec for individual residential properties, please discuss any design issues with the City of York Council Flood Risk Management Team.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme shall be provided.

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

22 Prior to first occupation or use of the development hereby approved 'bat tubes', bat boxes or other features providing a roosting crevice for bats must be constructed within the fabric of each building to the satisfaction of the Local Planning Authority

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 of the NPPF (2018) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

23 Prior to the commencement of development beyond foundation works full details of any external lighting including locations, relationship to neighbouring tree belt, design, numbers and luminance shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved prior to first occupation of the units.

Reason: To safeguard the biodiversity of the site and to secure compliance with Policy G12 of the Publication Draft City of York Local Plan 2018

24 Full details of the gated pedestrian and cycle access on to Racecourse Road illustrated on drawing reference 7988 P(000) 000 N shall be submitted to and approved in writing by the Local Planning Authority and the access provided prior to the first occupation of the development.

Reason: To ensure access to the development by sustainable means of transport and to secure compliance with paragraphs 108 and 110 of the NPPF.

25 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be

occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal

26 Prior to commencement of the development above foundation level a detailed Biodiversity Enhancement and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Such plan shall include full details of enhancement and mitigation measures for the habitat of bats, hedgehogs and nesting birds within the boundary planting surrounding the site, the use of native species within the landscape scheme associated with the development and full details of the green roof to be partially erected on the apartment blocks. The submitted plan shall include a scheme for the on-going management and monitoring of the measures thereby put into place. The measures shall thenceforth be implemented prior to the development hereby authorised being first occupied.

Reason: To safeguard the biodiversity value of the site and to secure compliance with Policy G12 of the Publication Draft City of York Local Plan (2018)

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

- i) Reduction in the scale and density of the development in order to better safeguard the setting of the adjacent Listed former factory
- ii) Sought a redesign of the proposed highway layout to improve its functionality
- iii) Sought an amendment of the housing mix to provide a greater range of units

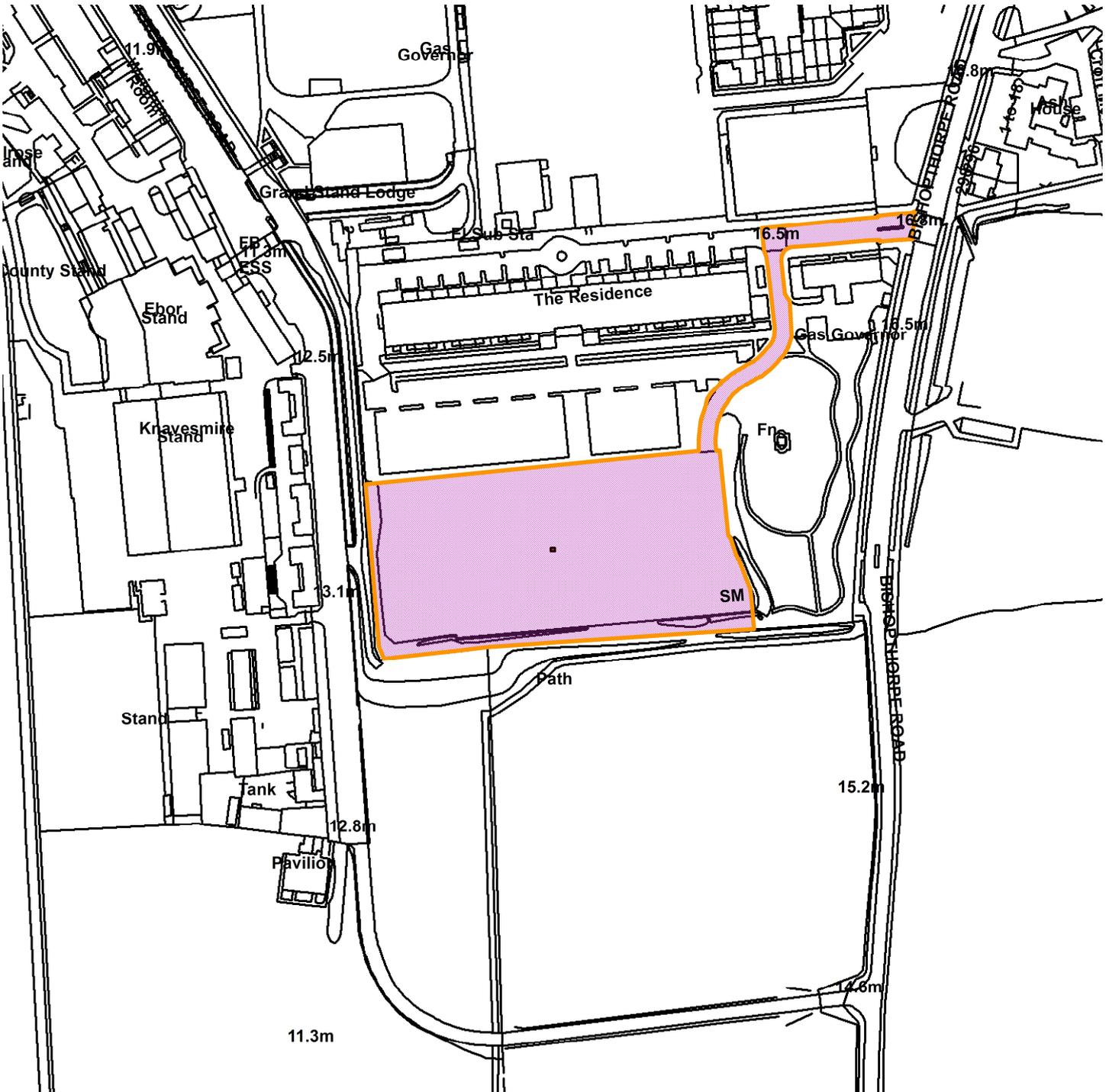
#### **Contact details:**

**Case Officer:** Erik Matthews

**Tel No:** 01904 551416

18/02582/FULM

Land South Of The Residence, Bishopthorpe Road, York



Scale : 1:2458

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	30 July 2020
<b>SLA Number</b>	

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