



## **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, 19 November 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. 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 17 November 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.

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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.

### **3. Plans List**

This item invites Members to determine the following planning applications:

#### **a) Foss Upstream Storage Area, Brecks Lane, Strensall, York [19/02463/FULM] (Pages 1 - 62)**

Formation of flood storage area consisting of construction of earth embankment with spillway, excavation of two temporary and two permanent borrow pits, erection of river flow control structure, re-profiling of sections of the River Foss, realignment of short section of Black Dike, raising of section of Ings Lane, carriageway edge protection to part of Lilling Low Lane and associated new and improved access arrangements, drainage, accommodation works, landscaping and biodiversity mitigation (cross boundary application with Ryedale) [Strensall Ward]

#### **b) St Georges Field Car Park, Tower Street, York [19/02063/FULM] (Pages 63 - 136)**

Erection of 5 level multi-storey car park with canopy to roof to provide 372 no. car parking spaces, demolition of public toilet, revised highway access and associated landscaping works [Fishergate Ward]

**c) Castle Mills Car Park, Piccadilly, York [19/02415/FULM] (Pages 137 - 206)**

Erection of 106 apartments including 36no. 1-bed, no. 68 2-bed and 2no. studios, flexible commercial floorspace (A1-A3 and B1 1458sqm gross), provision of new pedestrian and cycle bridge across the River Foss and creation of new public realm and pedestrian and cycle route at riverside north [Guildhall Ward]

**4. Urgent Business**

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

Democracy Officer

Angela Bielby

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

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**我們也用您們的語言提供這個信息 (Cantonese)**

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

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

**Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)**

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

** (01904) 551550**

**COMMITTEE REPORT**

**Date:** 19 November 2020      **Ward:** Strensall

**Team:** East Area      **Parish:** Strensall With Towthorpe  
Parish Council

**Reference:** 19/02463/FULM

**Application at:** Foss Upstream Storage Area Brecks Lane Strensall York

**For:** Formation of flood storage area consisting of construction of earth embankment with spillway, excavation of two temporary and two permanent borrow pits, erection of river flow control structure, re-profiling of sections of the River Foss, realignment of short section of Black Dike, raising of section of Ings Lane, carriageway edge protection to part of Lilling Low Lane and associated new and improved access arrangements, drainage, accommodation works, landscaping and biodiversity mitigation (cross boundary application with Ryedale)

**By:** Mr Richard Lever

**Application Type:** Major Full Application

**Target Date:** 16 November 2020

**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The proposal is a cross boundary planning application for flood alleviation works to the River Foss submitted by the Environment Agency. The majority of the application site lies within the Ryedale District Council area and the remainder in York. As set out in government guidance for cross boundary development, identical planning applications have been submitted to both Ryedale and York. Each planning authority will determine the applications for the elements of the proposed development within their own areas and the purpose of this report is to consider the proposed development in York.

1.2 The application site within York lies approximately 1.5 kilometres to the northeast of Strensall and is approximately 7 hectares in area. Within York, the site lies in flood zone 3 and within the general extent of the York Green Belt. To the south of the site lies Strensall Common, the most northerly lowland heath site in Britain. The site is bound by the River Foss and also contains a section of the Black Dike which is a drainage ditch. The remainder of the area is grassland. There are woodland copses to the north west and to the south. The surrounding area is predominantly open farmland in arable use.

1.3 There is a long history of flooding in York and following flooding in 1978, defences were installed, or greatly expanded. The observation that greater flooding arose under certain conditions from the Foss rather than the Ouse led to the Foss Flood Barrier installation in 1987. Storm Desmond in 2015 resulted in conditions that led to widespread flooding along the Foss and its tributaries. The height of the Foss reached a level that the Foss Barrier was lifted to prevent its potential failure. This resulted in the flooding of properties upstream of the barrier. Despite subsequent installation of new pumps and monitoring equipment it cannot be relied on alone to protect the vulnerable properties in the Foss corridor.

1.4 The applicant's planning statement sets out that "without any further interventions it is calculated that a total of 465 residential and 25 non-residential properties are at risk of flooding downstream along the Foss corridor from Strensall to York's urban area. The purpose of the proposed development is to restrict the maximum flow of the Foss meaning that during flood conditions excess water will back up and be temporarily stored behind an embankment thereby preventing this water flowing downstream. This will protect not only the vulnerable properties in the Foss corridor but also contribute to protecting other areas in York liable to flooding by not adding to the flow."

1.5 The proposal is to create a flood storage area that would, in flood conditions, hold back water that would normally continue to flow downstream. The proposed storage area is designed to store in excess of 1 million cubic metres of excess flood water. The flow control structure will allow water through the embankment along the line of the existing river. By controlling how much water can flow through, and by the embankment holding water back during high-flow conditions, potential flood waters will back up into a basin defined by the proposed new embankment and the natural topography of the land. This flood storage reservoir will only be full during a 1-in-100 year flood event.

1.6 The majority of the application site is in Ryedale and therefore some of the development referred to in the description is within the Ryedale area such as alterations to Lings Lane, the creation of borrow pits and wildlife ponds.

1.7 The elements of the flood storage area within the York boundary are as follows:

- Construction of earth embankment with spillway (which extends into Ryedale). The embankment will be a vegetated voided concrete slipway measuring approximately 3 metres in height, 25 metres in width and approximately 400 metres in length within the York section. The development will result in the creation of approximately 0.5 hectares of additional hardstanding.
- Erection of a river control structure which will straddle the River Foss (and the local authority boundaries) which will be a maximum height of no more than 4 metres above existing ground level with a further 0.9 metre handrail.
- Realignment, or straightening of Black Dike, approximately 119 metres in length. The applicant proposes that the bed of the old alignment of the Black Dike be backfilled with a layer of gravel prior to bulk infill, with a 'clay-plug' at its upstream end.
- River Foss re-profiling for a total length of approximately 1.3 kilometres (in York and Ryedale)

1.8 The application includes an Environmental Impact Assessment (EIA) or Environmental Statement (ES) dated November 2019. Under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the scheme is Schedule 2 development and it has been determined to require an EIA because there could be likely significant effects on the environment by virtue of the effect on the Strensall Common Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

1.9 The Environmental Statement contains environmental topics to cover the main aspects of the environment that could be affected by the proposal which are:

- Biodiversity and Nature Conservation
- Minerals and Material Resources
- Water Environment and Flood Risk
- Cumulative Effects

1.10 Following the consultation response of Natural England, which had no objection to the proposal but required additional information from the applicant, an addendum to the ES was submitted in February 2020 for consideration.

1.11 A further addendum was submitted in September 2020 covering the impact on agricultural land and soils. Both of these addendums were subject to statutory public consultation.

## RECORD OF CONSIDERATION OF A PROJECT UNDER THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

1.12 The River Foss Upstream Storage Area project (planning application reference 19/02463/FULM) was considered in light of the assessment requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 by City of York Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

1.13 Following the 'shadow' appropriate assessment which included the consideration of detailed and specific hydrology and ground water modelling the competent authority was able to ascertain that the project would not adversely affect the integrity of any European site. In making that decision the competent authority took account of the potential for the project to contribute to cumulative effects of other plans or projects.

1.14 In reaching the conclusion of the assessment the competent authority took the following documents into account:

- ☐ Applicants 'shadow' Stage 1 Habitats Regulations Assessment, Version 23 January 2020
- ☐ Applicants 'shadow' Stage 2 Habitats Regulations Assessment, Final appropriate assessment, V1.0

1.15 Natural England was consulted on the above documents and has no objection to them in their consultation response dated 16<sup>th</sup> March 2020.

## 2.0 POLICY CONTEXT

### Yorkshire and Humber Regional Spatial Strategy (RSS)

2.1 The Yorkshire and Humber RSS was revoked in 2013 with the exception of the policies relevant to the York Green Belt. Policy YH9C states that the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth

set out in this RSS and must also endure beyond the Plan period. Policy Y1(c) states that plans, strategies, investment decisions and programmes for the York sub area should in the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre and the inner boundary in line with policy YH9C.

### National Planning Policy Framework

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

2.3 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives.

### Publication Draft Local Plan 2018

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

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

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

2.6 Relevant Policies

DP2 Sustainable Development  
DP3 Sustainable Communities  
SS1 Delivering Sustainable Growth for York  
SS2 The Role of York's Green Belt  
D1 Placemaking  
D2 Landscape and Setting  
D6 Archaeology  
GI1 Green Infrastructure  
GI2 Biodiversity and Access to Nature  
GI3 Green Infrastructure Network  
GI4 Trees and Hedgerows  
GB1 Development in the Green Belt  
ENV2 Managing Environmental Quality  
ENV4 Flood Risk  
ENV5 Sustainable Drainage  
T1 Sustainable Access

### 2005 Development Control Local Plan

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

### 2.8 Relevant Policies

SP2 York Green Belt  
GP1 Design  
GP9 Landscaping  
GP14 Agricultural Land  
GP15a Development and Flood Risk  
NE2 River and Stream Corridors, Ponds and Wetland Habitats  
NE3 Water Protection  
NE4a International and National Nature Conservation Sites  
NE5b Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites  
NE6 Species Protected by Law

NE7	Habitat Protection and Creation
NE8	Green Corridors
HE10	Archaeology
GB1	Development in Green Belt
T2a	Existing Pedestrian/Cycle Networks

### Publication Draft Joint Minerals and Waste Plan 2016

2.9 The Minerals and Waste Joint Plan is currently at the examination phase. Examination hearings took place in spring 2018 and in January 2019. The Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) are currently being finalised by consultants and the joint authorities have sent through a Schedule of Modifications on the plan following the hearing sessions and additional government guidance on fracking. It was expected that a modifications consultation would take place this spring although now due to the coronavirus outbreak this has had to be put back.

#### 2.10 Relevant Policies

- M01 Broad geographical approach to supply of aggregates
- M13 Continuity of supply of clay
- M25 Borrow pits
- S01 Safeguarding Mineral Resources
- S02 Developments proposed within Minerals Safeguarding Areas
- D05 Minerals and waste development in the Green Belt
- D12 Protection of agricultural land and soils

### **3.0 CONSULTATIONS**

#### INTERNAL

#### Flood Risk Engineer

3.1 Although the majority of the works are in Ryedale the scheme will help to reduce the risk of flooding in York therefore the proposal has been assessed as if it was solely within York.

3.2 This Flood Alleviation Scheme (FAS) has been developed from the earliest stage, in full agreement with the appointed panel engineer assigned to the project,

to ensure full compliance with the Reservoirs Act 1975. This will ensure that the design, construction and future operation and maintenance of the scheme will be appropriately advised and, if all works are completed in accordance with the submitted planning documentation, the Flood Risk Management Team have no objections.

3.3 To summarise, if planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment.

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

3.4 The ecological impacts in CYC are;

- ☐ River Foss temporary diversion channel – impact on water vole burrows.
- ☐ Flow control structure – impact on water vole burrows and movement of fish/eel
- ☐ Temporary river crossing – potential impact on water vole. River Foss re-profiling – potential impact on water vole
- ☐ Re-alignment of Black Dike – potential otter holt identified here
- ☐ Proposed wetland grassland mix.

3.5 There is some uncertainty as to the impact of the scheme on water vole and otter, which are highly mobile species. The Environmental Statement sets out the proposed approach for a pre-construction surveys and steps that would be taken if otter and water vole are found to be present, including obtaining the appropriate licences from Natural England. Post construction the river and ditch banks will be profiled to create 45 degree angle banks for water voles and planted with suitable wetland plants to provide foraging and sheltering resources, and their future management is included in the Landscape and Ecological Management Plan. The scheme overall i.e. areas within Ryedale will create new habitat suitable for water vole and otter.

Strensall Common Special Area of Conservation and Site of Special Scientific Interest:

3.6 The EIA recommends pollution prevention measures to be detailed in the EAP/CEMP, to be implemented on the site to avoid indirect risk of materials entering the watercourses which flow through the SAC/SSSI. There is however no mention of this as a potential impact in the HRA work, which states no specific avoidance or mitigation measures have been proposed in relation to Strensall Common SAC.

3.7 Both the EIA and the hydrology report supporting HRA recommend groundwater monitoring wells to be installed within the SSSI prior to embankment placement to provide site-specific data on potential variations in groundwater levels over time under natural conditions as best practice, but specifically not as a mitigation measure.

3.8 A CEMP and groundwater monitoring should be secured through a planning condition. The groundwater monitoring will require consent from Natural England and the land owners (MOD and/or Yorkshire Wildlife Trust) so it would be helpful if the EA could confirm if this is deliverable prior to determination.

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

3.9 Despite the size of the scheme, don't have much to say on it since the EA have arrived at a considered and detailed scheme for an apparently essential piece of infrastructure.

3.10 Naturally the flood bank is going to alter the open vista, looking across the landscape from the footbridge at the southern end of the site where the Ebor Way and the Centenary Way meet at the river Foss, by way of an artificial interruption to the open wet grassland. It would also block out the lower portions of parts of the existing open vista across the valley bottom and over to Flaxton, West Lilling and Sheriff Hutton; although it would screen much of the less attractive giant sheds at East Lilling House. Similarly the bund will be an additional man-formed feature in the landscape looking south, southeast from the Ebor Way just before the land starts to fall away where the path meets the existing woodland.

3.11 If understood correctly, it is only the most southerly curve of the concrete spillway that would be exposed to the public right of way network. The biggest visual impact would be looking along the length of the concrete spillway when entering the application site on the Ebor Way where it crosses Black Dike; and approaching the site on the Centenary Way. The inside of the flood bank - which would be the greatest length of exposed bank - would be earth, and fully greened up so there would be no impact from the Ebor Way in that respect. Can't see any other option than seeded grasscrete. The scattering of trees along the west bank of the river Foss will pick out the line of the river in the landscape which will be an appealing addition to the scenery, and also draw attention away from the new flood bank.

3.12 No comment to make on the Landscape Masterplan and Landscape Area A, which look fine. Some queries over the planting schedule but as this is indicative can be dealt with via condition.

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

3.13 A series of test pits and boreholes were monitored archaeologically in 2018. Nothing of archaeological significance was noted. This was followed by a geophysical survey in 2019 which suggested that the area had undergone significant land management. One palaeochannel was also recorded.

3.14 15 evaluation trenches were excavated (3 within the CYC boundary to investigate the embankment area) in December 2019. This was meant to be accompanied by an archaeological and geo-archaeological borehole survey but this had to be postponed until January 2020. The evaluation trenches revealed a small number of archaeological features, totalling six undated linear features and a single pit. These were largely outside of the CYC boundary and are not thought to indicate settlement activity on the site – rather land management and agricultural use. Machine excavated trial pits within the evaluation trenches close to the River Foss produced evidence of organic deposits (within 2 of the 3 York trenches) beneath the uppermost natural geological deposits. These deposits were sampled and will be further analysed in the final report.

3.15 The NYCC archaeologist and CYC Archaeologist have agreed that there is sufficient archaeological information for the application to be determined without the final report on the evaluation and borehole survey being completed. Given the results of the archaeological investigation the City Archaeologist does not anticipate any further archaeological work to be required in relation to the York application. The environmental sampling results with a revised evaluation report incorporating the results of the borehole survey is still required and forms part of the condition.

### Forward Planning

3.16 Response provided regarding the Draft Joint Minerals and Waste Plan. Comments incorporated into minerals and waste consideration (section 5 of report).

### Public Protection

3.17 Conditions recommended to cover hours of work, unexpected contamination, implementation of the environmental management plan/environmental action plan and a construction environmental management plan (CEMP).

#### Highways Network Management

3.18 In view of the changes to the Transport Statement to reflect that the revised construction programme and methodology results in no imported clay fill being required and the applicant's acceptance of the imposition of a pre-commencement planning condition on any permission granted requiring the applicant to submit to the local planning authority a full CTMP, CYC Highways Development Control have no objection to the application, provided that the (CTMP) condition is attached to the permission.

#### Public Rights of Way (PROW)

3.19 Public Footpath, Strensall No 16 runs through the planning application boundary area. The footpath runs to the east of Walbutts, then northwards across Black Dyke and then over the River Foss. The proposal does not appear to worsen the likelihood of the path being flooded. PROW therefore do not have any objections.

#### EXTERNAL

#### Strensall Parish Council

3.20 The Parish Council has no objections, in principle, subject to the response from the F.I.D.B. (Foss Internal Drainage Board).

#### Environment Agency

3.21 Flood Risk: EA Flood Map for Planning shows the site lies within Flood Zone 2 and 3, the medium and high probability zones. We have reviewed the FRA and provided the proposed works are carried out in accordance with the submitted FRA then we have no objections in this regard. Proposed development will only meet the requirements of the National Planning Policy Framework if the development is carried out in accordance with this FRA and it is listed as an approved plan/document in any permission granted.

3.22 It is noted that the EA / York Flood Alleviation Scheme Team are to engage with City of York Council's Emergency Planners, and the Local Resilience Forum, in order to update the appropriate existing emergency plans with the relevant information regarding the works. Land Drainage Act consent will likely be required from the IDB for any works that impact on ordinary watercourses. A Flood Risk Activity Permit will also likely be required for the earthworks that are to be undertaken within the floodplain.

3.23 Water Framework Directive/Ecology: The proposed development involves additional physical modification of the River Foss and Black Dike (The Syke) water bodies. The creation of an embankment and control structure over the River Foss, along with associated hard bed and bank protection, will result in a direct loss of channel habitat.

3.24 Changes to the natural hydrology, as a result of the operation of the proposed control structure, have the potential to impact upon sediment transport processes and therefore habitat availability within the River Foss. Also the proposed realignment of Black Dike represents a further physical modification of the water environment.

3.25 The Humber River Basin Management Plan (RBMP) requires the protection, restoration and enhancement of water bodies to prevent deterioration and promote their recovery. Without appropriate provision of mitigation and/or compensatory habitat, the physical modifications associated with the proposed development could have an unacceptable impact on the biological quality elements and therefore the overall Water Framework Directive (WFD) status of the Foss from Farlington Beck to the Syke (GB104027063540) and Syke from Source to River Foss (GB104027063530) water bodies. This, in turn, could prevent the water bodies achieving their WFD objectives. Conditions required to make development acceptable with regard to WFD and ecology.

3.26 Pollution Control: Construction activities have the potential to cause pollution or impact on the banks of the watercourse and the quality of the water. No objection, however wish to be consulted when the CEMP is submitted.

Natural England

3.27 Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

3.28 Natural England agrees with the overall conclusion of the HRA (that there are no impacts to Strensall Common SAC) and has no objection to the proposal and welcome the amendments to the shadow Habitats Regulations Assessment (February 2020). Welcome the changes to the scheme design to ensure that a biodiversity net gain is achieved in each of the biodiversity units.

Regarding Strensall Common SSSI:

3.29 Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Soils, Land Quality and Reclamation: No objection (response received October 2020 in response to ES addendum chapter)

3.30 Two of the proposed borrow pits (T1 & T2) are to be returned to an agricultural use. These areas are covered by the detailed assessment and currently comprise 4.95ha of which 2.57ha is best and most versatile agricultural land. It is our opinion that these areas fall under schedule 5 of the Town and Country Planning Act 1990 (as amended). As such, should secure an aftercare scheme as part of a planning condition

3.31 Appendix F provides information on the extent of each area affected by the development. This suggests that 107.33 ha is directly impacted by the development. Appendix F indicates that this comprises a permanent loss of 19.4 ha of agricultural land. This is made up of the embankment footprint (9.1ha), the borrow pits (P1 and P2) returned to a wildlife use (6.35ha), access tracks and other land uses (3.95ha). It assumes that the borrow pits being restored (T1 and T2) covering an additional 4.95ha are a temporary loss of agricultural land as these are proposed to be returned to agricultural use. In some locations where a temporary loss has been identified, such as the proposed reinstated borrow pits, there is the potential for a loss of agricultural land quality to occur if the land is not restored to high standards. Other agricultural land impacts are mainly the result of additional flood risk (73ha), which give a total (termed temporary loss) of 87.93 ha.

3.32 28.15ha of agricultural land has been surveyed in detail by the applicants to provide more definitive information about the agricultural land grade and soil resources present; this is for those areas ('the survey area') where a permanent loss of agricultural land is proposed or where the use is assumed to be temporary but where significant soil disturbance by construction activities is anticipated. Table 2.6 indicates within this area, there is 13.11ha (47%) of best and most versatile agricultural land, comprising 3.75ha (13%) Grade 2 and 9.46ha (34%) Subgrade 3a. Subgrade 3b is mapped for 14.36ha (51%) with non-agricultural land comprising 0.58ha (2%) of the survey area. By way of comparison, the % of BMV land affected (47%) is slightly more than the estimated national proportion for England (42%), reflecting the overall high quality of agricultural land in this part of Yorkshire. The detailed ALC survey findings appear consistent with the mapped soil types and other detailed ALC surveys carried out in the locality.

3.33 The remaining part of the application area (123.73 ha) has not been subject to a detailed ALC and soils assessment. This is the area where the additional flood risk is the main consideration. For this area the applicants have used grading information from the published provisional ALC map as a baseline; this shows ALC Grades 2 and 3 land. Whilst use of the provisional mapping is not ideal given the limitations of this broad-brush mapping, for the purposes of solely assessing the impact of increased flooding, a worst case scenario has been adopted by the applicants. This assumes that all the Grade 3 land is Subgrade 3a. This approach is conservative, as evidence suggests a more mixed distribution of ALC grades with areas of lower quality land likely, given the soil types present.

3.34 The findings of the flood risk assessment are described under the heading of 'Operational Impacts' and in Appendix D which provides the applicants earlier response to Natural England's representations. Increased flooding is estimated to impact on 73ha of land as described in Appendix F; of this area about 39.9ha is estimated to be flooded during a 1 in 10 year flood event which is frequent enough to be a potential limitation in the ALC system. The impact of the flood modelling is summarised in Table 2.13. Based on the information provided it seems likely that the impact of increased flooding will have a minimal impact on the existing agricultural land classification grades (all assumed as a worst case to be grades 2 and 3a) due to the predicted frequency and short duration of these events, but that there may be some increased risk of waterlogging on an occasional basis affecting soil wetness and workability which could adversely impact on yield, crop quality or field operations at those times. On the basis of the ALC grading criteria

(MAFF, 1988) and the evidence provided, this level of flood risk would be insufficient to alter the likely grading at this location.

3.35 Two of the proposed borrow pits are to be returned to an agricultural use. These areas are covered by the detailed ALC assessment and currently comprise 4.95 ha of which about half is (2.57 ha) is best and most versatile agricultural land. Subject to conditions to undertake a suitable soil handling and restoration scheme which safeguards soil resources, and an appropriate aftercare scheme, in time it should be possible to return this land back to an equivalent quality.

Mineral considerations (i.e. borrow pits restored to agricultural use). Response received June 2020

3.36 To ensure the reclamation proposals meet the requirements for sustainable minerals development, the proposals should be carefully considered against guidance.

3.37 Conditions to safeguard soil resources and achieve a satisfactory standard of agricultural reclamation are recommended.

For the wider scheme:

3.38 It is recognised that a proportion of the agricultural land affected by the development will remain undeveloped. In order to retain the long term potential of this land and to safeguard soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management. Consequently, advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site.

#### Yorkshire Wildlife Trust

3.39 Yorkshire Wildlife Trust has a reserve at Strensall which is less than 200 metres from the proposed flood storage area. The Trust's reserve also forms part of the Strensall Common SSSI and SAC which is designated for H4010 Northern

Atlantic wet heaths with *Erica tetralix*, and H4030 European dry heaths. The SSSI designation also mentions the entomological interest of the site.

3.40 The Foss catchment is nationally and regionally important for two protected species, water vole and white clawed crayfish. The Foss catchment is relatively isolated from other waterbodies so there may also be better possibilities for controlling invasive species if a whole catchment approach is taken. The Foss flood storage project therefore provides a major opportunity to join up habitat and in the process enhance biodiversity, protect species such as water vole and white clawed crayfish, reduce flooding, and reduce siltation. This would provide opportunities to increase biodiversity and support government policy and the conclusions of Making Space for Nature.

3.41 The authority needs to be confident of the conclusions of the HRA done by the applicants, which concludes no significant impact on Strensall Common SAC, in particular confidence on the lack of impact on the groundwater regime. The Trust would fully support the comments and concerns of NYCC (Ecology) on the application.

3.42 The proposed flood storage scheme has the potential to provide good habitat for wildlife but the Trust has a number of concerns about the habitats proposed and future management of the wildlife areas.

3.43 Further comments:

- would like confirmation that movement of wildlife will not be impacted by the control structure
- potential for the accumulation of organic pollutants from pig farms
- Concern over invasive species such as Himalayan Balsam
- management plan long term consideration
- Foss and Black Dike have been artificially straightened and managed in the past. The Trust would recommend that re-naturalising rather than re-profiling of water bodies is carried out.
- Will agreements be reached with the IDB on best practise management for wildlife?
- Comments regarding field buffers
- Supports the creation of new habitats, and the permanent borrow pits will be valuable new ponds. Further consideration for wading birds, siltation and water quality

- Tree planting more appropriate along the River Foss.
- Wet grassland would be better away from the access
- Water vole mitigation needs further consideration

Foss Internal Drainage Board updated response 19<sup>th</sup> March 2020

3.44 The Board's maintained watercourses Black Dyke, Lilling Lane Dyke, along with the River Foss will be impacted by this work, which are all known to be subject to high flows during storm events. This proposal clearly has implications to the Board and its future activities but the Board understands from the options considered and the hydraulic constraints of the River Foss why storage and flow control at this location is being proposed - to endeavour to reduce flood risk to the communities downstream of the structure.

3.45 In these circumstances the scheme and its implications on the rural community are clearly going to be remote from the urban benefits achieved. The Board is clearly concerned about these works in the future and how they will be maintained in tandem with the existing drainage system which the Board chooses to exercise its permissive powers under the Land Drainage Act 1991.

3.46 The Board has reviewed the additional information provided by the applicant and many of the concerns remain. The Board does not consider that all of these issues are so relevant to planning that they would stop planning permission being granted. The Board believes the outstanding concerns could be addressed by appropriate planning conditions being applied rather than delaying approval of the scheme.

3.47 Reviewing the structure conceptual design area to be flooded, embankments and flow control and ancillary works associated with the scheme as a result of the works – for example, access roads, road raising, car parks etc.

- Concerns over future maintenance
- welcomes any changes to improve bank stability with slackened bank gradients. However do not know overall if the Boards machine will have adequate reach to maintain the watercourse.
- The Board accepts the ability highlighted the design of control structure includes some flexibility in the orifice design to allow for future 'fine tuning' of orifice size (if acceptable downstream and upstream) to account for any

differences observed between theoretical and actual scheme performance or flow conditions.

- concerned about modifications to the existing drainage system of 'ordinary watercourses' and the creation of new assets on privately owned land in its District with this scheme. In particular as the River Foss is not to become en-mained as 'Main River'. This results in the benefits of the work being remote from the scheme being considered. It is the Boards view this is not adequately explained. The situation being further complicated that some of the proposed assets will be considered (possibly designated) as part of a reservoir structure under the Reservoirs Act 1975 (as amended by the Flood and Water Management Act 2010)
- Concerns over ownership responsibilities and allocation of powers and funding. The issue with remote 'main river' benefits concerns riparian ownership. This also being complicated by the responsibilities of the Reservoirs Act 1991 along with the Floods and Water Management Act 2010. In view of this the Board considers the Planning Authority needs to satisfy itself that the scheme promoters will be effectively funding, operating, and maintaining the scheme for its design life. The Board would ask that these matters are addressed through a preconstruction planning condition to define the scheme promotor's responsibilities, land owners responsibilities and establish individual asset designations. This being used to confirm which powers can be applied to operate maintain and replace in the future. To further identify any outstanding operational, maintenance and replacement work which will not be done on 'ordinary watercourses' within the development area that the Board may have to consider funding in the future.
- Access arrangements are put in place for design life.
- Concerns over future ability of Environment Agency to fund non main river assets
- The Board is concerned that these are adequately maintained in the future and included in the Board's request for planning conditions.

### Kyle and Upper Ouse Drainage Board

3.48 No response received.

### Yorkshire Water

3.49 There are no public assets (sewers or water mains) recorded within the red line boundary. Based on the information submitted, no observation comments are required from Yorkshire Water.

#### Canal and Rivers Trust

3.50 Outside of consultation area. No comments.

#### York Ramblers Society

3.51 Support the raising of Ings Lane to over 19m OD where it crosses the Foss. Disappointed that there is no provision for temporary, or permanent, facilities for diversion of the footpath around the 19m OD line in the event of any flooding in this area. (Officer note – this part of the site is in Ryedale).

### **4.0 REPRESENTATIONS**

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

4.2 22 objections were received from members of the public (some of these were from the same members of the public making repeated representations) and from the National Farmer's Union.

4.3 The issues raised in the objections are summarised below.

#### National Farmer's Union (summarised)

- Understand the need to protect people and property, feel the significant loss of agricultural land (approx. 130 hectares) and potential damage to local farming businesses
- fly tipping
- How will compensatory biodiversity sites be secured?
- Clarification over area to be flooded/river flow
- Concern over borrow pits in terms of soil, security and maintenance
- Applicant states that permanent loss of agricultural land is 18.87 ha, whereas 121 hectares would be flooded and the fact it is grade 2 agricultural land with harm to crops from more frequent flooding and financial implications

- Notes omissions in policies in the planning statement such as land management, food production, rural enterprise, agricultural land and flood storage
- What will happen to imported material that does not meet specification?
- Has the land to be re-profiled been acquired?
- Query regarding compensation and ability to deliver habitat
- Lack of detail regarding eradication programme for Himalayan Balsam and Giant Hogweed
- Question how proposed net biodiversity gain will relate to the biodiversity loss and loss of agricultural land
- Clarification over IDB responsibilities
- Feel full agricultural land assessment required
- Query apparent discrepancy of figures for water storage area
- Would like to see EA added as responsible party for the temporary land works and the CEMP
- Would like to see agricultural land access included in the action to minimise impact on transport routes
- Concern over detail on landscape masterplan

4.4 A summary of the representations from members of the public raising the following concerns.

#### Impact on agricultural land

- In principle supportive of the scheme to flood low lying farmland instead of homes when there is no alternative however the proposal will seriously compromise business and livelihood
- Concerns over impact on ability of land to be farmed. A significant area no longer be suitable for cropping
- Compensation concerns
- Attitude of EA has led to objection, not right that a handful of Ryedale businesses should pay the price for it.
- Home and livestock at risk
- Loss of 28.5 acres field for cropping, client has no livestock
- If right to flood land is grassed, there is implications for fencing to make land stock proof
- Flooded land will not sustain grazing horses or land for making hay
- Stables likely to become redundant

- Lots of food is imported to this country, question over quality and also the carbon footprint
- Loss of value to property, business and livelihood

#### Impact on drainage and flood risk

- Restriction to Foss will result in water backing up the river and flooding and waterlogging the farmland. Knock on effect in extreme events for nearby drains and ditches
- Will render previous private drainage investment worthless
- Questioning EA predictions regarding the impact of the proposals on farmers just outside the area. Even if predictions are true, then even the short periods of flooding can make the difference of life and death for a crop. The land affected has a high clay content and water which is only suitable for autumn cropping which would be affected.
- Flood water now coming onto our land flooding and flooding our pond (Lilling Green Farm). Existing residential and equestrian small holding with cattery, holiday cottage, buildings offering livery use. If owners chose to sell, likely to be a loss of value up to 50% and may not be able to operate their businesses.
- Lack of consultation
- Does not adequately address issues upstream of proposed works
- EA have not provided compensation figures in terms of ownership of dam structure and how right to flood will work
- EA based flood models on 2007 which was an exceptionally wet year
- Plans constantly changing, uncomfortable as to accuracy of their plans
- Whole drainage system could be compromised
- Query ownership of slow the flow dam structure
- Impact of proposal on ability to plan for future, given unknowns
- Impact on wellbeing
- Reports ignore wider implications on relatively flat Foss river basin
- If normal flow restricted due to scheme, self-evident that water levels rise upstream
- Time and expense of drainage improvement already carried out will be severely harmed by works
- Future maintenance and responsibility not assured which could have severe flooding consequences
- Until scheme fully built and functioning alleged effects are unproven
- Work of EA and modelling software may be wrong
- Interests of the few being sacrificed for the benefits of the many

- Measures such as regular maintenance are tried and tested but are unfashionable compared to large schemes
- Breach scenarios of dam not considered.
- Red line boundary correction
- Embankment should be raised to prevent spillage onto paddock, pond should be protected

## Highways

- BT junction box on road that will flood
- Maintain access during construction
- Concerns over routing of traffic through West Lilling

4.5 3 letters of support were received from members of the public and a further two responses of support on behalf of the River Foss Society.

- Necessary to reduce risk of future flooding along Huntington Road north of Monk Bridge.
- Perfect solution to sudden torrent of rainwater
- Resident of Strensall living close to Foss, fully support proposal
- The River Foss Society fully supports this project, however, on its completion would like to see a public viewing area closer to the project to allow for bird watching and viewing other wildlife activity.

4.6 Following the initial consultation that commenced in December 2019, the Environment Agency, as the applicants provided responses to these. These consultation responses are available to view in full on Public Access. A number of the responses made reference to compensation caused by the impact of the works. This is not a material planning consideration, however for information the Environment Agency did provide an explanatory note regarding landowner compensation under the Water Resources Act 1991.

4.7 Following the submission of further information relating to the Environmental Statement, the application was re-advertised by way of neighbour notification, press and site notice in February/March 2020

4.8 A second objection was received from the National Farmer's Union raising the following points

- Note change to reprofiling of Foss from 225 metres to 1.3km. This will increase area of farmland affected
- Note there might be a small benefit to agricultural land downstream, this has no correlation with land upstream
- Inclusion of additional lower level berms into channel of the Foss will also have a significant effect and might impact on the Foss FSA Modelling Summary Note
- Increasing case for a soils and agricultural land assessment

4.9 A further consultation period was undertaken in September 2020 following the submission of an addendum to the Environmental Statement. An objection was received on 25<sup>th</sup> October raising the following concerns:

- Querying the correctness of the red line plan for the planning application
- Consider building a dam on farmland is going to increase flooding on our land during a 1 in 2 year event
- request that an independent flood risk assessment is undertaken as we do not believe the Applicants modelling is sound. The base line data that they have used for their modelling is incorrect and despite us providing the Environment Agency with evidence and the correct data to use, they have refused to change their modelling. Until the modelling is correct there is no way of truly assessing the impact of the scheme on the land and the true loss of BMV soils
- Applicant has not carried out a detailed land drainage survey
- ES addendum fails to consider impact of inundation on land
- EA cannot confirm quality of material to be used and therefore cannot confirm no materials will be brought onto the site for construction
- Querying soil sampling

4.10 The applicant has responded to the query regarding the accuracy of the red line plan. They note that “The flood extent shown in figure 5 of the supplementary statement is taken from raw unedited flood maps and has included some flooded areas not included in the original planning application or red line boundary. These areas were not included in the original submission as modelling has shown that these areas flood to the same extent for both the current ‘baseline’ scenario and the Foss FSA scheme scenario. The increased area shown is therefore not part of the operational flood storage area and as such the current red line boundary and submitted flood map is correct.”

4.11 A further objection was received on behalf of five landowners who farm land west of Sherriff Hutton Bridge Road raising the following concerns.

- Concerned following a meeting the EA provided no information the proposal would not affect their land
- Insufficient time to respond to a topographical survey
- due to level nature of Foss critical to the efficiency of the drainage and hence the productive earning capacity of each of the holdings.

## **5.0 APPRAISAL**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 The Council does not have an adopted local plan that covers the whole local authority. The statutory development plan for the area of the application site comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt, saved under The Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.

### **5.3 Main Issues**

- flood risk and drainage
- water environment
- impact on the natural environment
- minerals and waste
- agricultural land and soils
- impact on the character of area
- impact on amenity
- archaeology
- highways and parking
- impact on the green belt
- very special circumstances

### **FLOOD RISK**

5.4 The NPPF states in paragraph 148 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of

flood risk. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience.

5.5 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

5.6 Paragraph 163 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Development should only be allowed in areas at risk of flooding where, in the light of the flood risk assessment it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan

5.7 Paragraph 165 of the NPPF goes onto to say that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.

5.8 Paragraph 2.14 of the 2018 Draft Plan states that the plan will ensure development does not result in increased flood risk elsewhere and, where possible, achieves reductions in flood risk overall. Draft Policy ENV4 states that where flood risk is present, development will only be permitted when the local planning authority is satisfied that any flood risk within the catchment will be successfully managed (through a management and maintenance plan for the lifetime of the development) and there are details of proposed necessary mitigation measures.

5.9 The application site is within flood zone 3. National planning guidance (the NPPG) requires therefore that the sequential test be undertaken. The type of development proposed is classed as water compatible and is therefore appropriate; the exception test is not required. However the guidance states that in Flood Zone 3b (functional floodplain) water-compatible uses, should be designed and constructed to:

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

5.10 The Sequential Test is passed on the following grounds -

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

5.11 The submitted ES also considers the following matters:

- Flood risk
- Water resources and usage;
- Water quality - this is also considered in the Water Framework Directive Assessment report submitted with the planning application;

Geomorphology – this is also considered in the Geomorphology Assessment and the Water Framework Directive Assessment report.

5.12 The beneficial residual impacts to residential and commercial properties are identified through the reduction of flood risk. While residents of Lilling Green Farm, which lies in Ryedale have objected on flood risk concerns, it is noted that the Environment Agency in its role as a statutory body has not objected to the proposal on flood risk grounds.

5.13 The Foss Internal Drainage Board have noted concerns relating to the changes to the Foss and Black Dike including for matters such as maintenance and land drainage. In response the Environment Agency have included a note which states the mitigation provided by river reprofiling and also the IDB to undertake their maintenance of watercourses. In their revised response to the application in March 2020, the Foss IDB removed their objection to the application and request that

conditions be imposed to consider drainage in line with those conditions recommended by the lead local flood authorities of York and North Yorkshire.

5.14 Concerns have also been raised by farmers of affected land and residents, particularly to the north of the site of the impact the changes in how the Foss drains during flood events will have on them in terms of the impact on agricultural land and also flood risk. Conditions are proposed regarding surface water drainage and maintenance. The impact on best and most versatile agricultural land is considered later in this report at paragraph 5.44. With regard to matters such as compensation, the Environment Agency have noted that “The Water Resources Act 1991 (Schedules 20 and 21) contains a process whereby anyone who suffers loss or damage as a result of the Agency entering on to land to carry out works, or the carrying out of such works, can claim compensation.” The compensation process is entirely separate from the determination of any planning application and is not a material planning consideration.

5.15 Objections have been raised of the drainage and flood risk implications wider than the application site that would have an impact on agricultural land. In their response to objections, the applicant noted in response that for the land upstream of the post development 1:100 year plus climate change flood extent the applicant’s assessment is that there will not be a material impact on land use. (supplementary statement dated 7<sup>th</sup> Feb 2020).

5.16 Furthermore, the flood risk modelling note submitted by the Environment Agency (February 2020) explains that:

“For small magnitude flood events (e.g. 1 in 2 year event) the proposed Foss FSA will cause water to spill out on to the left flood plain as planned. The impact of raised water levels diminishes the further upstream you go in the River Foss. From Lilling Green Dyke outfall and upstream, the impact of the proposed scheme is relatively minor and only slight increases in the duration of which land drains would be locked are expected. It is only for the larger flood events, like the 1 in 10 year event and greater, that impoundment starts to cause widespread out of bank flooding upstream in the FSA. The elevated water levels also lock the land drains for longer. However, even for the 1 in 100 year plus climate change event, the increased locking of land drains is only for a relatively short period of time. The maximum is an additional 35hrs immediately upstream of the control structure reducing to 20hrs at Ings Lane. The reason for this limited impact is the large diameter of the control structure

orifice and the fact that the FSA can discharge from full to empty in approximately 35 hours.”

5.17 The proposed development does include approximately 0.5 hectares of additional impermeable hardstanding and concerns have been raised over the impact of surface water run off as a result of the proposal. Due to this, a surface water drainage strategy is required to deal with surface water run-off. The Lead Local Flood Authority and the Foss Internal Drainage Board have requested a planning condition to include a surface water drainage strategy be agreed and for it to meet sustainable drainage guidance as well as a condition to include drainage maintenance.

5.18 It is also noted that some objectors recognise that the existing farmland already has drainage issues and indeed have made reference to remedial land drainage works they have undertaken in recent years indicting the existing drainage issues for the land. There has been a query of using data from 2007, given water levels at this time, however this is not unreasonable as it captured water levels during an extreme event.

5.19 The proposed development will reduce flooding downstream, providing great public benefits in the form of the flood protection for 490 properties, 465 of which are residential. Subject to appropriate conditions, the proposal is acceptable on drainage and flood risk grounds.

## WATER ENVIRONMENT

5.20 The EU Water Framework Directive establishes a framework for the protection of water bodies, including surface water bodies such as rivers. The baseline condition of all water bodies in England was presented in 2009 in River Management Basin Plans. The aim is for all waterbodies to be achieving good status.

5.21 Paragraph 170 e) of the NPPF states that planning decisions should contribute and enhance the natural and local environment by wherever possible helping to improve local environmental conditions, such as water quality, taking into account relevant information such as river basin management plans.

5.22 The 2018 Draft Plan, sets out that the plan seeks to safeguard water resources and to protect and improve water quality with an overall aim of getting

water bodies to 'good' status under the Water Framework Directive (para 2.14). Policy DP2 of the 2018 Draft Plan states that development will help conserve and enhance the environment through maintaining water quality in the River Foss.

5.23 Within the Environmental Statement, the impact on the water environment is considered. In addition to flood risk, this includes:

- water resources and usage
- water quality
- geomorphology

5.24 The River Foss and Black Dike (or Syke) are subject to legislative protection including through the Water Framework Directive (WFD). The current status of these waterbodies is 'moderate' for the Foss and 'moderate' for Black Dike. The ES sets out that without mitigation the construction and operational periods could result in some medium adverse impacts on the water environment and that the significance of this would be moderate. Therefore mitigation is proposed in the form of a Construction and Environmental Management Plan to be secured by planning condition to cover the construction impacts. A number of measures are proposed to deal with the operational impacts including measures such as improvements to the profile of the Foss banks, realignment of Black Dike, the design of the control structure and provision of ponds. The Environmental Statement concludes that subject to the mitigation measures, the residual effects to the water environment will not be significant with the exception of the impact on agricultural land and also the aforementioned benefits to properties in terms of flood protection. The Council's Ecologist had recommended a ground water monitoring condition be imposed if permission is granted on Strensall Common. However, the HRA advised that ground water monitoring is not required on Strensall Common as there is no adverse impact shown to the SAC itself but recommended monitoring by the application site itself. The applicant has confirmed they will undertake this and the results will be shared with the local planning authority. A condition for this is to be imposed.

## ECOLOGY

5.25 Section 15 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment. This includes by protecting and enhancing sites of biodiversity. Paragraph 175 advises that when determining applications the following principles should be applied.

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.

5.26 Para 177 goes on to say that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

5.27 Policy GI1 of the 2018 Draft Plan states York's landscapes, geodiversity, biodiversity and natural environment will be conserved and enhanced recognising the multifunctional role of green infrastructure in supporting healthy communities, cultural value, a buoyant economy and aiding resilience to climate change.

5.28 Policy GI2 states that in order to conserve and enhance York's biodiversity, any development should where appropriate:

II. ensure the retention, enhancement and appropriate management of features of geological, or biological interest, and further the aims of the current Biodiversity Audit and Local Biodiversity Action Plan

III. take account of the potential need for buffer zones around wildlife and biodiversity sites, to ensure the integrity of the site's interest is retained;

iv. result in net gain to, and help to improve, biodiversity;

v. enhance accessibility to York's biodiversity resource where this would not compromise their ecological value, affect sensitive sites or be detrimental to drainage systems;

vi. maintain and enhance the rivers, banks, floodplains and settings of the River Foss, and other smaller waterways for their biodiversity, cultural and

historic landscapes, as well as recreational activities where this does not have a detrimental impact on the nature conservation value;

vii. maintain quality in the Foss to protect the aquatic environment, the interface between land and river, and continue to provide a viable route for migrating fish.

5.29 Policy GI3 states “in order to protect and enhance York’s green infrastructure networks any development should where relevant:

I. maintain and enhance the integrity and management of York’s green infrastructure network, including its green corridors and open spaces;

II. protect and enhance the amenity, experience and surrounding biodiversity value of existing rights of way, national trails and open access land;

III. ensure the protection of the hierarchy and integrity of York’s local, district and regional green corridors”

5.30 The proposed development lies upstream of Strensall Common which is designated as a SSSI and SAC. Given this, the application is EIA development due to the potential likely significant impacts on Strensall Common and has an accompanying Environmental Statement (ES) with an addendum published in February 2020 following the consultation response of Natural England which requested further information. The ES and addendum have been considered by Ecology officers for both North Yorkshire County Council and City of York Council, the Environment Agency (in their role as a statutory consultee) and also by Natural England.

5.31 With regard to the designated sites of Strensall Common the ES states there will be no significant effects on the SAC based on the groundwater and fluvial modelling. Following on from this, the ES addendum concluded that there would be ‘no likely significant effects’ to Strensall Common.

5.32 Further to consideration of the designated sites, the ES identified habitats of principal importance including rivers, lowland mixed deciduous woodland and hedgerows. Other habitats include arable agricultural fields, semi-improved grassland, bank/riverside vegetation, ponds, tall ruderal vegetation and scattered scrub.

5.33 Identified protected or notable species identified are water voles, otter, bat species (foraging/commuting), potential bat roost in tree in borrow pit location, a

range of farmland birds (including grey partridge, skylark, tree sparrow, yellow wagtail, linnet, corn bunting, yellow hammer and reed bunting). The application site lies within a green infrastructure corridor (figure 3.2 of the 2018 Draft Plan).

5.34 The City of York Council's Ecologist advised that the ecological impacts in York are;

- ☐ River Foss temporary diversion channel – impact on water vole burrows.
- ☐ Flow control structure – impact on water vole burrows and movement of fish/eel
- ☐ Temporary river crossing – potential impact on water vole.
- ☐ River Foss re-profiling – potential impact on water vole
- ☐ Re-alignment of Black Dike – potential otter holt identified here
- ☐ Proposed wetland grassland mix.

5.35 The applicant has submitted a Biodiversity Impact Calculator Report using the DEFRA Biodiversity metric 2.0. This does not cover the designated sites such as Strensall Common or irreplaceable habitat impacts. The assessment concludes that there will be 10.84% net gain for habitat units, 11.91% net gain for hedgerow units and 1.22% net gain for river units.

5.36 With regard to water voles and otter holts a pre-construction survey is proposed to be secured by condition. The scheme will result in new habitat suitable for water voles and otters in the Ryedale area. A condition is also recommended with regard to fish easement within the control structure and the creation of the wet grassland.

5.37 The impact on nesting birds lies within the Ryedale area, linked to the creation of borrow pits. As such, a condition solely on land outside of York is not considered to meet the test of enforceability and it is for Ryedale to impose a condition.

5.38 The proposal is considered to be acceptable with regard to the impact on the designated sites at Strensall Common. The other impacts on the natural environment are considered, subject to appropriate conditions to be acceptable. The impact on the natural environment is not considered to conflict with paragraph 175 of the NPPF. It is also noted that Natural England, the Environment Agency and the local authority ecologists have no objections to the proposal.

## MINERALS AND WASTE

5.39 Paragraph 206 of the NPPF states that local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working. There are surface minerals across the application site including sand and gravel but the site is not allocated in the 2016 Draft JMWP for extraction of sand and gravel.. The 2016 Draft JWMP also indicates that there are deposits of clay within the NYCC and City of York area, although the extraction of clay in York for bricks has not been undertaken for approximately 50 years. Policy S01 seeks to safeguard mineral resources against surface development.

5.40 Policy S02 states that “within surface minerals safeguarding areas... permission for development other than minerals extraction will be granted where:

- i) It would not sterilise the mineral or prejudice future extraction; or
- ii) The mineral will be extracted prior to the development (where this can be achieved without unacceptable impact on the environment or local communities), or
- iii) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or
- iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or
- v) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed; or
- vi) It constitutes ‘exempt’ development (as defined in the Safeguarding Exemption Criteria list).”

5.41 Policy MI3 seeks continuity of supply of clay. The draft minerals and waste policies should be applied with moderate weight.

5.42 The Minerals Planning Practice Guidance states that with regard to industrial minerals such as clay, authorities should recognise that there are marked differences in geology, physical and chemical properties, markets and supply and demand between different industrial minerals, which can have different implications for their extraction.

5.43 The proposed development is in essence a substantial engineering operation with the digging out of clay from borrow pits on the site and the use of the clay to form the bunding. The EA indicate that there is likely to be required an import of clay of approximately 2100 cubic metres to make up for a shortfall of clay of the necessary quality from the borrowpits. The use of borrowpits reduces the

requirement for bringing further clay onto the site. It is material that the creation of the bunding in York is likely to prevent future extraction of resources under the site of the bund from use and that the depositing of this material from outside of the site may also have an impact on the quality of this underground resource. The ES (Section 7.7) has considered the impact of the proposed development with regard to the impact on mineral resources and concludes that there will be a slight adverse impact on minerals resources that cannot be mitigated. However, only relatively small areas below the footprint of the embankment and the borrow pits are likely to remain inaccessible for future uses. Furthermore the mineral below the footprint of the embankment will be extracted and utilised in the construction process. Given this and the wider benefits of the proposal, the development is considered to comply with draft mineral policy S02 and generally with paragraph 206 of the NPPF given the only minimal loss of resource on site and its utilisation in the construction of the scheme.

5.44 Natural England have no objection to the proposal with regard to the mineral considerations but note that aftercare and restoration are important considerations, and a condition is recommended to require a soil restoration statement.

#### AGRICULTURAL LAND

5.45 In accordance with paragraph 170b) of the NPPF decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile (BMV) agricultural land. Para 118 states that planning decisions should recognise that some undeveloped land can perform many functions such as for wildlife, flood risk mitigation or food production. Policy D12 of the 2016 JMWP is of some relevance and is applied with moderate weight. The policy states that with regard to minerals and waste development that the best and most versatile agricultural land will be protected from unnecessary and irreversible loss. Where development of BMV agricultural land is justified proposals should prioritise the protection and enhancement of soils and the long term potential to recreate areas of BMV land. Where relevant, development will be subject to aftercare requirements to ensure that a high standard of agricultural restoration can be achieved.

5.46 Agricultural land quality is classified (ALC) on the following scale with BMV land is graded from 1 to 3a.

- Grade 1 – excellent quality agricultural land
- Grade 2 – very good quality agricultural land
- Grade 3 – good to moderate quality agricultural land
- Subgrade 3a – good quality agricultural land
- Subgrade 3b – moderate quality agricultural land
- Grade 4 – poor quality agricultural land
- Grade 5 – very poor quality agricultural land

5.47 Following concerns raised by objectors with regard to the impact on agricultural land a further addendum chapter to the ES covering agricultural land and soils was submitted in September 2020 and subject to consultation.

5.48 The ES addendum chapter sets out that the development will result in a substantial adverse effect on agricultural land, including the permanent loss of 19.4 hectares of agricultural land (appendix F). Section 4 notes the permanent loss of 9.07ha of BMV land (7.55ha of Subgrade 3a land combined with the 1.52ha of Grade 2 land). However, this total loss will be mitigated through the use of BMV topsoil from permanent areas of loss of the development to reinstate areas of lower quality soil, within the temporary borrow pits (located in Ryedale). Thereby offsetting some of the total loss of BMV land. The scheme will have a moderate adverse effect on BMV within the footprint of the FSA. However, this will not result in it falling within a lower ALC grade and therefore not cause any additional permanent loss of BMV land.

5.49 Natural England have considered the ES addendum on agricultural land and soil quality. Increased flooding is estimated to impact on 73ha of land as described in Appendix F; of this area about 39.9ha is estimated to be flooded during a 1 in 10 year flood event. Natural England go on to note that “based on the information provided it seems likely that the impact of increased flooding will have a minimal impact on the existing agricultural land classification grades (all assumed as a worst case to be grades 2 and 3a) due to the predicted frequency and short duration of these events, but that there may be some increased risk of waterlogging on an occasional basis affecting soil wetness and workability which could adversely impact on yield, crop quality or field operations at those times. On the basis of the ALC grading criteria (MAFF, 1988) and the evidence provided, this level of flood risk would be insufficient to alter the likely grading at this location”. Natural England have no objection with regard to the impact on soils and agricultural land subject to condition.

5.50 Furthermore the EA have noted that there will be benefits to approximately 22 hectares of agricultural land, some of which may be BMV land grade 3a, much of which is in the York area, downstream through the proposed flood protection.

5.51 The impact on agricultural land, while contrary to paragraph 170b) of the NPPF, should also be considered in the context of paragraph 118 which highlights the 'many functions' undeveloped land can perform. The impact on agricultural land is acknowledged, including the permanent loss of over 9 hectares of BMV land, but as the applicant's submission makes clear, this should not result in an additional loss of best and most versatile soil as a result of the impact of the scheme. It is also noted that Natural England as a statutory consultee have confirmed they have no objection to the scheme on this matter.

## IMPACT ON THE CHARACTER OF THE AREA

5.52 Paragraph 127 of the NPPF says that planning decisions should ensure that developments are visually attractive as a result of effective landscaping. Paragraph 170 goes on to say that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Policy D1 of the 2018 Draft Plan should be applied with moderate weight and states that proposals should enhance and complement the character and appearance of landscape. Emerging Policy D2 considers landscaping and setting for design proposals. The Policy states that proposals will be supported where, amongst other things, they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities.

5.53 With regard to the development in the York boundary, the proposal will result in the construction of a bund on what is an otherwise relatively flat area of land adjacent to the River Foss. While the bunding will form a change in this existing landscape, this will be softened due to the design allowing vegetation to grow through the bunding. The realignment and reprofiling of water bodies will be relatively neutral and over time will blend into the landscape. The control structure that crosses the Foss will be more visually apparent but structures crossing waterways are a common feature even in rural areas. There is for example a footbridge in close proximity. Planting is proposed, including for trees as part of the wider scheme on the banks of the Foss facing the York boundary. Subject to appropriate planning conditions covering landscaping and planting for trees it is

considered the proposal would be visually attractive and would conserve and enhance the landscape quality.

## ARCHAEOLOGY

5.54 Section 16 of the NPPF considers the impact of development on the historic environment, including archaeology. Policy D6 of the 2018 Draft Plan is also relevant. Prior to determination of the application, archaeological work including the evaluation trenches have revealed a small number of archaeological features. The Council's Archaeologist has considered the proposal and in liaison with the North Yorkshire County Council Archaeologist considers that the proposal will be acceptable subject to condition.

## HIGHWAYS

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

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

5.56 Para 109 goes on to say that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy T1 of the 2018 Draft Plan states that to provide safe, suitable and attractive access, proposals will be required to demonstrate there is safe and appropriate access to the adjacent adopted highway. Proposals should also create safe and secure layouts for motorised vehicles (including public transport vehicles), cyclists, pedestrians that minimise conflict. Policy GI3 states that any development, where relevant should protect and enhance the amenity, experience and surrounding biodiversity value of existing rights of way, national trails and open access land.

5.57 The proposed vehicular access for construction vehicles is due to be from the A64 and outside of the York boundary. There is an existing public right of way that runs across the site and this is to be restored once the construction has been

completed. Following an initial objection from North Yorkshire County Council Highways, over the number of HGVs being routed through villages in Ryedale for the importation of clay onto the site, the applicant has undertaken further work which confirms they will no longer require to import clay onto the site for the works. This has resulted in the objection being lifted subject to a construction traffic management plan condition. York's Highway Officer has no objection subject to the same condition.

## IMPACT ON AMENITY

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

5.59 Within the York area of the application site there will be various engineering works. The site compound will be located well to the north of Strensall within Ryedale. Construction traffic will also reach the site from Ryedale.

5.60 The nearest houses to the engineering works in York will be Walbutts Farm and the Barn at Walbutts Farm, approximately 150 metres to the south west and East Lilling House, approximately 350 metres to the east. The Council's Public Protection team have suggested a condition covering a Construction and Environmental Management Plan. Given the likely length of time of the project, 2 years, and the relatively open landscape which can cause sound to carry some distance, this condition is considered necessary and reasonable to protect amenity.

## GREEN BELT

5.61 The exact boundaries of the York Green Belt are to be fixed during the Local Plan process. For the purposes of this application, the site is therefore considered to be within the general extent of the Green Belt in line with the saved policies of the revoked Yorkshire and Humber RSS which states that the local plan will define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre.

5.62 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very

special circumstances. Paragraph 146 states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes engineering operations.

5.63 Policy GB1 of the 2018 Draft Plan is also relevant, however only limited weight can be attached to this policy given the current stage of the Plan and the unresolved objections. Policy GB1 of the 2005 DCLP is also a material consideration, albeit with very limited weight.

5.64 The application and the surrounding area is very flat, although there are tree groupings to the north and south of the site. The creation of a substantial area of bunding measuring in places up to 3 metres in height will undoubtedly disrupt the open nature of the area and result in a reduction in visual openness, particularly when viewed from the existing public right of way that runs through the western part of the site. Furthermore the inclusion of infrastructure in the form of part of the river control structure, which will lie across the Foss, will also have a minor adverse impact on openness due to its height, scale as a new structure.

5.65 The purpose of the Green Belt in this location is considered to primarily be the safeguarding of the countryside from encroachment and help preserve the setting and character of York and its surrounding villages. The proposal is not considered to conflict with these purposes as the rural nature and character would remain. Given the loss of openness very special circumstances are required for the application to be approved.

#### VERY SPECIAL CIRCUMSTANCES

5.66 As per paragraph 143 of the NPPF, inappropriate development in the green belt should not be approved except in very special circumstances. Para 144 goes on to say that any harm to the green belt is given substantial weight in the planning balance. Furthermore, very special circumstances will not exist unless the potential harm to the green belt and any other harm resulting from the proposal is clearly outweighed by other considerations.

5.67 The proposed development will result in improved flood protection of approximately 465 number of dwellings and 25 non-residential properties downstream in York. This is a benefit that is considered to carry great weight in favour of the scheme and is considered to be a very special circumstance that

clearly outweighs the identified harm to the green belt openness, best and most versatile agricultural land and mineral resources.

## **6.0 CONCLUSION**

6.1 Paragraph 11 of the NPPF states local planning authorities should approve development proposals that accord with an up-to-date development plan without delay. The proposal is for development in the green belt that is deemed to have a harmful impact on openness. As such, paragraph 143 of the NPPF states development of this kind should be refused unless there are very special circumstances to outweigh green belt harm and any other identified harm.

6.2 The harm to the openness of the York green belt is considered to be modest in scale. Further minor harm is identified in the impact on mineral resources and moderate harm is identified due to through the permanent loss of over 9 hectares of BMV agricultural land across the York and Ryedale parts of the application site.

6.3 Conversely, the benefits to the scheme include the protection to approximately 465 residential properties downstream of the application site, a further 30 commercial properties. Additionally, approximately 22 hectares of BMV agricultural land, much of which in York will receive additional flood protection. It is considered that great weight should be afforded to these significant flood protection benefits. The Environmental Statement and Biodiversity Impact Calculator also identifies there is no harm to the designated sites at Strensall Common and to biodiversity or hydrology that could not be overcome by appropriate planning conditions. Indeed, once mitigation is carried out, there are further benefits for example through the wildlife ponds and some weight is afforded to these benefits.

6.4 The impact on amenity, archaeology, drainage and the local highway network are considered to be acceptable subject to appropriate planning conditions. Weighing the proposal up in the planning balance, it is considered that very special circumstances exist; the identified benefits of flood protection are considered to clearly outweigh the identified harms. Subject to the following planning conditions, approval is recommended.

**7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

Site Location Plan:

ENV0000381C-CAA-00-00-MP-EN-C0400:9 Rev P06

General Arrangement Plan:

ENV0000381C-CAA-00-00-DR-C- I0500\_23 (Rev P02) dated 10/02/2020

Black Dike Re-Alignment Plan and Section:

ENV0000381C-CAA-00-00- DR-C- I0500\_36a (Rev P02) dated 27/01/2020

River Foss Re-Profiling South Locations:

ENV0000381C-CAA-00-00-DR-C-I0500\_41 Rev P01 dated 08/11/2019

River Foss Re-Profiling North Locations:

ENV0000381C-CAA-00-00-DR-C-I0500\_40 Rev P01 dated 08/11/2019

Flow Control Structure Sections:

ENV0000381C-CAA-00-00-DR-C-I0500\_36 Rev P01 dated 08/11/2019

Outlet Channel Plan and Section:

ENV0000381C-CAA-00-00-DR-C-I0500\_35 Rev P01 dated 08/11/2019

Inlet Channel Plan and Section:

River Foss Re-Profiling South Locations:

ENV0000381C-CAA-00-00-DR-C-I0500\_34 Rev P01 dated 08/11/2019

Flow Control Structure Plan and Sections

River Foss Re-Profiling South Locations:

ENV0000381C-CAA-00-00-DR-C-I0500\_33 Rev P01 dated 08/11/2019

Embankment Cross Sections:

ENV0000381C-CAA-00-00-DR-C-I0500\_31 Rev P01 dated 08/11/2019

Embankment Long Section:

ENV0000381C-CAA-00-00-DR-C-I0500\_30 Rev P01 dated 08/11/2019

Spillway General Arrangement:

ENV0000381C-CAA-00-00-DR-C-I0500\_29 Rev P01 dated 08/11/2019

Earthworks Borrow Pit P1 Plan and Sections:

ENV0000381C-CAA-00-00-DR-C- B1301\_22 Rev P03 dated 07/02/2020

Earthworks Borrow Pit P1 Plan and Sections:

ENV0000381C-CAA-00-00-DR-C- B1301\_23 Rev P03 dated 07/02/2020

Site Access, Compound Area and Temporary Works:

ENV0000381C-CAA-00-00-DR-C-I0500\_24 Rev P02 dated 02/12/2019

Services and Boreholes:

ENV0000381C-CAA-00-00-DR-C-I0500\_25 Rev P01 dated 08/11/2019

Landowner Access Ramp:

ENV0000381C-CAA-00-00-DR-C-I0500\_32 Rev P01 dated 08/11/2019

Landscape Masterplan:

ENV0000381C-CAA-00-00-DR-L-C0700\_36 Rev P05 dated 11/02/2020

Landscape Area A:

ENV0000381C-CAA-00-00-DR-L-C0700\_37 Rev P05 dated 11/02/2020

Landscape Area E Borrow Pit Proposals:

ENV0000381C-CAA-00-00-DR-L-C0700\_41 Rev P05 dated 11/02/2020

Landscape Area D:

ENV0000381C-CAA-00-00-DR-L-C0700\_40 Rev P02 dated 02/12/2019

Planting Schedule:

ENV0000381C-CAA-00-00- DR-L-C0700\_43 Rev P04 dated 11/02/2020

Tree Constraints Plan:

ENV0000381C-CAA-1-XX-DR-C-001 Rev P01 dated 31/07/2019

Landscape Cross Sections:

ENV0000381C-CAA-00-00- DR-L-C0700\_42 Rev P02 dated 02/12/2019

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

3 No development shall take place until a scheme detailing surface water drainage has been submitted to and approved by the Local Planning Authority in consultation with the Internal Drainage Board. The scheme will make provision for sustainable drainage unless it can be demonstrated that this is inappropriate. Any works shall be implemented in accordance with the approved surface water drainage scheme and maintained thereafter for the lifetime of the development. The development shall not be brought into use until the approved drainage works have been completed.

Reason:

To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk.

4 Prior to commissioning of the development, an appropriate exceedance flow plan for the flood storage area shall be submitted to and approved in writing by the Local Planning Authority.

Reason: to prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off site.

5 No development shall take place until details of the means of operation, management, repair and maintenance of the flood storage area, associated apparatus/embankments and borrow pits have been submitted to and approved by

the Local Planning Authority. Details to include; plans and schedules showing the flood storage areas, associated apparatus/embankments and borrow pits to be vested with the relevant Statutory Undertaker/s, land owner and highway authority with a clear understanding of who will operate, repair and maintain at their expense, and any other arrangements to secure the operation and maintenance of the approved scheme. The development shall be carried out in accordance with the approved details.

Reason: To prevent the increase risk of flooding and to ensure the future maintenance of the scheme throughout the lifetime of the development.

6 In accordance with the planning documents submitted, to mitigate the impact of the proposed physical modifications and prevent the deterioration of WFD water body status, the proposed development must include the provision and management of adequate ecological mitigation or compensatory habitat on the The Syke from Source to River Foss (GB104027063530) water body. The scheme for mitigation must be implemented as approved. The ecological mitigation and compensatory habitat shall include, but not necessarily be limited to:

o As per drawing I0500\_36a P02 and the Geomorphology and WFD mitigation measures for the Foss Flood Storage Area Technical Note, measures to mitigate the impact of the Black Dike channel realignment - including the creation of a 119m two-stage meandering (sinuous) channel with alternating low level berms, a natural bed substrate and vegetated banks using locally appropriate water-dependant species.

Reason:

In England and Wales, compliance with the WFD is achieved through meeting the requirements of the relevant RBMP. The proposed development falls within the Humber RBMP. Construction and operation of the proposed scheme on the Syke from Source to River Foss (GB104027063530) and Foss from Farlington Beck to the Syke (GB104027063540) water bodies has the potential to adversely impact on the river's ecological, fisheries and geomorphological functionality and value. Any such negative impacts would be in contravention of the Humber RBMP. This condition is required to ensure any such impacts with the potential to contribute to deterioration of water body status are appropriately mitigated in order that no deterioration occurs as a result of the development.

7 In accordance with the planning documents submitted, to mitigate the impact of the proposed physical modifications and prevent the deterioration of WFD waterbody status, the proposed development must include the provision and management of adequate ecological mitigation or compensatory habitat on the Foss from Farlington Beck to the Syke (GB104027063540) water body. The scheme for mitigation must be implemented as approved. The ecological mitigation and compensatory habitat shall include, but not necessarily be limited to:

- o As per Table 2 and Table 4 of the WFD Compliance Assessment, drawings I0500\_40, I0500\_41 and I0500\_23 P02 and the Geomorphology and WFD mitigation measures for the Foss Flood Storage Area Technical Note, measures to mitigate the impacts of flow impoundment on sediment transport continuity associated with the operation of the proposed control structure - including bank re-profiling and the creation of a two-stage channel cross-section with alternating low level berms on the inside of meander bends over a total length of 1.3km of the River Foss from the control structure to the borrow pits.
- o As per Table 2 and Table 4 of the WFD Compliance Assessment, measures to mitigate the loss of soft and semi-natural river bank and bed associated with the embankment and new control structure - including the removal of existing failing hard engineered bank protection within the scheme's boundary.
- o As per Table 2 and Table 4 of the WFD Compliance Assessment and drawings I0500\_34 P01 and I0500\_35 P01, the provision of a natural channel bed substrate through the reaches immediately up and downstream of the proposed control structure.
- o As per Table 2 and Table 4 of the WFD Compliance Assessment, drawing C0700\_36 P05 and the Geomorphology and WFD mitigation measures for the Foss Flood Storage Area Technical Note, the creation of marginal and riparian habitat and channel shading through the planting of trees and shrubs along the upper, mid and lower banks of the channel from the control structure up to the borrow pits.
- o As per Table 2 and Table 4 of the WFD Compliance Assessment, drawings C0700-41, C0700-42, C0700\_36 P05 and the Geomorphology and WFD mitigation measures for the Foss Flood Storage Area Technical Note, the creation and retention of water dependant habitat and wetland areas within the two permanent borrow pits. These habitats must be hydrologically connected to the River Foss via open channels. The shoreline and surrounding area of the borrow pits must be graded and planted with native vegetation including reed beds, marginal planting and trees.

Reason:

In England and Wales, compliance with the WFD is achieved through meeting the requirements of the relevant RBMP. The proposed development falls within the Humber RBMP. Construction and operation of the proposed scheme on the Syke from Source to River Foss (GB104027063530) and Foss from Farlington Beck to the Syke (GB104027063540) water bodies has the potential to adversely impact on the river's ecological, fisheries and geomorphological functionality and value. Any such negative impacts would be in contravention of the Humber RBMP.

This condition is required to ensure any such impacts with the potential to contribute to deterioration of water body status are appropriately mitigated in order that no

deterioration occurs as a result of the development.

This approach is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on, and providing net gains for, biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused.

8 Unless otherwise agreed in writing with 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.

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

9 No works shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the local planning authority. The CEMP shall include the following:

- i. Risk assessment of potentially damaging construction activities
- ii. Identification of biodiversity protection zones, e.g. areas which require protective fencing or signage during construction
- iii. Method statements covering avoidance measures and sensitive working practices to minimise dangers to at-risk habitats and species; these should include procedures to follow if protected species mitigation licenses need to be obtained
- iv. Identification of where and when ecologists need to be present on-site to oversee works
- v. Responsible persons and lines of communication
- vi. Role and responsibilities of an ecological clerk of works (ECoW) or similar person
- vii. The hours of working on the site including deliveries to and from the site.
- viii. Details of how surface water run off during construction will be managed.

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

Reason: These conditions are required to ensure net gains to biodiversity are achieved in accordance with the NPPF and to protect the amenity of the locality

10 No development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and be approved in writing by the local planning authority. This should be based on the LEMP previously submitted (November 2019) but updated to include the following;

It shall reflect any updated ecological surveys (Water Vole) and the scheme of aquatic planting of local provenance.

The development shall be carried out in accordance with the approved LEMP.  
Reason: These conditions are required to ensure net gains to biodiversity are achieved in accordance with the NPPF.

11 No development shall take place until details of the fish easement in the Foss control structure have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the local aquatic environment.

12 No works shall be undertaken for the following elements of the scheme until a pre-construction survey during the optimal period has been submitted to and approved in writing by the Local Planning Authority to gain an up-to-date assessment of where both water voles and active burrows, and otter holts or laying up places are present in relation to the proposed works (pre-commencement of these specific elements);

- o Construction of River Foss temporary diversion channel
- o Construction of Flow control structure
- o Construction of Temporary river crossing
- o Re-alignment of Black Dike

Reason: To protect local wildlife.

13 A) No demolition/development shall commence until the post-excavation assessment report (for the archaeological work undertaken in December 2019 and January 2020) has been completed and submitted to the Local Planning Authority, in accordance with the previously approved Written Scheme of Investigation. The report will be accompanied by an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation. The report shall also be deposited with the Historic Environment Record.

B) Where archaeological remains cannot be preserved in-situ, no demolition/development shall commence until a further Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. Community involvement and/or outreach proposals
3. The programme for post investigation assessment
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the

site investigation

7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

C) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (B).

D) The post investigation assessment, completed in accordance with the Written Scheme of Investigation approved under condition (B), shall be submitted to the Local Planning Authority within six months of the completion of the site investigation, and provision shall be secured for analysis, publication and dissemination of results and archive deposition. The report shall also be deposited with the Historic Environment Record.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

14 By the end of the first earthworks season, a detailed planting schedule shall be submitted to and approved in writing by the Local Planning Authority. This shall include the species, stock size, density (spacing), and position of trees, and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation and tree planting details. This scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species of the proposed planting

15 No development for any phase of the development must commence until a Construction Traffic Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

a. the parking of contractors' site operatives and visitor's vehicles;

- b. areas for storage of plant and materials used in constructing the development clear of the highway;
- c. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
- d. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
- e. details of site working hours;
- f. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
- g. measures to control and monitor construction noise;
- h. an undertaking that there must be no burning of materials on site at any time during construction;
- i. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
- j. details of the measures to be taken for the protection of trees;
- k. details of external lighting equipment;
- l. details of ditches to be piped during the construction phases;
- m. a detailed method statement and programme for the building works; and
- n. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interests of public safety and amenity.

16 There shall be no importation of clay to the site for the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority. This shall be in considered in conjunction with the relevant Local Highway Authorities. Reason: For the avoidance of doubt and to ensure that the proposed construction traffic route is not unduly pressured, with consequential impacts on infrastructural capacity and amenity. In accordance with Paragraph 108 of the National Planning Policy Framework

17 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

18 Construction work shall not commence in areas where restoration work to return the land to agricultural use is required until a Soil Restoration Method Statement for carrying out such work is submitted to and approved by the Local Planning Authority. The method statement shall cover activities relating to the working, restoration and aftercare of all site soils to be restored; the statement shall include details of:

- I. the areas to be restored;
- II. soil and subsoil stripping;
- III. soil movement and handling;
- IV. soil storage locations and management;
- V. arrangements to prevent spread of soil-borne diseases;
- VI. land drainage arrangements;
- VII. soil replacement including cultivation and seeding;
- VIII. management of differential settlement;
- IX. removal of rocks and other materials capable of impeding cultivation;
- X. detailed aftercare programme and
- XI. timetable for implementation including phasing.

The measures in the method statement shall be implemented in their entirety unless otherwise approved in writing by the Minerals Planning Authority.

Reason: To protect the soil quality of the land to be returned to agricultural use

19 No development shall take place until a scheme for ground water monitoring has been submitted to and approved in writing by the local planning authority. The monitoring shall be carried out in accordance with the approved scheme and the results submitted to the local planning authority.

Reason: To monitor ground water levels at the site.

## **8.0 INFORMATIVES:**

Application Reference Number: 19/02463/FULM

Item No: 3a

## 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:

\*\*\*\*IN

2. 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. 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 and planning.enforcement@york.gov.uk

### 3. INFORMATIVE

The applicant should be advised that the Foss (2008) Internal Drainage Board's prior consent is required (outside the planning process) for any development/construction including fences, structures or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, divert, bridge, regrade, fill in, or make a discharge to the watercourse will also require the Board's prior consent.

### 4. INFORMATIVE

The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

### 5. INFORMATIVE:

The applicant's attention is drawn to the response of the Foss Internal Drainage Board dated 19th March 2020 and the response of the Lead Local Flood Authority dated 18th May 2020 with regard to sustainable drainage guidance.

### **Contact details:**

**Case Officer:** Tim Goodall  
**Tel No:** 01904 551103

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# Foss Upstream Storage Area, Strensall

19/02463/FULM



## Legend

-  Proposed embankment alignment
-  Local authority boundary
-  Planning application boundary
-  1 in 100 year flood outline - baseline
-  1 in 100 year flood outline - post development

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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>	29 June 2020
<b>SLA Number</b>	

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# Planning Committee

To be held remotely on 19<sup>th</sup> November 2020 at 4:30pm

# 19/02463/FULM - Foss Upstream Storage Area, Brecks Lane, Strensall, York.

Formation of flood storage area consisting of construction of earth embankment with spillway, excavation of two temporary and two permanent borrow pits, erection of river flow control structure, re-profiling of sections of the River Foss, realignment of short section of Black Dike, raising of section of Ings Lane, carriageway edge protection to part of Lilling Low Lane and associated new and improved access arrangements, drainage, accommodation works, landscaping and biodiversity mitigation (cross boundary application with Ryedale)

# Site Location Plan



- Legend**
- Proposed embankment alignment
  - Local authority boundary
  - Planning application boundary
  - 1 in 100 year flood outline - baseline
  - 1 in 100 year flood outline - post development

Rev	By	Check	App'd	Description	Date
P6	PF	NH	DS	FOR ISSUE	04/11/2019
P5	PF	NH	DS	FOR ISSUE	24/09/2019
P4	NH	SJ	DS	FOR ISSUE	23/11/2019
P3	NH	SJ	DS	FOR ISSUE	15/11/2018
P2	NH	SJ	DS	FOR INFORMATION	05/10/2018
P1	NH	MW	DS	FOR INFORMATION	19/07/2018

Purpose of issue  
**Planning Application**

Classification  
**Public**

Client



Project  
**York Flood Alleviation Scheme**

Drawing  
**Foss Flood Storage Area:  
 Location Plan**

Scale @ A3	Drawn	Checked	Approved
1:10,000	PF	NH	DS

Project No CS092480 Date 07-Nov-19

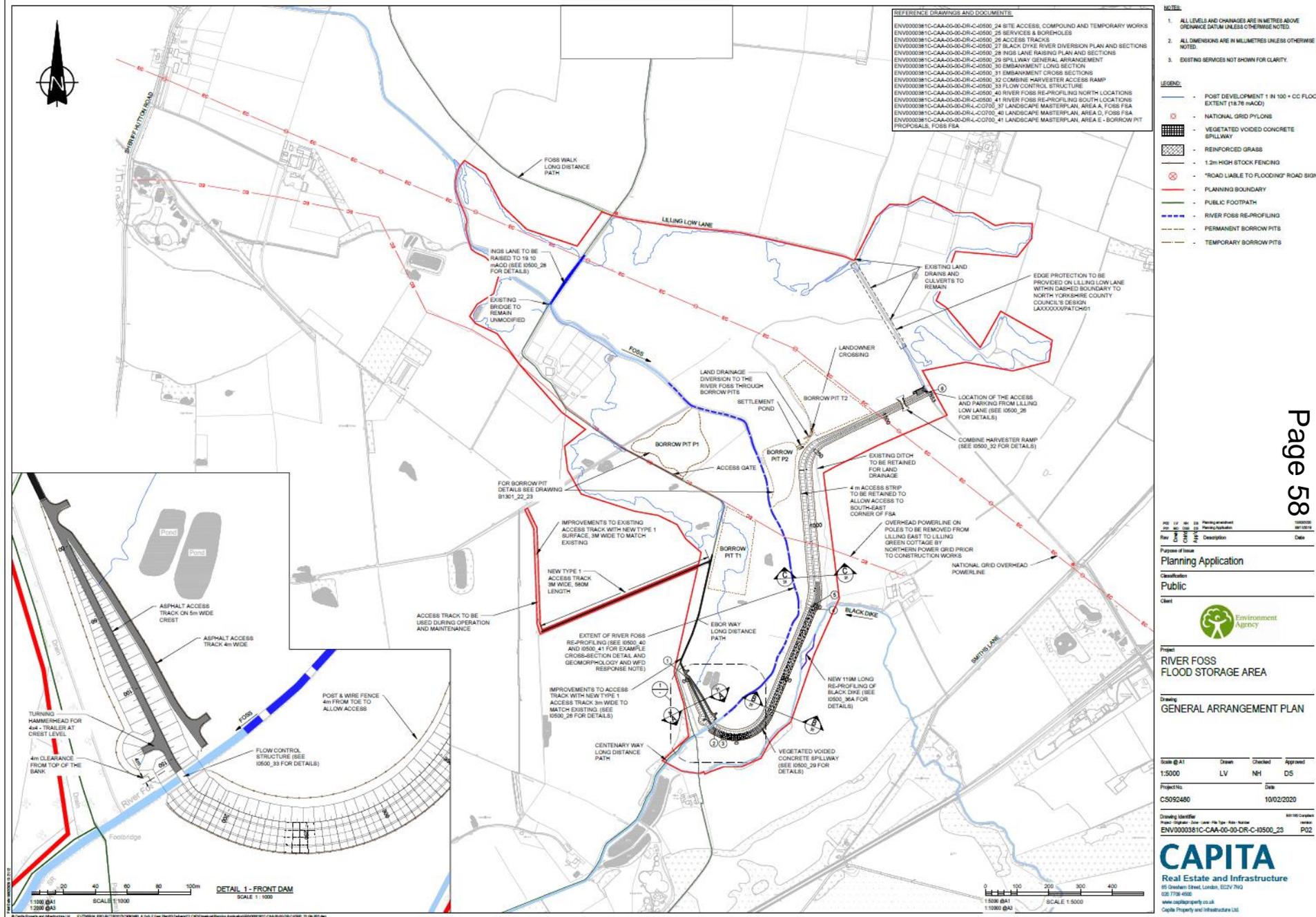
Drawing Identifier	Project Reference	Author	Volume	Location	Type	Role	File Number	Revision
ENV000381C-CAA-00-00-MP-EN-C0400-9								P06



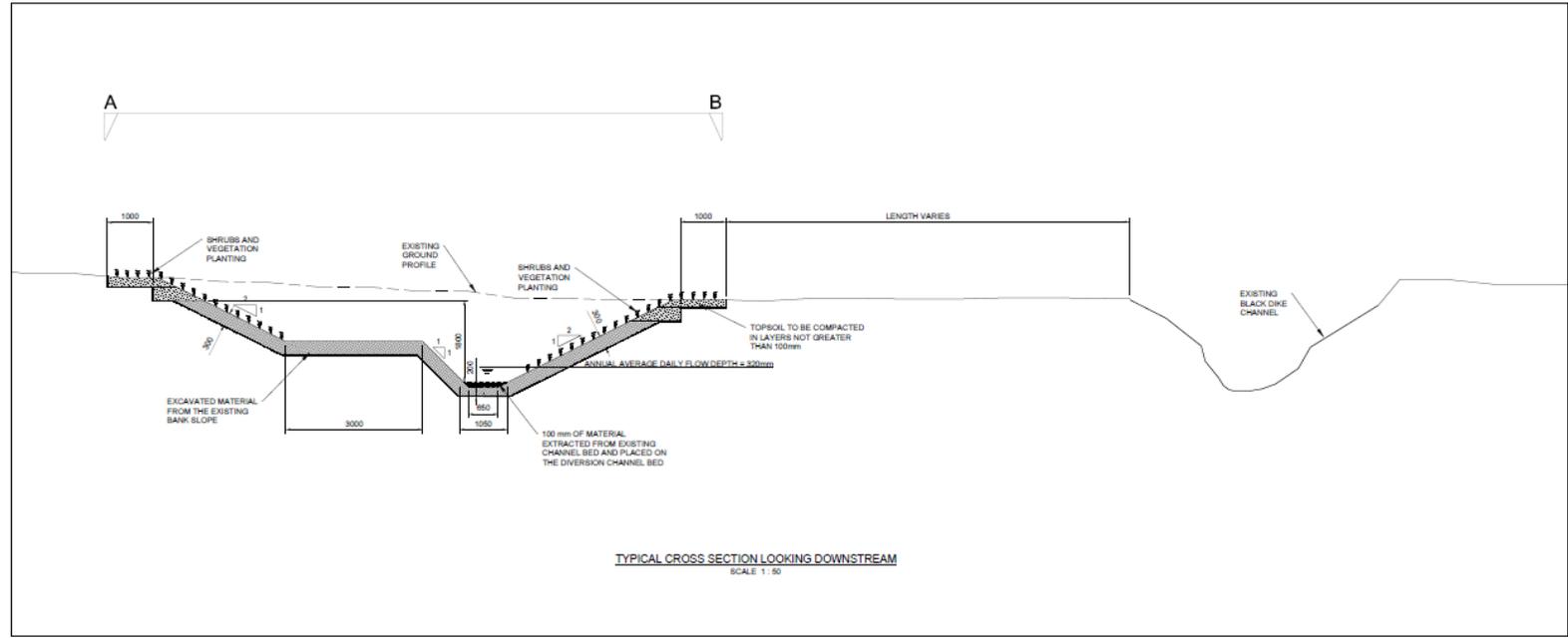
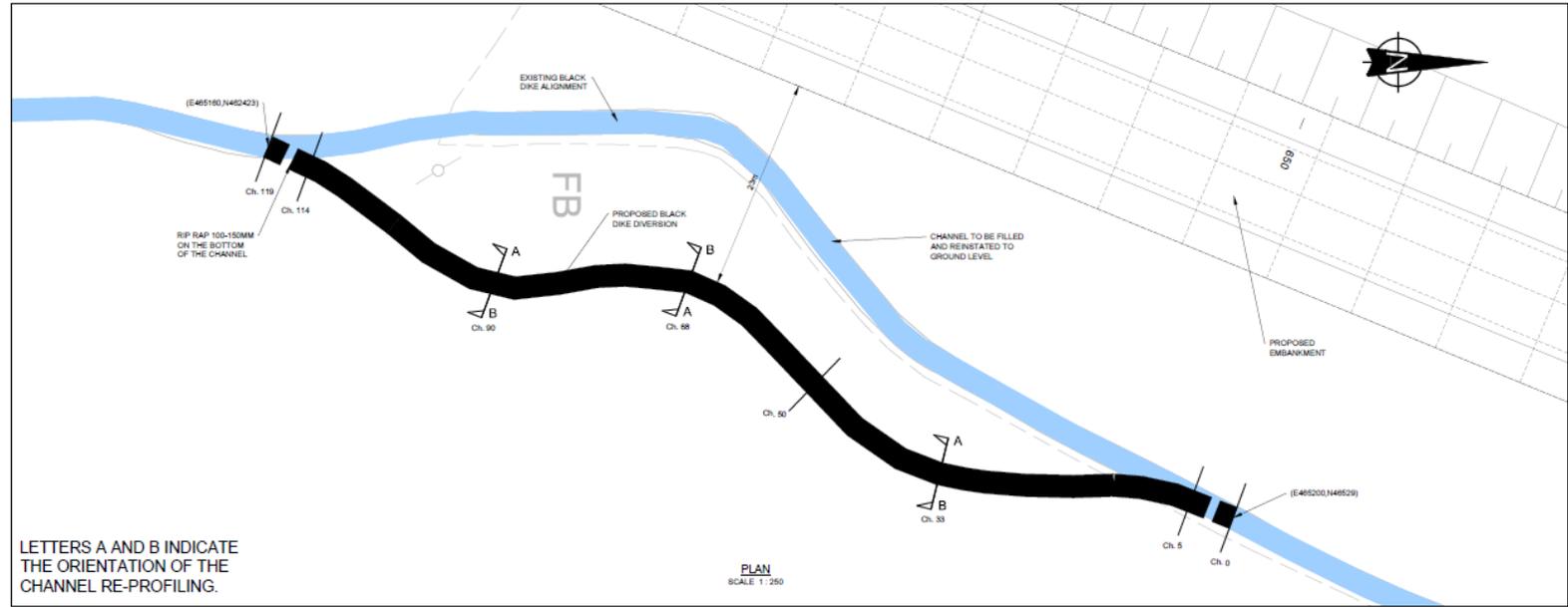
85 Gresham Street, London, EC2V 7ND  
 T +44(0) 20 7705 4500 www.capita.co.uk/property  
 Capita Property and Infrastructure Ltd.



# General Arrangement Plan



# Black Dike Realignment Plan and Section



- NOTES:**
1. ALL LEVELS AND CHANGES ARE IN METRES ABOVE ORDNANCE DATUM UNLESS OTHERWISE NOTED.
  2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS OTHERWISE NOTED.

REV	LV	NH	DS	Planning Application
1				
2				
3				
4				
5				

Classification: **Public**

Client:

Project: **RIVER FOSS FLOOD STORAGE AREA**

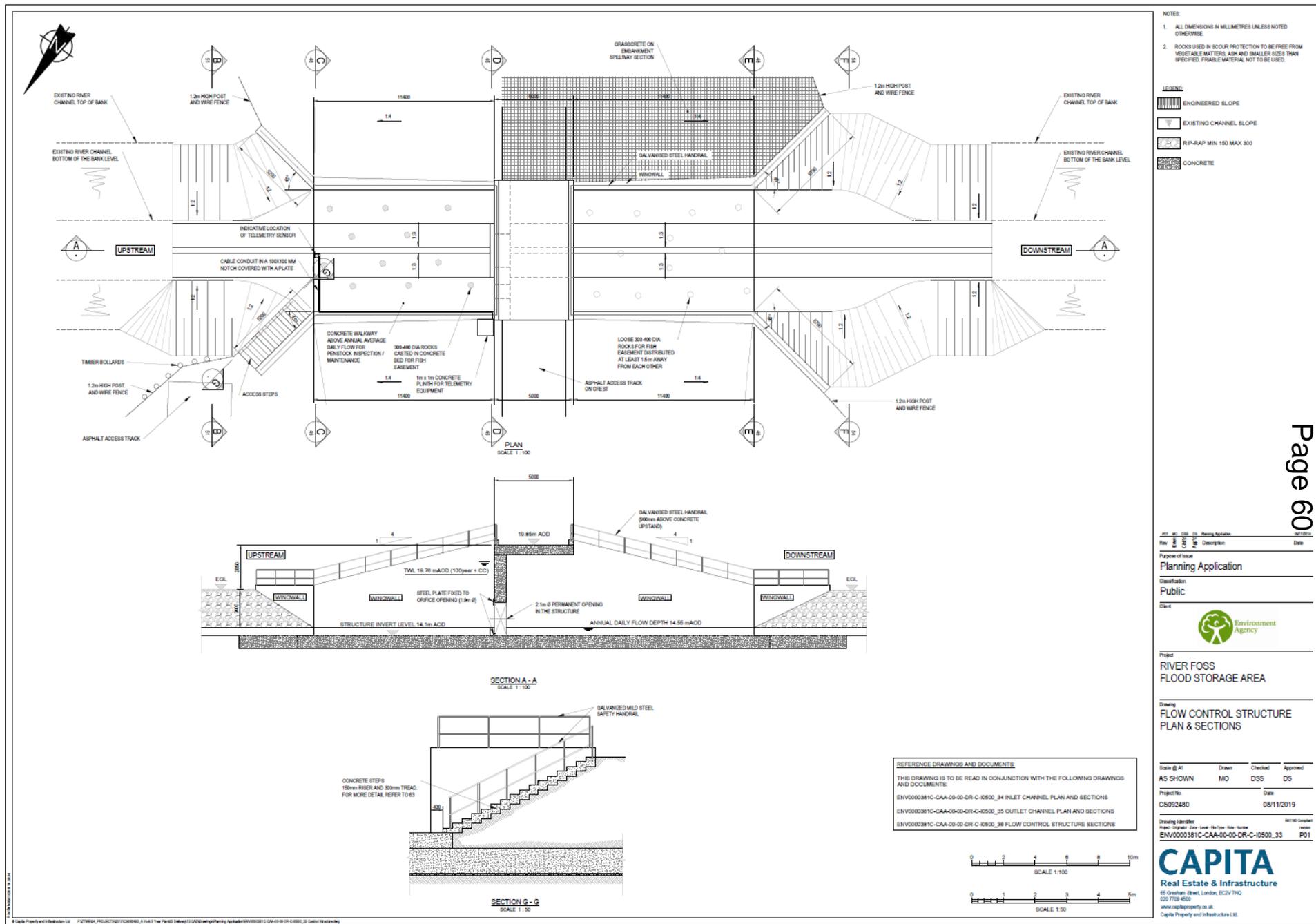
Drawing: **BLACK DIKE RE-ALIGNMENT PLAN AND SECTION**

Scale @ A1	Drawn	Checked	Approved
As Shown	LV	NH	DS
Project No.	Date		
CS052480	27/01/2020		
Drawing Identifier	Project Name / Rev / Level / Title / Rev / Issue / Number		
ENV0000381C-CAA-00-00-DR-C-10500_36a	P02		

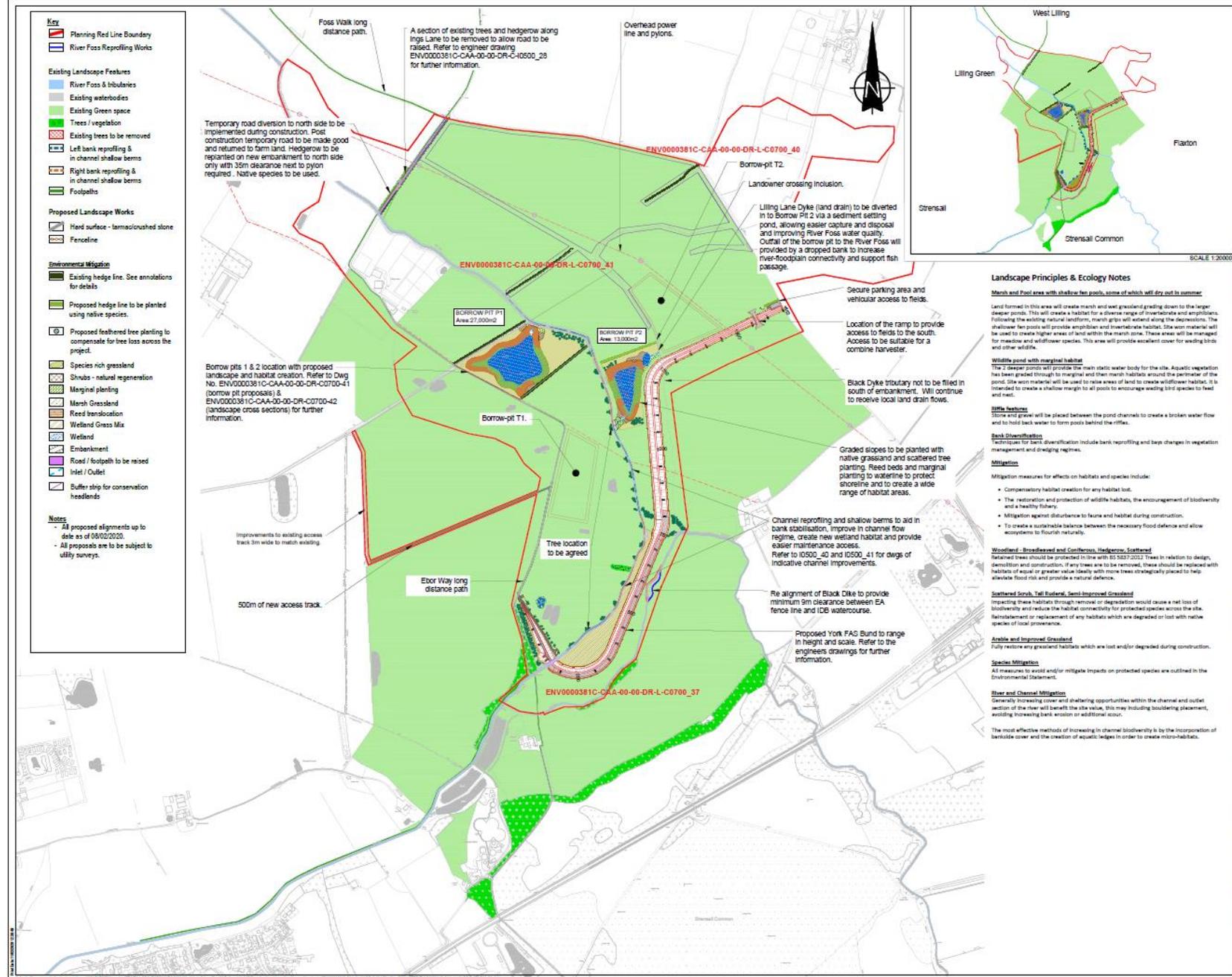
**CAPITA**  
Real Estate and Infrastructure  
65 Greenham Street, London, EC2V 7WQ  
020 7704 4500  
www.capitaipractice.co.uk  
Capita Property and Infrastructure Ltd



# Flow Control Structure Plan



# Landscape Master Plan



### Landscape Principles & Ecology Notes

**Marsh and Pool areas with shallow fen pools, some of which will dry out to summer**  
Land formed in this area will create marsh and wet grassland grading down to the larger deeper ponds. This will create a habitat for a diverse range of invertebrates and amphibians, following the existing natural landform, marsh grips will extend along the depressions. The shallow fen pools will provide amphibian and invertebrate habitat. Site won material will be used to create higher areas of land within the marsh area. This area will be managed for meadow and wildflower species. This area will provide excellent cover for nesting birds and other wildlife.

**Wildlife pool with marginal habitat**  
The deeper ponds will provide the main static water body for the site. Aquatic vegetation has been graded through to marginal and then marsh habitats around the perimeter of the pond. Site won material will be used to raise areas of land to create wildflower habitat. It is intended to create a shallow margin to all ponds to encourage nesting bird species to feed and nest.

**Wetland features**  
Stone and gravel will be placed between the pond channels to create a broken water flow and to hold back water to form pools behind the riffles.

**Bank Diversification**  
Techniques for bank diversification include bank reprofiling and bays changes in vegetation management and grazing regimes.

**Mitigation**  
Mitigation measures for effects on habitats and species include:

- Compensatory habitat creation for any habitat lost.
- The restoration and protection of wildlife habitats, the encouragement of biodiversity and a healthy fishery.
- Mitigation against disturbance to fauna and habitat during construction.
- To create a sustainable balance between the necessary flood defence and allow accretions to flourish naturally.

**Woodland - Broadleaved and Coniferous, Hedgerow, Scattered**  
Retained trees should be protected in line with BS3722:2012. Trees in relation to design, demolition and construction, if any trees are to be removed, these should be replaced with habitats of equal or greater value ideally with more trees strategically placed to help alleviate flood risk and provide a natural defence.

**Scattered Scrub, Tall Hedgerow, Semi-Improved Grassland**  
Protecting these habitats through removal or degradation would cause a net loss of biodiversity and reduce the habitat connectivity for protected species across the site. Reinstatement or replacement of any habitats which are degraded or lost with native species of local provenance.

**Arable and Improved Grassland**  
Fully restore any grassland habitats which are lost and/or degraded during construction.

**Species Mitigation**  
All measures to avoid and/or mitigate impacts on protected species are outlined in the Environmental Statement.

**River and Channel Mitigation**  
Generally increasing cover and shading opportunities within the channel and outlet section of the river will benefit the site value. This may include bioengineering placement, avoiding increasing bank erosion or additional accretion.

The most effective methods of increasing in channel biodiversity is by the incorporation of herbicide cover and the creation of aquatic ledges in order to create micro-habitats.

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION	
REVERT TO THE MANUFACTURER'S SAFETY DATA SHEET FOR THE FULL INFORMATION ON THE SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION OF THE PRODUCTS USED.	
CONSTRUCTION	
MAINTENANCE / CLEANING	
DECOMMISSIONING / DEMOLITION	
IF APPLICABLE THAT ALL WORKS WILL BE CARRIED OUT IN A SAFE MANNER AND IN ACCORDANCE WITH ALL RELEVANT LEGISLATION AND STANDARDS.	

**REFERENCE DRAWINGS AND DOCUMENTS:**

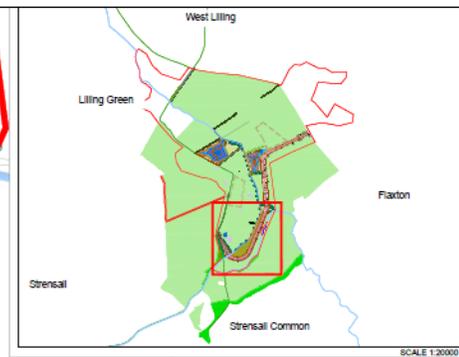
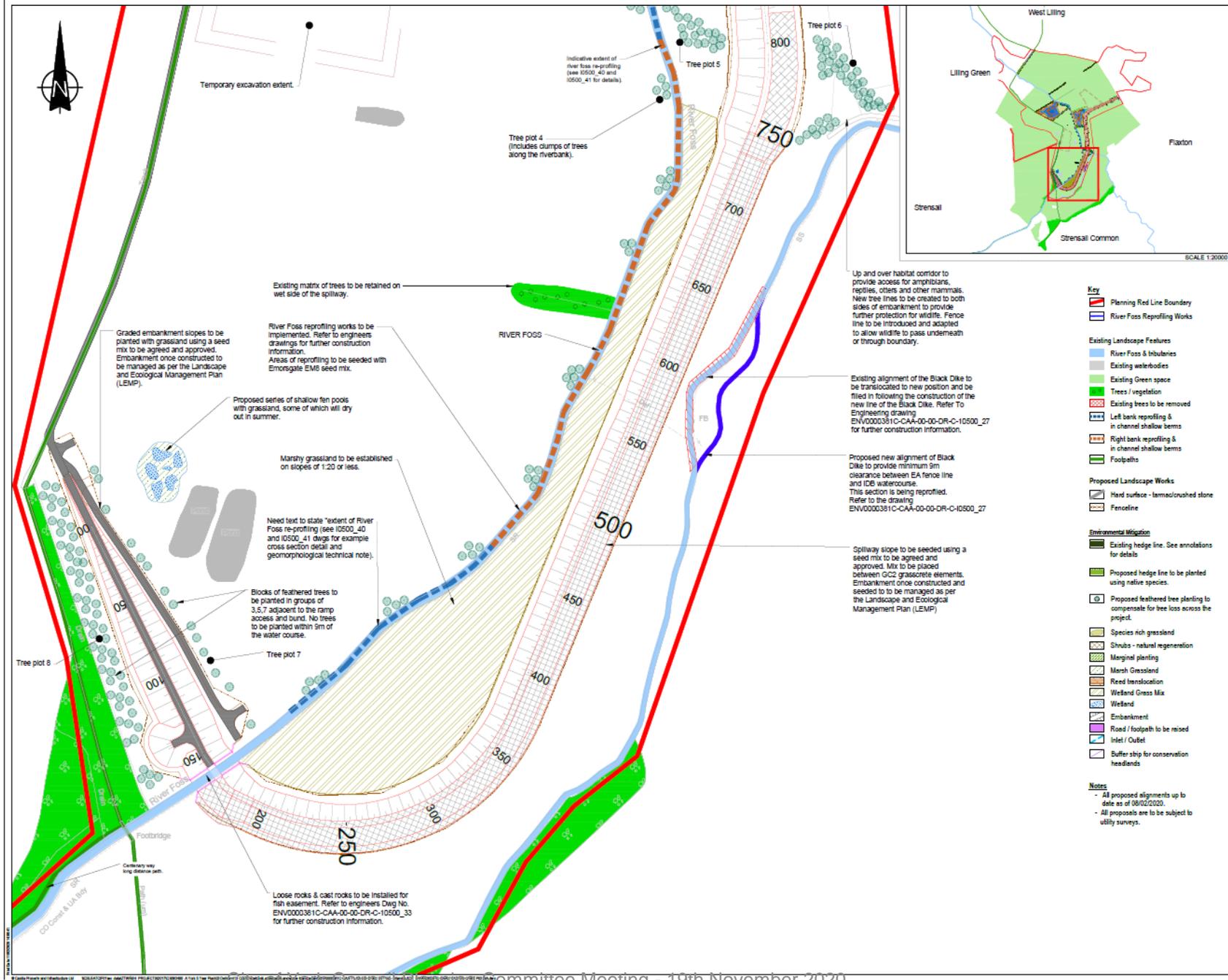
- ENV0000381C-CAA-00-00-DR-L-C0700\_36
- ENV0000381C-CAA-00-00-DR-L-C0700\_37
- ENV0000381C-CAA-00-00-DR-L-C0700\_40
- ENV0000381C-CAA-00-00-DR-L-C0700\_41
- ENV0000381C-CAA-00-00-DR-L-C0700\_42
- ENV0000381C-CAA-00-00-DR-L-C0700\_43

**GENERAL NOTE:**  
After engineering works have been removed from the adjacent land of the River Foss the bottom all profile will be modified and shaped to improve and integrate better into the landscape. The final levels and profile of the borrow pits will depend on the amount of soil removed to create the land. This will only be known when construction begins.

The depth of the water bodies will be determined by the final restoration design. The water levels would be linked to the surrounding groundwater levels and average water levels of the River Foss. Seasonal variations are likely to occur and this will also impact on the links to the borrow pits from the River Foss. 100 year flood level will be used as the maximum height of the inlet interface.



# Landscape Plan Area A



This drawing is a landscape plan and should only be used for information, and to be used in conjunction with the relevant engineering drawings. It is not to be used for construction purposes. The design is subject to change without notice. The design is subject to change without notice. The design is subject to change without notice.

**SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION**

IN ACCORDANCE WITH THE MANAGEMENT PLAN FOR THE TYPE OF WORK SET OUT IN THE DRAWING, NOTE THE FOLLOWING:

**CONSTRUCTION**

**MAINTENANCE / CLEANING**

**DECOMMISSIONING / DEMOLITION**

**REFERENCE DRAWINGS AND DOCUMENTS:**

- ENV0000381C-CAA-00-00-DR-L-C-0700\_36
- ENV0000381C-CAA-00-00-DR-L-C-0700\_37
- ENV0000381C-CAA-00-00-DR-L-C-0700\_40
- ENV0000381C-CAA-00-00-DR-L-C-0700\_41
- ENV0000381C-CAA-00-00-DR-L-C-0700\_42
- ENV0000381C-CAA-00-00-DR-L-C-0700\_43

**GENERAL NOTE:**

After engineering works have been removed from the adjacent and of the River Foss the bottom pit profile would be modified and shaped to improve and integrate better into the landscape.

The water levels would be linked to the surrounding groundwater levels and average water levels of the River Foss. Seasonal variations are likely to occur and this will also have impact on the water to borrow jobs from the River Foss. 1 in 5 year flood level will be used as the maximum height of the inlet interface.

**Key**

- Planning Red Line Boundary
- River Foss Reprofiting Works

**Existing Landscape Features**

- River Foss & tributaries
- Existing waterbodies
- Existing Green space
- Trees / vegetation
- Existing trees to be removed

**Proposed Landscaping Works**

- Left bank reprofiling & in channel shallow berms
- Right bank reprofiling & in channel shallow berms
- Footpaths
- Hard surface - tarmac/crushed stone
- Fence/line

**Environmental Mitigation**

- Existing hedge line. See annotations for details
- Proposed hedge line to be planted using native species.
- Proposed feathered tree planting to compensate for tree loss across the project.
- Species rich grassland
- Shrubs - natural regeneration
- Marginal planting
- Marsh Grassland
- Reed Intercourse
- Wetland Grass Mix
- Wetland
- Embankment
- Road / footpath to be raised
- Inlet / Outlet
- Buffer strip for conservation headlands

**Notes**

- All proposed alignments up to date as of 08/02/2020.
- All proposals are to be subject to utility surveys.

**Proposed Issues**

Planning Application

Classification

Public

Client

Environment Agency

Project

RIVER FOSS FLOOD STORAGE AREA

Drawing

LANDSCAPE AREA A

Scale @ A1

Drawn	Checked	Approved
TC	DS	DS

Project No

CS092480

Date

11/02/2020

Drawing Identifier

ENV0000381C-CAA-00-00-DR-L-C-0700\_37

**CAPITA**

Real Estate and Infrastructure

100 Gresham Street, London, EC2V 7NG

020 7766 4900

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**COMMITTEE REPORT**

**Date:** 19 November 2020      **Ward:** Fishergate  
**Team:** East Area                      **Parish:** Fishergate Planning  
Panel

**Reference:** 19/02063/FULM  
**Application at:** St Georges Field Car Park Tower Street York  
**For:** Erection of 5 level multi-storey car park with canopy to roof to provide 372 no. car parking spaces, demolition of public toilet, revised highway access and associated landscaping works  
**By:** Mr Andy Kerr  
**Application Type:** Major Full Application  
**Target Date:** 30 November 2020  
**Recommendation:** Approve

**1.0 PROPOSAL**

## THE SITE

1.1 The application site of St George's Field is a rough teardrop shaped area located at the confluence of the River Foss and River Ouse. Tower Street borders the site to the north, the Foss Basin is located immediately to the east of the site and the western boundary of the site is formed by New Walk, a tree lined riverside pedestrian route. The application site, which occupies an area of 1.4 hectares, is currently used for car and coach parking (150 and 27 spaces respectively) with a utility compound comprising a sewage pumping station and a public toilet. To the south of the site is the Foss Barrier flood defence.

1.2 The application site is in a sensitive location within the New Walk Terrace / Terry Avenue Conservation Area and the Area of Archaeological Importance. The land was originally gifted to York Corporation for use for public events and military (target) practice with the archaeology preserved below the surface including a Knights Templar Chapel and Mill complex.

1.3 The site is within Character Area 66 (Fishergate-River Ouse) and abuts Character Area 13 (The Castle area) as defined by the York Central Historic Core Conservation Area Appraisal (YCHCCA), which includes, in addition to Clifford's Tower and the castle remains, the following designated heritage assets: The Crown

Court and railings, Grade I, Castle Museum and Debtors Prison, Grade I, and Castle Museum and Female Prison, Grade I.

## THE PROPOSAL

1.4 The proposal involves the erection of a multi storey car park (MSCP) of ground floor and 4no parking decks to provide 372no car parking spaces with a surface coach park, landscaping and a shared pedestrian / cycle route connecting New Walk to Tower Street. Vehicular access to the car park would be from Tower Street with a two way access ramp taking vehicles over an existing flood wall with coach parking bays situated to the south of the site. Pedestrians would access the site from New Walk, which runs alongside the River Ouse, and there would also be a footpath on the western edge of the access road.

1.5 Of the 372no spaces, it is proposed to include 26 disabled parking bays (7% of the total) and 56 electrical charging points (15% of the total). The proposed building would have a flat deck layout with internal 1:10 ramp and a solar canopy on the top deck. The vehicular entrance to the car park would be at first floor level allowing the car park to be used in times of flood. The building would include 4no unisex public toilet facilities on the first floor - the existing public toilet has been demolished. The proposed development would include the retention of the existing coach park with the provision of 25 upgraded parking spaces. Bay sizing will be increased with capability for some bays to accommodate 15m length coaches.

1.6 The footprint of the proposed car park has been shaped by various constraints including the existence of a main sewer and outflow sewer running underneath the application site, the need to avoid the part of the site that is a Scheduled Ancient Monument, flood escape and flood-in-use (other than lowest levels) that dictates a building location adjacent to higher ground, the need to maintain large vehicle (crane) access to the Foss barrier, planned improvements to the flood wall than runs across part of the site, mature trees along New Walk and the pumping station. In order to avoid the main sewer, a narrower footprint than that detailed in the York Castle Gateway Masterplan, is proposed. An agreement has been reached with Yorkshire Water to divert the outflow sewer.

1.7 The outcome of these constraints is a building with a body aligned roughly north, pointing towards the Eye of York, with the southern end tapered in order to realign with the direction of the river and leave a standoff distance from the mature trees that line New Walk. It consists of conventional flat car park decks linked by a central

ramp. The building has a strong horizontal visual expression alternating between solid deck and open void, punctuated by vertical stair towers and an external stair. Terracotta tiles with a varied ribbed profile are detailed as the primary cladding material to the horizontal bands of the car park and would also be used as a cladding material to the external faces of the stair-cores and a small section of the first floor adjacent to the vehicular entrance. Green living walls are used as a secondary material to the horizontal bands at high level facing Tower Street and Skeldergate Bridge and on the main stair elevation. Corten sheet cladding is proposed to the feature staircase. The solar canopy on the deck would be supported by a steel frame.

## COUNCIL'S MASTERPLAN CAR PARKING STRATEGY

1.8 The application is a key component of the York Castle Gateway Masterplan proposals, which were approved by the Council's Executive in 2018, the key objective of which is to relocate Castle car park away from the base of Clifford's Tower and provide a flexible area of high quality public realm.

1.9 The Design and Access Statement details the rationale for the Masterplan car parking strategy as follows:

- CYC will be closing Castle Car Park, a poor quality surface car park which surrounds and has a damaging impact on the setting of Clifford's Tower and the Eye of York.
- Castle Car Park currently generates the council a revenue of £1.2m which funds public services. Losing that revenue would result in either budget cuts or an increase in council tax.
- Consequently CYC are seeking to replace some of the lost car parking by building a new 370 space multi-storey car park (MSCP) at St/Georges Field.
- However this will still allow CYC to reduce the overall number of car parking in the area by 100 spaces and move car parking and associated traffic outside of the inner ring road.
- CYC need to replace some of the car parking to protect the revenue to the council and to ensure support for the masterplan from key city centre stakeholders.
- The new junction to allow access to the car park helps to create the new pedestrian/cycle super-crossing over the inner ring road.

## REVIEW AT EXECUTIVE IN LIGHT OF IMPACT OF COVID-19

1.10 Having considered all options, the Executive have taken the decision to commit to the delivery of the Castle Gateway Masterplan and have reiterated their commitment to providing replacement car parking before the closure of Castle Car Park. However, due to the uncertainty created by Covid, the intention is to delay the procurement of a construction partner for the new multi-storey car park at St George's Field until next summer. This is to ensure that the full impact of Covid on car parking is known before committing to the next stage of expensive detail design.

1.11 In relation to the Executive decision and the replacement of the Castle Car Park with public realm, the applicant advises that detailed design of the public realm would be brought forward in to the first phase of development so that planning permission would be in place to create a shovel ready scheme. The applicant states that this would leave the council in the best position to secure any external funding that may become available through the government response to Covid-19, and give the Council the full funding for the world class public space to replace Castle Car Park. The applicant emphasises the point however that the closure of Castle Car Park remains dependent on the replacement car parking being provided.

## CONSULTATION PRIOR TO SUBMISSION OF APPLICATION

1.12 A series of six public events were held at pre-application stage which included four drop-in exhibition and guided walks events and two workshop sessions. A Statement of Community Involvement detailing discussions and feedback from the events accompanies the application.

## ENVIRONMENTAL IMPACT ASSESSMENT

1.13 The size of the site renders this proposal an "urban development project" which falls under Schedule 2 of the Environmental Impact Assessment Regulations 2017. Schedule 2 development is development of a size and scale which may require Environmental Impact Assessment (EIA) depending upon the potential specific impacts of the proposal. Part of the site also falls within a Scheduled Ancient Monument and as such the site meets the criteria of a Sensitive Area as defined by the EIA regulations.

1.14 The proposed development has been screened and it is concluded that the proposals are not likely to have a significant effect on the environment and / or are

of a complexity such that the environmental impacts can be assessed through the planning application process rather than through requiring the preparation of an Environment Impact Assessment.

## **2.0 POLICY CONTEXT**

### Key Sections of the National Planning Policy Framework (“NPPF”)

Section 4 – Decision Making

Section 9 – Promoting sustainable transport

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

### Key relevant policies of the 2018 Publication Draft Local Plan

DP2 – Sustainable Development

DP3 – Sustainable Communities

SS1 – Delivering Sustainable Growth for York

SS3 – York City Centre

SS5 – Castle Gateway

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas

D6 – Archaeology

D7 – The Significance of Non Designated Heritage Assets

ENV1 – Air Quality

ENV2 – Managing Environmental Quality

ENV4 – Flood Risk

ENV5 – Sustainable Drainage

CC1 Renewable and Low Carbon Energy Generation and Storage

CC2 Sustainable Design and Construction of New Development

T8 – Demand Management

### Relevant policies of the 2005 Draft Development Control Local Plan

SP3 – Safeguarding the Historic Character and Setting of York

SP7B – York City Centre and Central Shopping Area

GP1 – Design

GP3 – Planning against crime  
GP4A – Sustainability  
GP4B – Air Quality  
GP9 – Landscaping  
GP15A – Development and Flood Risk  
T2B – Proposed Pedestrian / Cycle Networks  
NE2 – River and Stream Corridors  
HE2 – Development in Historic Locations  
HE3 – Conservation Areas  
HE9 – Scheduled Ancient Monuments  
HE10 - Archaeology  
HE11 – Trees and landscape

### **3.0 CONSULTATIONS**

INTERNAL

#### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (DESIGN MANAGER)

##### Scale Sensitivity

3.1 Given the proximity of the proposed MSCP to the castle site and their similar design approach (big buildings in an open landscape), it automatically sets up an architectural relationship between the buildings. The necessity for high quality design to justify this relationship therefore becomes highly important. A big building on this open land is highly sensitive, not just because it is big, but because it is within a fundamental part of the setting of the Castle site. The proposal has taken some minor measures to limit visual bulk; the main staircase that visually “pops up” and needs to land on high ground is pushed as far as practical away from the Castle site; visually striking earlier ideas for a “wrap” around the pumping station are omitted and the building is generally without anything superfluous that would add bulk in sensitive places.

3.2 Design quality (at all levels) needs to be carried through to execution during construction and future management. Some degree of harm to the heritage significances of the Castle site is inevitable. Given that some harm is inevitable, the proposal should take the least harmful approach. Key to this is overall size, which is a function of car parking numbers.

### Heritage Setting

3.3 The range of key views assessed in the Heritage Statement is inadequate in number and position. Overall the Heritage Statement underestimates the degree of harm, is a bit vague in the level of harm, and makes claims that are hard to justify without a proper Heritage, Townscape and Visual Impact Assessment. Without an adequate heritage assessment, the degree of harm cannot be assessed

### Building Design

3.4 The general approach of an “honest” visual expression for the car park fenestration is supported. I do not support making the building less car-park-like. However, clearly the car park is budget-constrained, and architectural flourishes are limited to certain components such as the promenading staircase and sections of green wall. All these are focussed on the New Walk aspect. It is anticipated that when visualisations are done from the other long (east) elevation the relentless simplicity of the approach here will be a weaker part of the proposal. The bay study drawings show a promising intention to achieve a high quality cladding, but there is a long way to go before it can be agreed that this is a successful fenestration proposal.

3.5 No strong views on the merits of the solar canopy; they have the potential to break the roofline up for visual interest, could help control lighting and mask some cars but they also add bulk and could be reflective from unanticipated places.

3.6 Recommend submission of more visualisations and planting of trees on the east elevation. Need to agree a high design quality for the cladding (including solar canopy) and to ensure an appropriate lighting scheme.

3.7 Summary - Potentially support, despite the elements of harm, given the potential public benefits, following resolution of the above recommendations.

### Comments in response to revised plans / additional information

3.8 Additional views have been provided within the heritage statement but presented with insufficient clarity.

3.9 In relation to the long east elevation, extra visualisations have been provided but some don't capture what was requested. Also views are still all summer ones and

highly affected by trees. Tree screening will change in winter. Additional trees are shown along the east elevation.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT  
(CONSERVATION ARCHITECT)

3.10 It is impossible to understand the potential impact of the proposals and support the conclusion in the Heritage Statement (that the minor negative impacts are mitigated through design) as insufficient views are assessed and the assessment and conclusions are often generic, repetitive and without justification. The level of detail provided is not proportionate to the various assets importance.

3.11 The development will affect the setting of various heritage assets. From the limited views available in the Heritage Impact Assessment (HIA), this impact on heritage significance will be negative. The level of negative impact in my opinion, however, is affected by the solar canopy. It is stated that the solar canopy will add visual interest and reduce the negative impact on heritage assets but, in fact, no assessment of the potential for sunlight to be reflected from the panels has been made. The potential for these panels to reflect light and seriously impinge on views needs to be analysed.

3.12 The overall design approach was to reduce the visual impact of the car park in terms of scale and architectural expression. The car park design, without the solar canopy, is supportable in heritage terms. It is carefully considered, honest and elegant design solution that is compromised by the introduction of the solar canopy. It is difficult to rationalise how adding a canopy can reduce massing and scale or how additional interest can be a positive thing in terms of reducing the negative impact on the various heritage assets.

3.13 Should the canopy be part of the development proposals then the level of less than substantial harm will be at the upper level of that harm (major). If the canopy is not part of the development proposal then I believe the less than substantial harm will be at the lower level (moderate). Without the solar canopy then the simplicity of the design, the palette of materials and management of scale would allow this very large building to remain subservient enough in relation to the settings of the various heritage assets. The use of terracotta cladding also allows the building to blend into the context of the many other brick buildings around, whilst at the same time, allowing the stone of the various heritage assets to remain dominant. As already

stated there would be an adverse impact on heritage significance but this would be at a lower level of less than substantial harm without the solar canopy.

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.14 The proposed development would result in the loss of 14no. trees. The loss of the large Lime is unfortunate but it is understood that its retention would pose too much of a restriction on the efficacy of the proposed development. The small trees that are to be removed, relate directly to the layout of the existing car park. Whilst they contribute to the overall tree cover in the immediate area, their loss would be mitigated by the new tree planting and creation of a new open space.

3.15 18no. trees would be replaced. The locations and species of the proposed trees have been carefully selected to suit the new spaces. The success of the proposed trees would largely depend on the quality of the ground preparation, and subsequent maintenance. In consideration of the views of the MSCP across Foss basin from the inner ring road, the applicant is asked whether it is feasible to add some trees to the meadow area and/or within the vicinity of the scheduled ancient monument.

3.16 The landscape masterplan and proposed planting is perceptively simple and considered. A significant merit of the scheme is the creation of a public open space where there is currently tarmac. Fully support incorporation of green walls into the car park elevations. Such planting usually has a drip-feed watering system using rainwater collected on the roof. Officers have to be sure that this is suitably detailed and managed. Are there any existing/proposed utility plans, including lighting and drainage to show the compatibility with the existing/proposed trees?

### Comments in response to additional information

3.17 The applicant appears to want to manage any further revisions or more detailed information by way of condition. This is okay, and their response provides some reassurance that the intention is there for the next stage of design, however there is inevitably an element of risk involved, either by way of unforeseen harm to existing trees, or an inability to fully meet the design aspirations proposed by the applicant, or the quality of detail expected by CYC.

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGIST)

3.18 A Preliminary Ecological Assessment has been submitted to support this application which assessed habitats and potential for protected and notable species to be using the site. The habitats within the site are generally of low ecological value although the scattered trees and hedgerows have value at a site level. The River Ouse and the River Foss are important green corridors.

3.19 There are no ecological objections to this scheme. If this application is approved, the landscaping proposals should be secured by condition, as should a sensitive lighting scheme that minimises light spill onto surrounding trees and the rivers.

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGIST)

3.20 The creation of the sewer diversion and additional drainage requirements is expected to impact upon the modern and post-medieval levelling deposits up to c.4m below current ground level. This will include excavation through saturated layers which may also impinge into the medieval dumping deposits. The sewerage excavation will need to be monitored archaeologically.

3.21 The foundation design for the car park is currently unknown. It is anticipated that a piled foundation design will be used which will again impact upon the modern and possibly post-medieval archaeological deposits with piles extending into archaeological layers of all periods. Any foundation design will need to ensure that the saturated deposits are not cut off from recharge by the river and that up to 95% of archaeological deposits are preserved in-situ.

3.22 Conditions are required to ensure that:

- any archaeological deposits which are revealed during the excavation for the sewer diversion, drainage, landscaping, and foundation creation are recorded or excavated where appropriate.
- a further program of hydrological monitoring takes place following the construction of the car park to determine the impact of the development on the archaeological deposits over a longer period of time.
- the foundation design will allow the retention of up to 95% of the most significant archaeological deposits in situ.

3.23 There are opportunities within this site to better reveal the surrounding listed and scheduled buildings as well as highlighting the conservation areas. In particular St George's Chapel should be presented and interpreted for members of the public as part of this development.

### FORWARD PLANNING

3.24 Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, we would advise that the policy requirements of emerging plan policies SS5, D1, D4, D5, D7, D10, CC1, CC2, ENV1, ENV2, ENV4, ENV5 and DM1 should be applied with moderate weight.

3.25 On the basis of our analysis and conclusion, we do not raise a policy objection to this application, subject to any comments from colleagues in design and conservation on the design and historic environment considerations in this sensitive location, alongside comments from public protection in relation to air quality, and flood risk and drainage.

### PUBLIC PROTECTION

3.26 No objections, comments as follows;

#### Air Quality

3.27 Public Protection welcomes the relocation of the parking spaces from the city centre to the proposed location, together with the provision of 56 electrical charging points. The no. of electrical charging points equates to 15% of the total number of car parking spaces proposed on the site. This is already well above CYC's current standard (5% active / 5% passive provision).

#### Contamination

3.28 The Phase 1 Geo-Environmental Assessment by WSP has identified a number of potential sources of contamination at the site, including the anticipated presence of made ground and localised hydrocarbon leaks / spills associated with the site's current use as a car park. Public Protection agree that an intrusive site investigation is needed to find out whether land contamination is present at the site. If contamination is found, remedial action will be required to ensure that the site is

safe and suitable for its proposed use. Recommend the appropriate land contamination conditions.

### Lighting

3.29 No details are provided concerning the lighting of the development. The site is located in a slightly darker area within the city centre. There are residential dwellings to the west and south east sides of the development within approximately 100 metres from the proposed parking. Public Protection have received complaints about other car parks in the city in relation to light pollution and glare from the angling of the lighting even within the building envelope. There will also be lighting on the roof top which would be visible and must be designed in a way to minimise light pollution impact and sky glow. As a consequence, it is advised that a condition requiring the approval of a full lighting assessment be attached to any approved proposal.

### Construction and Demolition

3.30 Conditions relating to the hours of demolition and construction and requiring the submission of a Construction Environmental Management Plan and details of piling operations, are recommended.

### HIGHWAY NETWORK MANAGEMENT

3.31 The TA has been prepared primarily to evaluate the traffic impacts of the proposed St George's field MSCP, which forms part of the Castle Gateway Masterplan. In this regard, it assesses the delays on the network resulting from the crossing of Tower Street and right turn into the MSCP / coach park from Tower Street eastbound to determine whether the residual cumulative impacts of the application on the road network are severe. These elements of the Masterplan are expected to be implemented separately and, potentially, over a different timescale to this application, and these may, ultimately, not be realised. The application must, therefore, also be judged on its own merits. In this regard, although it is unlikely the residual cumulative impacts of the application on the road network would be severe, the TA does not include a sufficiently robust assessment of the road safety implications of the proposed larger MSCP.

3.32 When the application is considered in isolation it is concluded that:

- the higher number of spaces in the MSCP compared to the existing St. Georges Field car park could have an adverse impact on the safety of the MSCP / coach park access / Tower Street junction and the Tower Street / Bishopgate Street junction at times of peak demand for people entering or exiting the car park, which may not coincide with the am and pm peak hours used for traffic modelling purposes;
- the geometry of the new ramps to the MSCP vehicle entrance and coach park may be such that adequate forward visibility is not provided to allow the safe and unobstructed movement of coaches waiting to exit the coach park, without the need for more extensive traffic signal control measures than currently proposed;
- the proposed combined cycleway / footway has the potential to divert pedestrians and cyclists away from a well-used existing route (New Walk) without having an obvious destination at its northern end, thereby compromising the safety of cyclists and causing pedestrians to have a more circuitous route into the city centre;
- the potential exists for vehicle pedestrian collisions to occur on the area of combined cycleway / footway in the vicinity of the accesses to the Marina and the Foss Basin, and on the pedestrian crossing across the access to the MSCP close to its junction with Tower Street.
- the associated crossing on Tower Street, proposed as part of the Castle Gateway Masterplan, will impose considerable delays on the local highway network.

### Comments in response to revised plans / additional information

#### 3.33 Response as follows;

- The effect of increased parking provision in the MSCP on road safety at Tower Street is addressed by the proposal for the pedestrian crossing and signalised junction (included in the TA). To be conditioned as off-site highway works.
- Forward visibility over the access ramps – The Coach Visibility on Access Ramp shows that this should be adequate.
- Dispersal of pedestrians and cyclists at Tower Street should be addressed through a condition for the new highway crossing and alterations to Tower Street (as included in the TA), with detail design to be agreed by the local authority and including a full RSA.
- The proposed pedestrian crossing across the access to the MSCP / Coach Park can be addressed through the detailed design process and with the RSA process.

### FLOOD RISK MANAGEMENT

#### Flood Risk (River)

3.34 Conditions requested by the Environment Agency's response should be imposed. An Emergency Flood Evacuation Plan should be submitted for approval to our Emergency Planning Team prior to determination.

### Surface Water Drainage

3.35 In line with CYCs Sustainable Drainage Systems Guidance, the use of soakaways or a means of surface water disposal should be explored by carrying out site specific infiltration testing. Existing connected impermeable areas should be proven by way of site specific CCTV Survey and should not be assumed to be 100% impermeable.

3.36 Peak run-off from Brownfield developments must be attenuated to 70% of the existing rate. 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.

## EXTERNAL

### HISTORIC ENGLAND

3.37 Although we support the aim and objectives of the York Castle Gateway Project, the application does not provide us with the certainty that is required to deliver a major development in this sensitive location or secure the extensive public benefit of the several related development projects. Therefore Historic England is unable to support the MSCP proposal in its present form.

3.38 We remain willing to work with the design team to address the issues identified below and to arrive at a clear and binding commitment establishing how the extensive public benefits are to be secured and delivered. Specific concerns with regard to design elements of the MSCP:

- the inclusion of the solar canopy at roof level of the MSCP: this should not be seen in views from Clifford's Tower,
- the use of the top deck for public events and the impact of the provision of lighting: this must be minimal in views from Clifford's Tower,

- the landscaping around the MSCP and proposed new public space on the west side of the MSCP: this currently lacks the level of detail required in order for the new public realm to make a positive addition to the New Walk Terrace / Terry Avenue Conservation Area.

3.39 Our greater concern however lies in the lack of clarity surrounding the relationship between the several Castle Gateway development projects and the manner in which the public benefit is to be secured. Whilst the proposed MSCP will cause some harm to the significance of the designated heritage assets named above, the public benefit generated by the closure and removal of the existing car park at Clifford's Tower is likely to outweigh that harm, but it needs to be clearly stated and defined.

#### Comments in response to receipt of revised and amended information

3.40 The Statement of Heritage Significance fails to demonstrate the relationship between harm and public benefit. There are inconsistencies and omissions from the assessment whilst the significance and degree of harm are frequently under-assessed. In some respects the inconsistencies here are of greater concern because of the physical proximity of the MSCP to the castle.

3.41 The landscaping proposals now have greater definition and we welcome the suggested approach. However, we reiterate our previous advice to the effect that the MSCP is too large and does not need the solar canopy which makes it more visible and obtrusive (and therefore more 'harmful') from the top of Clifford's Tower. In a post Covid world, the number of and demand for parking space numbers needs to be revisited to better reflect predictions of vehicle use.

3.42 Historic England remains fully committed to the Castle Gateway masterplan. We understand that the delivery of this ambition requires that a number of inter-related development 'steps' are followed. However, it is only when the harmful impact on heritage assets is fully acknowledged that the parameters for modifications for the design of elements such as elevations of the MSCP can be set. A question remains about the funding gap around the projects and it is still not clear from the additional information submitted whether this funding gap may be critical to the delivery of the overall scheme. The most pressing requirement is that the Assessment of Significance documents are rethought and redrafted to better reflect the reality and impact of the development schemes. Until such time as this has been

achieved and agreed, we continue to have concerns on heritage grounds in respect of these two development proposals.

### ENVIRONMENT AGENCY

3.43 No objection subject to a condition that the development be carried out in accordance with the submitted flood risk assessment and the mitigation measures it details.

### YORKSHIRE WATER

3.44 If permission is to be granted, a pre-commencement condition requiring details of measures to protect the public sewerage infrastructure to include details of means of access to the pipes, is required in order to protect the local aquatic environment and Yorkshire Water infrastructure.

### CANAL AND RIVER TRUST

3.45 The proposed car park would be visible from the riverside corridor, notably in winter. There is a risk that the proposed design, could appear stark and domineering next to the river, as the proposed massing is predominantly a ribbed terracotta tiling treatment that would not appear vastly different from a concrete finish. As such the building does read as architecturally brutal, which intrinsically does not compliment the softer naturalistic riverside setting. The use of an alternative facing material or the expansion of the proposed green wall could help to soften the western elevation to blend it into the riverside setting.

3.46 In our capacity as Navigation Authority of the River Ouse, the developer may need to comply with the Trust's "Code of Practice for Works affecting the Canal and River Trust" so that we can ensure that the impact of the large scale redevelopment on navigation can be appropriately managed. An informative advising the applicant of this is recommended.

### NORTH YORKSHIRE POLICE

3.47 Do not support the application. The principle issue is the permeability of the structure, in particular the open-sided ground floor which makes the MSCP and its legitimate users vulnerable to crime and disorder. It is recognised that the ground floor forms part of the flood plain for the river and that it will be allowed to flood.

However, there is an example of enclosed secure car parking on the river front close by, that does not impede flood water and which can also be easily cleaned when flood water recedes. It is also noted that the MSCP will be open 24/7 but will not be staffed during the night. This factor, alongside the structures permeability will make the site very attractive for illegitimate uses and antisocial behaviour to take over to the detriment of the sites intended purpose. This could have a negative impact on the sustainability of the facility.

## **4.0 REPRESENTATIONS**

### YORK ENVIRONMENT FORUM

#### 4.1 Objects to the application for the following reasons;

- (i) In the last three decades the Council has developed an extensive network of Park & Ride bus services and an extensive cycle network. However the now comprehensive set of Park & Ride services and local bus services suffer, in terms of reliability, travel times and running costs, from the excessive volume of remaining traffic still using the key radials and inner ring road, and the congestion and unpredictable delays that causes. With the Climate Crisis, the opportunity to substantially reduce the amount of city centre car parking and individual motorised trips to the city centre should be seized, rather than continuing a 1970s approach to transport and parking. The Council should reconsider whether a different approach would allow this plan for a MSCP to be abandoned completely, or at least very substantially reduced in scale. The very substantial proposed investment in the car park could instead be spent on major improvements to the cities cycling network and for additional bus priorities to improve these alternative transport modes attractiveness.
- (ii) The size and bulk height of the proposed multi-storey car park is excessive and impinges too greatly on both the nearby historic York Castle complex and on St. George's fields and especially the historic New Walk. This is due largely to the Council's own requirement to accommodate 372 parking spaces, which appears in part to be financially rather than policy driven. The building is far too large in terms of the capacity of the site and operational need and the justification relies on outdated usage data from a single day in 2010. When almost half the Castle car park had been set

aside for the Shakespearian theatre, we are not aware that the St George's car park became 'full up'. Emeritus Transport Professor Tony May points out that occupancy on Saturdays and Sundays is substantially higher than on weekdays, and that a more focused policy of encouraging park and ride would allow the capacity of the St George's Field and Piccadilly MSCPs to be reduced by around 100 spaces. This would allow the structure to be reduced in height by one level, reducing its overwhelming presence in St. George's Fields.

- (iii) The proposed access and exit proposals to and from the public highway are unacceptable. The impact on the inner ring road is significantly worsened congestion and delay. In terms of pedestrian access, whilst reference is made to a potential new pedestrian / cycle crossing of the inner ring road toward Rainham Mill in the Castle Museum complex this does not appear to form part of this or any current separate planning application or highway proposal. Instead reliance for pedestrian access to and from the car park to town is placed on the New Walk Path under Skeldergate Bridge. This route floods frequently in the winter and spring – so is wholly inappropriate as the sole pedestrian access. We'd point to the potentially very serious consequence when New Walk is flooded. Then the only pedestrian exit will be on to Castle Mills and the only safe way to get there from town is either to walk all the way to the Fishergate / Paragon Street junction to the east, or to the far end of Skeldergate bridge pedestrian crossings. Neither are within sight from the car park access. Almost certainly therefore a chunk of pedestrians will simply cross the dual carriageway and others may try west and will end up crossing at the near end of Skeldergate bridge at considerable risk. Car park users and pedestrians from New Walk south should be able to cross the dual carriageway directly in one movement. This should be dealt with by a Grampian condition which requires the dedicated new cycle / pedestrian crossings completion before the car park is first used.
- (iv) The transport assessment of highway safety past the new access is also inadequate. It makes a superficial appraisal of current accident patterns with no assessment of the impact of the changed situation. This section of the inner ring road is a nightmare for cyclists, yet this is not even mentioned other than in the context of the one existing accident. No consideration appears to have been given to any cycle priorities through the new access junction. The Council should provide inner ring road cycle lanes on this

section of Castle Mills to connect to the Skeldergate Bridge / Tower Street cycle lanes. The carriageway could be widened into the redlined site to allow this.

- (v) The application proposes a substantial number of 'disabled parking spaces' for blue-badge users to replace the spaces lost at Clifford's Tower. The existing spaces are 250m from the edge of Parliament Street. The proposed multi-storey car park is 500m. This increased distance is far too far for many disabled people and does not constitute equivalent replacement. Spaces should be set aside much nearer the city centre.

### THIRD PARTY REPRESENTATIONS

4.2 20No. third party representations received objecting to the scheme for the following reasons;

- (i) The proposed building, due to its proximity to several nearby heritage assets when combined with its height and mass, will cause substantial harm to the setting of these heritage monuments. Heritage assets which would be affected include Skeldergate Bridge, the listed adjoining park, the City Wall and the last remaining part of the medieval castle and Clifford's Tower.
- (ii) The external appearance and design of the MSCP is poor with excessive horizontality giving a brutal appearance reminiscent of the 1960's. MSCP's do not have to look like MSCP's, see John Lewis MSCP in Leeds. The existing Shambles and Rowntree Wharf MSCP's show how they can be designed to sit well in their surroundings. What is required is a design in which the floor plans do not dictate the form but express the circulation between floors and human scale. The design is unambitious /boring and out of place in this part of York.
- (iii) Impact on views of and from the river. The development is at odds with CYC Policy to sustain the green wedges that come into our city centre. The "green wedges" are crucial to maintaining the integrity of the riverside area. This area is sensitive and this very large development is completely out of scale.

- (iv) The visual impact from residential properties on the west side (Terry Avenue / Postern Close) has not been properly considered and the photomontage only shows the trees in full leaf. For almost half the year the MSCP will be clearly visible from Terry Avenue and residential properties on the west side of the river. It will appear as a stark dark mass in winter. This could be softened by a green living wall, as is being proposed for the side elevations and the retention of the existing hedge, which is earmarked for removal. Great effort appears to have been made to improve the visual impact from heritage viewpoints with little regard for those residents who will have to live with it permanently. Planting young trees would take 50 years before they acted as a sufficient screen.
- (v) The cladding material is described as terracotta tiles and yet in all the visualisation and elevational drawings, it has the appearance of ridged concrete, akin to that used in inner city car parks in the 1970's. This is totally inappropriate material for this sensitive location within a Conservation Area.
- (vi) The proposed living walls would seem to be an attempt to mitigate for the brutal appearance of the terracotta tiles. The amount of living wall proposed will demand extensive and expensive maintenance by the Council to ensure that it actually remains living. There should be an extension of the green wall design to cover more of the skin of the building.
- (vii) There is mention of the possibility of "Public Gatherings" events on the top, any number of which would require a roof top bar to enable the viability of such activities. Such noisy use, and from an elevated position, would be extremely detrimental to the residential amenity currently enjoyed in this quiet residential area.
- (viii) The impact of this building is contrary to the objectives of transport policy for the city and environmental concerns to provide sustainable transport for the future and encourage better modes of transport. On a global scale this MSCP will contribute to human induced climate change from removing trees to construction using concrete and during its lifespan from motor vehicles. Cars need relocating to the park and ride facilities; building a MSCP will attract cars to the city centre maintaining the deplorable status quo of excessive traffic volume and associated pollution. York has

recognized that there is a climate emergency. Where does this huge car park fit into these objective and policies?

- (ix) The size and bulk of the proposed MSCP are due largely to the requirement to accommodate for 372 parking spaces. This is far too large in terms of the capacity of the site and operational need. The justification is to replace the Castle and Castle Mills car parks but the case relies on outdated usage data from 2010. Five months ago, Castle Mills had closed and almost half the Castle car park had been set aside for the theatre. Not aware that the St George's car park became full up during this period. It is suspected that a proper analysis would show that at least one storey of the proposed MSCP could be lopped off. More thought must be given to considering how much of the displaced car parking will be displaced from Castle car park to other car parks like the underused Piccadilly MSCP, or Park & Ride.
- (x) This development will provide space in a sensitive heritage site - surely it makes sense that if there are spaces elsewhere in the City that the cars should drive to those spaces rather than building a five storey car park that is of questionable benefit in such a sensitive area.
- (xi) Some city centre traders have argued that close to centre parking is needed otherwise shoppers will not come; the fact that a number of key stores have all recently closed while there is ample city centre parking negates this argument. The cause for these closures lies elsewhere.
- (xii) The council's argument that the income lost from the closure of the Clifford's Tower carpark needs to be replaced by income from the multi-storey carpark is a myth. The income could be replaced by a small charge at the park-and-ride facilities.
- (xiii) The income from sale of accommodation which is earmarked for the funding of the MSCP should be directed towards Park and Ride if this needs expanding, this investment is more sensible as it provides flexibility to meet changing needs as required, both seasonal and long-term, and does not involve massive capital outlay. Or should be used to make York less polluted and more pedestrian / cycle friendly.
- (xiv) The plan to remove the carpark from around Clifford's Tower and convert this to a green space is to be applauded but it should be taken as an

opportunity to discourage vehicle access into the city. The cars should not be transferred to St Georges Field which should itself be a green space, a green park for the benefit of the ever burgeoning population of inner York.

- (xv) The proposed access and exit proposals to and from the public highway are inadequate. Car park users should be able to cross the dual carriageway directly in one movement.
- (xvi) The application proposes a substantial number of disabled parking spaces for blue badge users to replace the spaces lost at Clifford's Tower. The existing spaces are 250m from the edge of Parliament Street. The proposed multi-storey car park is 500m. This increased distance is too far for many disabled people and does not constitute equivalent replacement. Spaces should be set aside much nearer the centre.
- (xvii) There is no pedestrian access to the river walk from the south side of Skeldergate Bridge or Tower Street without walking all the way round and to the south of the car park (or crossing Skeldergate Bridge road to go down the steps to Tower Gardens on the north side). Could steps and/or a ramp be added opposite the steps down to Tower Gardens?
- (xviii) The gap to the east of the car-park is too narrow - the combination of cycles and groups of passengers sharing this footpath space will be frustrating and dangerous. The width of the carpark should be reduced to allow for a separate cycle way right up to Tower Street.
- (xix) The bus shelter looks like a late add on and is located dangerously where pedestrians and cyclist meet.
- (xx) The master-plan drawing does not show a right turn into the car-park from Tower Street although it is shown in the traffic assessment. This right turn is needed to prevent additional traffic on the Fishergate gyratory system.
- (xxi) The demolition of the toilets is an infringement of human rights to comfort facilities being available to the public, with seemingly no mitigation. WCs should be in a more prominent position.
- (xxii) Loss of trees

- (xxiii) There is already a problem with anti-social behaviour and rough sleeping in the adjacent Tower Gardens. The planned open sided ground floor, which will not be staffed overnight, is likely to lead to similar issues, which will have a negative effect on the large number of residential properties on Terry Avenue and impact the safety of evening and late night car park users.
- (xxiv) The planning statement says that no air quality impact assessment is necessary as the number of car parking spaces is slightly less than the combined St Georges Field and current Castle Car Park site. Surely air quality will be affected by a much higher concentration of cars in a much smaller area. Why has this not been investigated and reported on?
- (xxv) The site is flood plain and does flood. Should, in the light of possible climate change, we be building on such areas?
- (xxvi) There needs to be specific electric vehicle charging points within the disabled bays. Only 18% of the spaces have charging facilities, this needs to be nearer 35%. The charging spaces should be powered by roof mounted solar PV arrays and battery provision.
- (xxvii) Cycle / e-scooter racks should be included.
- (xxviii) In the past few months, the way we live has changed and perhaps a fundamental rethink on this project is now due.
- (xxix) Would the carpark fulfil its purpose? People on an evening would like to park closer to the centre and not in a MSCP.

4.3 One representation received in support of the scheme making the following comments;

With regard to the overall aesthetic and mass of the design, it is an appropriate solution. It is not a particularly obtrusive structure due to the level of the existing car parking being significantly lower than the neighbouring road leading to Skeldergate Bridge. The design seems well thought out in terms of access for cars and pedestrian circulation. The plan also allows for increased public space for pedestrian use around its perimeter which currently does not exist. Although disappointed that the applicants have adopted some cynical and unimaginative strategies such as

copious green walls that inevitably will not materialise, it is however a strong application which I fully support.

4.4 A second representation received broadly in support of the scheme but requesting committee to pay particular attention to the scale and massing from the various viewpoints especially given that the visualisations only show the trees at maximum leaf density.

## **5.0 APPRAISAL**

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

- Principle of the proposed development
- Design and External Appearance
- Impact on Designated Heritage Assets (Listed Buildings / Conservation Area / Archaeology)
- Landscaping
- Ecology
- Transport and Access
- Flood Risk and Drainage
- Neighbouring Uses
- Crime
- Sustainable Design and Construction

## **POLICY CONTEXT**

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

### National Planning Policy Framework (February 2019)

5.3 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", 2019). It is a material consideration in the determination of this application. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies

in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

### Emerging Local Plan

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

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

5.5 Relevant draft policies are set out in section 2 of this report.

### 2005 Draft Development Control Local Plan

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

## **PRINCIPLE OF DEVELOPMENT**

5.7 Paragraph 11 of the NPPF requires decision makers to approve development proposals that accord with an up-to-date development plan without delay.

5.8 The proposed development forms a key component of the York Castle Gateway Masterplan development proposals, which are addressed in Policy SS5 of the 2018 Draft Plan. Policy SS5 identifies Castle Gateway as an “Area of Opportunity”, a major regeneration area of the city centre and an area home to high quality cultural, river and heritage assets that form part of York’s unique character, but suffer from a poor quality setting amongst car parking and neglected buildings. St George’s Field has been identified within the Castle Gateway regeneration plans as an opportunity to provide enhanced car parking arrangements through the development of a multi-storey car park, to replace the existing parking at Castle Car Park.

5.9 Taking into account the existing number of spaces at St George’s Field (156), the spaces which would be lost at Castle Car Park (349) and the 372 spaces to be provided in the proposed MSCP, the overall provision in this area of the city centre would be reduced by 133 spaces from 505 to 372 with car parking and associated traffic moved outside of the inner ring road.

5.10 The Planning Statement accompanying the application states that “*the proposed development seeks to maximise the potential of the site by extending the role of St. George’s Field and the Foss Basin as an arrival point and gateway to the city, providing the scope to create stronger pedestrian and cycle routes through the area and make more of the waterside setting for recreation*”. In the context of the proposed development replacing the existing Castle Car Park and involving a reduction in the overall number of car parking spaces, these aspirations accord with 2018 Draft Plan Policy SS3 (York City Centre) which seeks to ensure that the city centre remains the focus for main town centre uses and encourages proposals that promote accessibility and movement, particularly those that prioritise pedestrian and cycle movement and improve linkages between key places. It also broadly accords with NPPF policy, which seeks to support the role that town centres play at the heart of local communities by taking a positive approach to their growth, management and adaptation (Paragraph 85).

## **DESIGN AND EXTERNAL APPEARANCE**

5.11 Chapter 12 of the NPPF gives advice on achieving well-designed places. At paragraph 127 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, be visually attractive through good architecture, layout and appropriate landscaping, be sympathetic to local character whilst not stifling innovation, establish a strong sense of place, and create safe and accessible environments.

5.12 At paragraph 130, the NPPF advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These aims are reflected in Policy GP1 of the 2005 draft Local Plan and D1 and D2 of the 2018 Draft Local Plan.

### Scale and Design

5.13 It is acknowledged that any large freestanding building on this open site would be viewable from all sides as an object in the landscape, unrelated to a street or urban block, which therefore will stand out architecturally. The proximity of the proposed development to the Castle site (Debtor's Court, Female Prison and Assize Court), which are also large buildings in an open landscape, would create an architectural relationship between the buildings and would affect their setting. Some level of harm is considered to be inevitable and therefore ensuring the least harmful approach, in terms of being satisfied that the overall size of the development, a function of the car parking numbers, is minimised and ensuring a high quality design, is considered critical.

5.14 In terms of size and in response to the applicant being asked to demonstrate that the number of proposed spaces is the lowest feasible given projected car use, anticipated occupancy levels and promotion of other more sustainable means of transport, the applicant has confirmed that a clear brief given to the project was to replace any lost car parking, which with the constraints of the site, has already been compromised with the proposals involving the loss of a significant number of spaces from city centre car parking capacity. In addition, the applicant notes that the multi-storey car park is an expensive building due to the site constraints and is very small for a multi-storey car park. Much of the build cost of the car park is within the foundations and therefore the more spaces and levels a car park has, the more economical it is to build. In response to comments that the car park should lose a further storey, the applicant states that this would both result in a further loss of car parking capacity and would compromise viability by increasing the cost per space.

5.15 The proposed development has sought to limit visual bulk. The floors are 3 metres floor to floor, so overall it would appear from most angles similar to the height of a four storey apartment building with a recessed top fifth floor. However, due to the sloping site, the building will visually appear as three floors from the elevation nearest the Castle site. The external feature staircase has been re-sited as

far as practical away from the Castle site and the building is generally without anything superfluous that would add bulk in sensitive places.

5.16 Officers support the “honest” visual expression for the car park fenestration. Architectural flourishes are limited to certain components such as the promenading staircase and sections of green wall, all focused on the New Walk elevation. The long, plain east (Foss) elevation is considered to be a weaker part of the proposal and as such Officers asked whether additional trees could be planted along this elevation. Revised plans have been submitted which detail the planting of 7No additional trees along the eastern boundary.

5.17 The merits of the solar canopy, which divides opinion, is assessed at paras 5.24 and 5.25. The lighting design is also considered to be critical not only in aesthetic terms to ensure the building is not illuminated as a feature but to prevent light pollution / sky glow to safeguard residential amenity and to minimise the ecological impact. The key areas to be illuminated are the green walls, the external feature stair, the main entrance facade and the top deck and it is acknowledged that even if lighting is highly controlled, inevitably the open decks will spill light at night. A condition to ensure a lighting design that is as subdued as possible is required.

## **IMPACT ON HERITAGE ASSETS**

5.18 The site is within the New Walk / Terry Avenue Conservation Area and within an Area of Archaeological Importance. It also is within City of York Historic Characterisation Project, Character Area 66 “Fishergate - River Ouse” and abuts Character Area 13 (The Castle area) of the York Central Historic Core Conservation Area Appraisal (YCHCCA), which includes, in addition to Clifford's Tower and the castle remains, the following designated heritage assets: The Crown Court and railings, Grade I, Castle Museum and Debtors Prison, Grade I, and Castle Museum and Female Prison, Grade I.

5.19 The Character area statements set out important considerations for each area which must be met by any new development. Character Area 66 “Fishergate - River Ouse” (2013) recommends that any new development in the area should be sympathetic in terms of style, material, proportions and density and should complement and enhance existing character. It states that “*the existing car and coach park is a degraded space and opportunities for enhancement of the landscaping could usefully be identified. This is an important visitor destination and the pedestrian journey from here to the city centre could be significantly improved*”.

The document also advises that “*key views of major heritage assets and local landmarks should be maintained and enhanced to help orientation and enhance local distinctiveness*”.

5.20 In accordance with Section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local Planning Authority to have special regard to preserving the setting of listed buildings or any features of special architectural or historic interest it possesses. Where there is found to be harm to the character or appearance of the Conservation Area (or the setting of a listed building,) the statutory duty means that such harm should be afforded considerable importance and weight when carrying out the balancing exercise.

5.21 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater weight should be. Where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal.

5.22 The NPPF continues by advising that local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to sustain and enhance their significance. Development Control Local Plan (2005) Policy HE2 and 2018 Draft Plan Policy D4, reflect legislation and national planning guidance. In particular, Draft Policy D4 advises that harm to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

### Conservation Area and Setting of Listed Buildings

5.23 The site is highly sensitive and significant given its location within the Conservation Area and its proximity to such heritage assets as Cliffords Tower, the Crown Court and the Castle Museum. This significance contributes to the characteristic of the conservation area, the historic setting of the city as an area and the individual assets within it. The development will affect the setting of various

heritage assets however it is considered that the simplicity of the design, the palette of materials and management of scale would allow this large building to remain sufficiently subservient in relation to the setting of the various heritage assets. The use of terracotta cladding also allows the building to blend into the context of the many other brick buildings around, whilst at the same time, allowing the stone of the various heritage assets to remain dominant.

5.24 Concerns have been raised by the Council's Conservation Architect and Historic England with regards to the proposed solar canopy in terms of it making the development more visible and obtrusive (and therefore more harmful to heritage significance) particularly in views from the top of Clifford's Tower. The point is made that no assessment of the potential for sunlight to be reflected from the panels has been undertaken, essential as there is the potential for these panels to reflect light and seriously impinge on views.

5.25 These objections are noted and whilst it is acknowledged that the canopy would add bulk and may be reflective, aside from the clear sustainability benefits of using approximately 500sq.m of roofspace for PV installation, it has the potential to break up the roofline, help control lighting and mask views of some of the cars. If Officers are to support the solar canopy, it would be on the basis of a condition to achieve a very high design quality for the solar canopy.

5.26 Taken as a whole, the development proposals, by virtue of its scale and massing, would harm the setting of a number of heritage assets. The legal test requires considerable importance and weight to be given to the desirability of avoiding such harm. The NPPF also requires great weight to be given to such harm in the planning balance, despite it being minor. The harm is assessed as "less than substantial".

5.27 Balanced against the identified harm to heritage assets caused by the proposed development are a number of public benefits which link to the wider Castle Gateway Masterplan, the key element being the closure of the Castle Car Park, a poor quality surface car park which surrounds and has a damaging impact on the setting of Clifford's Tower and the Eye of York and its replacement with a flexible, multi-purpose, vibrant area of public realm.

5.28 Throughout the public engagement process, businesses and retailers were clear that they would only support the closure of Castle Car Park if alternative city centre car parking was provided in the area. In addition, with the Castle car park

generating £1.2 m a year, used to fund wider council budgets and services, a key brief for the project was to ensure that this revenue stream was retained. The proposed development, whilst reducing the overall amount of spaces by 133, would replace the lost income and provide the replacement parking required for the closure of Castle Car Park and would move car parking and associated traffic outside of the inner ring road.

5.29 Further public benefits involve the creation of a public landscaped open space, where there is currently tarmac, which pedestrians would access from a number of locations along New Walk and the improved permeability through St. George's Field with a new shared cycle/ pedestrian path providing an alternative route from New Walk to Tower Street. This path would link to the proposed new surface level crossing on Tower Street which would in turn access the new public realm and bridge associated with the Castle Mills application thus significantly improving pedestrian and cycle connectivity within the wider neighbourhood. The Tower Street crossing, which forms a part of the wider Masterplan, is outside of the application site boundary but would be subject to an off-site Highway works condition.

5.30 These public benefits are significant and far reaching and have the potential to enhance the setting of heritage assets. It is acknowledged however that these wider public benefits cannot be secured through this planning application and there is a lack of certainty that these benefits can be realised given the long timescale of the project and funding complexities. Historic England are unable to support the applications for this reason, advising that they are not convinced that there is an adequate mechanism in place to ensure the delivery of the public benefits. Questions are therefore asked as to the weight that can be attributed to these public benefits in the exercise of balancing them with the identified harm to heritage assets.

5.31 To address these comments, the applicant has submitted a supplementary note explaining the relationship between the St George's and Castle Mills applications and the delivery of the Masterplan. The applicant confirms that it would accept a planning condition, or other form of restriction, to be applied requiring the Castle car park to close within 3 months of the St. Georges Field MSCP becoming operational.

5.32 It should be noted that whilst the closure of the Castle car park can be secured by means of a condition (to include a requirement that all ticket machines and associated car park signs be removed), the details of the public realm works would

be the subject of a future separate planning application. The applicant has confirmed that this body of work would be brought forward in to the first phase of development to ensure permission would be in place to create a shovel ready scheme and to help secure any external funding that may become available. With this approach, it is acknowledged that whilst the removal of cars from this area would result from the implementation of the permission, the works to transform the space into a flexible, multi-purpose, vibrant area of public realm would not be secured.

5.33 Officers are satisfied that adequate mechanisms are in place to ensure the delivery of the public benefits identified above. Therefore whilst it is considered that less than substantial harm to the setting of a number of heritage assets would result, this harm is considered to be outweighed by the closure of the Castle Car Park and improvements to pedestrian and cycle connectivity. Whilst harm to heritage assets is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance.

#### Archaeology

5.34 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. 2005 Development Control Local Plan Policy HE10 and 2018 Draft Plan Policy D6 reflect national planning guidance.

5.35 The archaeological features and deposits on the application site are undesignated heritage assets of potential national significance that lie within the designated Area of Archaeological Importance. The site also lies adjacent to and includes part of the footprint of a scheduled monument, the remains of St Georges Chapel, an evaluation of which was carried out in 1990 by York Archaeological Trust (YAT).

5.36 In terms of archaeological deposits on the site, a borehole evaluation and water monitoring program was undertaken to characterise the hydrological regime across the site, the archaeological deposits and their state of preservation. Investigations revealed waterlogged deposits of possible medieval date associated with prolonged dumping of domestic refuse that overlie a series of alluvial flooding deposits with a possible Roman horizon or dumping event across the site. Covering this material, modern land reclamation has sealed in lower deposits further sealed by modern car park levelling and surfacing. The monitoring reveals that the archaeological deposits

are hydrologically connected with the River Ouse with the data indicative of anoxic and reducing conditions which are ideal for the preservation of organic archaeological materials.

5.37 The creation of the sewer diversion and additional drainage requirements is expected to impact upon the modern and post-medieval levelling deposits up to c.4m below current ground level. This will include excavation through saturated layers which may also impinge into the medieval dumping deposits. The foundation design for the car park, anticipated to be a piled foundation design, will also impact upon the modern and possibly post-medieval archaeological deposits with piles extending into archaeological layers of all periods. In accordance with Emerging Local Plan Policy D6, the foundation design will ensure that the saturated deposits are not cut off from recharge by the river and that no less than 95% of archaeological deposits are preserved in-situ. Any harm is considered to be less than substantial, outweighed by the public benefits identified above, and can be mitigated by conditions.

## **LANDSCAPING**

5.38 Policy D2 (Landscape and Setting) of the 2018 Draft Plan states that proposals will be encouraged and supported where they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities and recognise the significance of landscape features such as mature trees, hedges, and historic boundaries and York's other important character elements, and retain them in a respectful context where they can be suitably managed and sustained.

5.39 The proposed development would result in the loss of 14no. trees including one large Lime. This Lime positively contributes to the landscape character of the area as it is an attractive, prominent, individual tree however it is acknowledged that its retention would pose too much of a restriction on the efficacy of the proposed development. Whilst the remaining trees to be lost contribute to the overall tree cover in the immediate area, it is considered that their loss would be mitigated by the 25No. replacement trees and the creation of a new open space.

5.40 Officers consider the landscape masterplan and proposed planting to be perceptively simple and considered with a significant merit of the scheme being the creation of a public open space where there is currently tarmac. This introduces a good arrival space with strong connections to the river, and access to the city centre

under Skeldergate Bridge. The incorporation of green walls into the car park elevations is also fully supported.

5.41 In order to soften views of the proposed development across the Foss basin from the inner ring road, Officers requested that additional trees be added to the meadow area and/or within the vicinity of the scheduled ancient monument and to the boundary with Tower Street bridge. Revised plans have been submitted which detail the planting of 7No additional trees along the eastern boundary and although the applicant has agreed with the principle of additional tree planting on the boundary with Tower Street, notes that whilst the Scheduled Ancient Monument should not be a constraint to planting trees, the consent of Historic England will be required. The applicant requests that the additional tree planting (and other required detailed information), be addressed by means of detailed landscaping conditions, which is acceptable but does lead to an element of risk, either by way of unforeseen harm to existing trees, or an inability to fully meet the design aspirations proposed by the applicant, or the quality of detail expected by CYC. In accepting this risk, it is considered that subject to the imposition of detailed landscaping conditions, the proposal accords with Emerging Plan Policy D2 and Paragraph 170 of the NPPF which seeks to ensure valued landscapes are protected and enhanced.

## **ECOLOGY**

5.42 Policy GI2 of the 2018 Draft Plan seeks to conserve and enhance York's biodiversity. Where appropriate, any development should result in net gain to, and help to improve, biodiversity.

5.43 The habitats within the application site are generally of low ecological value although there are scattered trees and hedgerows which have value at a site level. Bat surveys were carried out on the toilet block and four of the trees to be felled which identified them as having low suitability to support roosting bats. A dawn re-entry survey also recorded no bats displaying roosting behaviour and bat activity to be generally low.

5.44 Within the western bank of the Foss Basin there is an artificial otter holt which would not be impacted by the proposals. The new landscaping proposals include an area of wetland meadow close to the area of the artificial otter holt which provides a more natural habitat setting. The wetland meadows and the green living wall will also benefit invertebrates (pollinators) and in turn species of bat and birds. To further enhance the scheme, a condition requiring the provision of integrated bat

boxes and bird boxes would be attached to the decision. It is anticipated that these would be introduced to the trees adjacent to New Walk within the site boundary. A condition to ensure that any lighting scheme minimises light spill onto surrounding trees and the rivers, is also recommended.

## **HIGHWAYS AND PARKING**

5.45 Paragraph 109 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.46 The existing car park is accessed off Tower Street, approximately 50m east of the Tower Street / Bishopgate Street junction. At this location Tower Street is a dual carriageway with the eastbound and westbound carriageways separated by a central reservation. Vehicles turn left-in off Tower Street westbound to enter the existing car park and left-out onto Tower Street westbound to exit.

5.47 The proposed development would involve a similar left-in and left-out arrangement as currently exists with the submitted Transport Assessment (TA) stating that 'as part of the development the access to the site would also be redeveloped from a 'Left in, Left out' priority junction into a signal controlled junction which would also allow access for eastbound traffic via a right turn lane.' A two way access ramp would take vehicles over an existing flood wall with the access road to the coach park reducing to a single lane 3.5m wide over a distance of approximately 16.5m in front of the pedestrian entrance to the MSCP.

5.48 In addition to the new MSCP / revised coach park layout, the application includes the provision of a new shared cycle/footway to the east of the MSCP providing an alternative route from New Walk to Tower Street improving permeability through St George's Fields. As part of the wider masterplan, it is also intended to connect the shared cycle/footway to a new shared cycle/footway on the west bank of the River Foss on the north side of Tower Street via a new pedestrian/cycle crossing on Tower Street.

5.49 The overall provision of car parking in this area of the city centre would be reduced by 133 spaces from 505 to 372, consequently whilst the number of vehicles entering and exiting the new larger MSCP compared to the number currently entering and exiting the existing car park would be increased, this increase would

not be considered to have a severe impact on the operation of the surrounding highway network. It is noted however that the new pedestrian / cycle crossing and the potential right-turn of Tower Street eastbound into the MSCP / coach Park will impose delays on the local highway network.

5.50 The key issues from a highways perspective relate to the following road safety issues;

- Effect of increased parking provision in the MSCP on road safety at Tower Street
- Forward visibility over the access ramps
- Dispersal of pedestrians and cyclists at Tower Street
- The proposed pedestrian crossing across the access to the MSCP / Coach Park

#### Effect of increased parking provision in the MSCP on road safety at Tower Street

5.51 The existing access to the St George's Field Car Park is close to the westbound approach lanes to the Tower Street / Bishopgate Street junction. The proximity of the access to the junction is such that safety could be adversely affected by an increase in vehicles turning in and out of the MSCP as a result of the higher number of parking spaces, and the route choices these vehicles take. Officers consider that these issues can be addressed by the proposal for the pedestrian crossing and signalised crossing which would be secured by condition.

#### Forward visibility over the access ramps

5.52 A two way access ramp would take vehicles over an existing flood wall with the access road to the coach park reducing to a single lane 3.5m wide over a distance of approximately 16.5m in front of the pedestrian entrance to the MSCP. In response to Officer concerns that there may be insufficient forward visibility over the ramps leading up to the MSCP vehicle entrance for coaches to safely exit the coach park without obstructing the section of single lane carriageway, an additional drawing illustrating the horizontal and vertical visibility over the ramp, has been submitted. This additional plan demonstrates that coach visibility on access ramp should be adequate.

#### Dispersal of pedestrians and cyclists at Tower Street

5.53 Although the Castle Gateway Masterplan details a crossing of Tower Street connecting the combined cycle path / footway from the MSCP side of Tower Street to the Castle Mills side of Tower Street, this crossing is not included within the

application site. For the purposes of this application, the proposed cycle path / footway terminates at the car park access / Tower Street junction. At this location pedestrians can continue along the footway on the south side of Tower Street, but the walk distance to the nearest controlled crossing is more than 250m away. For cyclists there is no apparent suitable route to continue from this point. Therefore, until such time as the crossing of Tower Street is in place, the proposed combined cycleway / footway has the potential to divert pedestrians and cyclists away from a well-used existing route (New Walk) without having an obvious destination at its northern end.

5.54 To address this issue, conditions requiring the new pedestrian / cyclist crossing over Tower Street and alterations to Tower Street (as included in the Transport Assessment) and a full three stage Road Safety Audit are recommended. This would prevent the MSCP coming into use until these highway works have been completed. An additional condition requiring an interim layout, to take account of the eventuality that the proposed crossing of Tower Street as part of the wider Castle Gateway Masterplan is not realised, is recommended.

#### The proposed pedestrian crossing across the access to the MSCP / Coach Park

5.55 Although Officers had raised concerns that the proposed pedestrian crossing across the MSCP access (close to the Tower Street junction and to the accesses to the Marina and Foss Basin) has the potential for vehicle pedestrian collisions to occur with the submitted drawings showing no separate delineation of the accesses to the Marina and the Foss Basin, it is considered that this issue can be satisfactorily addressed through the detailed design process and the Road Safety Audit process (to be required by condition).

## **FLOOD RISK AND DRAINAGE**

5.56 Policy ENV4 of the 2018 Draft Plan is in accordance with Paragraph 163 of the NPPF which states that when determining applications the LPA should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, it can be demonstrated that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
- And development is appropriately flood resilient and resistant;

- It incorporates sustainable drainage systems, unless there is clear evidence that would be inappropriate;
- Any residual risk can be safely managed;
- And safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

5.57 The proposed development is located within the floodplain of the River Foss (Flood Risk Zone 3) and therefore has a high probability of flooding. The submitted Flood Risk Assessment (FRA) demonstrates that the development would be safe to users and would not adversely impact on flooding elsewhere. In respect to ensuring safety of users, the car park would operate a system of closure of the ground floor of the MSCP and coach park area during flooding, or when flooding is expected. The access and remaining floors of the MSCP are located above the flood level and can remain in use during a flood event.

5.58 In terms of preventing adverse impacts to receptors elsewhere, the MSCP adopts a passive and flood sensitive design to minimise the impact on flood storage and conveyance. The use of such measures has reduced the loss of storage by 326 cubic metres representing approximately 1.5% of the total storage of St George's Field for the 1 in 100 year plus 30% climate change. The impact of the loss of floodplain caused by the MSCP is therefore considered to be negligible.

5.59 The Environment Agency raises no objection to the application subject to a condition that the development be carried out in accordance with the submitted flood risk assessment and the mitigation measures it details.

### Drainage

5.60 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. 2018 Draft Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced.

5.61 The site currently drains via a conventional network of surface gullies which connect to underground piped drainage discharging to the River Ouse. As part of the development of St George's Field, it is proposed to retain the majority of the existing drainage strategy but include a number of aspects to provide improvements to both the quality and quantity of runoff discharged. The Council's Drainage

Engineer has instead requested the applicant explore the use of soakaways as a means of surface water disposal (in line with the Council's Sustainable Drainage Systems Guidance for Developers) and to undertake site specific infiltration testing and has requested that the applicant proves through CCTV survey, existing connected impermeable areas.

5.62 Further information from the applicant together with an updated response from the Flood Risk Management team, are awaited. Members will be updated at the meeting.

## **IMPACT ON NEIGHBOURING USES**

5.63 The NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. This is reflected in policy D1 of the 2018 Draft Plan which requires that development considers residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

5.64 There are residential dwellings to the west and south east of the development (on the opposite side of the River Ouse and Foss Basin respectively) within approximately 100 metres from the proposed MSCP. A Construction Environment Management Plan (CEMP) condition for minimising the creation of noise, vibration and dust during the site preparation and construction phases of the development, would be a requirement to minimise the impacts on local residents. In addition, as the site is located in a slightly darker area within the city centre and given that the development has the potential to cause light pollution and sky glow, a condition requiring the submission of a lighting scheme in which consideration is given to sky glow impact, luminaire intensity of the lighting and any impacts of brightness and angle of lighting towards the residential areas to the west and south east, is recommended.

5.65 The Design and Access Statement notes that the top floor of the MSCP provides a space which has significant potential for alternative uses other than car parking with the number of access points allowing for a space with a capacity of up to 500 people. The Statement provides examples of how the space could be used (drive in cinema, outdoor seating, pop up food stalls, markets, pop up playground)

but notes that “no decision has yet been made on whether events will take place, what those events would be, and when they would happen”.

5.66 On the basis of the limited information provided, Officers note that whilst a limited number of events may be considered de-minimus, thereby not requiring planning permission, such events if more frequent, will require permission alongside other relevant consents such as licensing.

## **DESIGNING OUT CRIME**

5.67 Policy D1 of the 2018 Draft Plan advises that developments should be designed to reduce crime and the fear of crime and promote public safety throughout the day and night.

5.68 The car park would be open and operational 24 hours a day and whilst it would not be staffed at night, it would be well lit, covered by CCTV and form part of the regular security patrols by the council’s security contractor. The ground floor has been designed to be open to the adjacent public realm without any public fencing to ensure that debris does not accumulate on and damage any fencing when the river is in flood and to allow ease of post flood clean up. The Environment Agency required as few restrictions as possible to the flow of water through the ground floor of the car park.

5.69 The objections of the Designing Out Crime Officer that the open sided ground floor and the fact that it would not be staffed at night, makes the MSCP and its users vulnerable to crime and disorder, are noted. However, given that the MSCP would be open 24 hours with access available from other entry points, the merits of enclosing the ground floor, is questioned. It would be a Council car park and therefore staffing and security to address issues relating to crime and disorder, could be increased in the future should the need arise.

## **SUSTAINABILITY**

5.70 Policy CC1 (Renewable and Low Carbon Energy Generation and Storage) of the 2018 Draft Plan requires all new buildings to achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. The 28% reduction relates to reduction through renewable energy sources but it can also be achieved through a combined package including energy efficiency as set out in Policy CC2 (Sustainable Design and Construction). This is particularly

relevant with a building such as a MSCP which, due its very nature, presents difficulties in providing energy efficiency measures.

5.71 For non-residential buildings, the 28% reduction applies and in meeting this, Policy CC2 sets out that for BREEAM, Excellent (or equivalent) should be achieved. In accordance with Policy CC2, the application is supported by a CEEQUAL pre-assessment. CEEQUAL is an evidence based sustainability assessment, rating and awards scheme for civil engineering, infrastructure, landscaping and public realm projects. This falls under the “or equivalent” part of Policy CC2.

5.72 CEEQUAL’s Methodology assesses the extent to which the project has exceeded statutory and regulatory standards. ‘Very good’ is a score of 60%, excellent is a score of 75%. The submitted CEEQUAL pre-assessment report concludes that a CEEQUAL ‘Very Good’ rating, with a target score of 70.61%, is currently anticipated. Very good standard represents advanced good practice and at 70.61% is well beyond the minimum for a very good score.

5.73 In addition to the CEEQUAL pre-assessment, the submitted sustainability statement demonstrates energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency. This details that the building will have a durable concrete frame and sustainable materials including terracotta cladding and a green living wall and would make provision for 56no. electrical charging points equating to 15% of the total number of parking spaces above the current standard for CYC of 5% active / 5% passive provision. Southern facing roofs would be suitable for Photovoltaic cells (PVs).

5.74 In view of the above considerations, Officers consider that the proposed development is broadly compliant with Policies CC1 and CC2. A condition is recommended to ensure the multi storey car park is constructed to a CEEQUAL standard of at least 'Very Good'.

## CONCLUSION

6.1 The proposed development forms a key component of the York Castle Gateway Masterplan development proposals, which are addressed in Policy SS5 of the 2018 Draft Plan and offers the opportunity for alternative car parking arrangements to replace the existing parking at Castle car park. The site falls within Flood Risk 3 and

lies in a sensitive location within the New Walk Terrace / Terry Avenue Conservation Area and in the Area of Archaeological Importance. In accordance with paragraph 11 of the NPPF, the more restrictive heritage assets and flood risk policies in the NPPF apply. The proposal, by virtue of its scale and massing, would result in harm to the setting of a number of designated and non-designated (archaeology) heritage assets.

6.2 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 . The harm to result is considered to be less than substantial and is outweighed by the environmental and social benefits associated with the closure of the Castle car park and improvements to pedestrian and cycle connectivity within the wider neighbourhood. Whilst the harm is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.

6.3 As set out in section 5, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

SGF-BDP-ZZ-XX-DR-A-00-1001 (Site Location with red line boundary)

SGF-BDP-ZZ-XX-DR-A-00-1010 Rev A (Red line boundary and Castle Car Park Ownership Plan)

SGF-BDP-ZZ-01-DR-A-20-1101\_D (Site Plan Vehicular Access - Level 01)

SGF-BDP-ZZ-05-DR-A-20-1102\_C (Site Plan Roof Level)

SGF-BDP-ZZ-SEC-DR-A-20-1271 (Coach Visibility on Access Ramp)

SGF-BDP-ZZ-00-DR-A-20-1210\_E (Proposed Ground Floor Plan)

SGF-BDP-ZZ-01-DR-A-20-1211\_C (Proposed Plan - Level 01)

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SGF-BDP-ZZ-02-DR-A-20-1212\_C (Proposed Plan - Level 02)  
SGF-BDP-ZZ-03-DR-A-20-1213\_C (Proposed Plan - Level 03)  
SGF-BDP-ZZ-04-DR-A-20-1214\_C (Proposed Plan - Level 04)  
SGF-BDP-ZZ-05-DR-A-20-1215\_C (Solar Canopy)

SGF-BDP-ZZ-ELE-DR-A-20-1240\_B (Proposed Elevations 1 of 3)  
SGF-BDP-ZZ-ELE-DR-A-20-1241\_B (Proposed Elevations 2 of 3)  
SGF-BDP-ZZ-ELE-DR-A-20-1242\_B (Proposed Elevations 3 of 3)

SGF-BDP-ZZ-SEC-DR-A-20-1270\_A (Proposed Sections)

SGF-BDP-ZZ-ZZ-DR-A-20-1310\_B (Typical Bays 01 & 02)  
SGF-BDP-ZZ-ZZ-DR-A-20-1311\_B (Typical Bays 03 & 04)  
SGF-BDP-ZZ-ZZ-DR-A-20-1312\_B (Typical Bay 05)

SGF-BDP-ZZ-XX-DR-L-90-001 P02 (Illustrative Masterplan)  
SGF-BDP-ZZ-XX-DR-L-90-002 (Landscape Planting - Strategy Plan)  
SGF-BDP-ZZ-XX-DR-L-90-003 (Tree Removal Plan)  
SGF-BDP-ZZ-XX-DR-L-90-004 (Tree Constraints Protection Plan)  
SGF-BDP-ZZ-XX-DR-L-90-005 (Landscape Long Sections 1 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-006 P01 (Landscape Long Sections 2 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-101 Rev P02 (Landscape General Arrangement 1 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-102 Rev P01 (Landscape General Arrangement 2 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-201 P01 (Landscape Proposed Levels Plan Sheet 1 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-202 P01 (Landscape Proposed Levels Plan Sheet 2 of 2)  
SGF-BDP-ZZ-XX-DR-L-90-301 (Field Sketch)

Flood Risk Assessment (70034291-FRA-001, dated September 2019)  
Drainage Strategy

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

3. Prior to the commencement of above ground development, 1:20 annotated and dimensioned drawings in plan, section, elevation and possible 3D (as necessary to describe complexity) for the following detail types, are to be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details;

- (i) Typical bay drawings for each wall type, where varying in design, and/or wall material. To include interfaces at ground level and upper parapet or roof level where appropriate.
- (ii) Typical public staircases, ramps, viewing platforms and any externally visible balustrading.

- (iii) Any exposed soffits and their transitions.
- (iv) All external boundary treatment, including gates.
- (v) All types of retaining walls where not soft landscape finished and where larger than 1m change in level.
- (vi) Details of the solar canopy (at a scale of 1:10) showing the design of the structure supporting the panels and the design of the panels themselves.
- (vii) Details of the terracotta cladding proposed and the 'ribbed' pattern design.

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

4. On-site sample panels of bricks, in each type of brick, in each type of bond, including chosen mortar and pointing, and including any special brick features, shall be erected on the site, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. The sample panel shall be 2x1.2m minimum overall. If multiple combinations of brick and/or bond are proposed each type to be 1x1.2m. The agreed panel is also to represent a minimum standard for the quality of workmanship that the development should achieve, and the panel shall remain on site for the duration of the brickwork package.

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. Notwithstanding any proposed materials specified on the approved drawings or other documents submitted with the application, samples of all proposed external building 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 building envelope. For clarity, this includes vision and any non-vision glazing, flat or pitched roofs. 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. Samples should be provided of sufficiently large size to be able to appropriately judge the material (including joints/fixings where an important part of the visual quality of the material), and to be provided together where materials are seen together.

Reason: So as to achieve a visually cohesive appearance.

6. On-site mock-up sample constructions for the following building parts are to be constructed, and subsequently approved in writing by the Local Planning Authority prior to their full construction. The mock up should be 1:1 scale but shortened overall sizes of elements can be included. The contents and size of the mock-ups

shall be agreed by the Local Planning Authority in advance of their construction.

- (i) Corten perforated cladding car park bay
- (ii) Terracotta cladding car park bay

Reason: To explain the construction interfaces in three dimensions and impart an overall impression of quality of the proposed construction systems at important locations and/or for highly repeated features, in order to ensure the achievement of an overall satisfactory standard of construction quality.

7. For flat roofs in situations with a solid roof parapet (1m or higher, as shown on permitted drawings), service penetrations (ducts, vents etc.) shall be no higher than the top of parapet. Any such proposals above parapet level shall be submitted to and approved in writing by the Local Planning Authority. Permanent external wall fixed equipment used to service the building are not permissible unless subsequently agreed by the Local Planning Authority through the submission of drawings.

Reason: In the interests of the character and appearance of the Conservation Area.

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

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

9. Prior to the commencement of development including demolition, excavations, building operations, a complete and detailed Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, types of construction

machinery/vehicles to be used, means of installing utilities, location of site compound. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and boundary treatments is proposed within the root protection area of existing trees. The development shall be carried out in accordance with the approved Method Statement. A copy of the document will be available for reference and inspection on site at all times.

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

10. Prior to the construction of any works above the ground floor slab, the final construction details, including the irrigation system, management details, and planting specifications, for the proposed green wall shall be submitted to and approved in writing by the Local Planning Authority. The green wall shall be implemented and maintained in accordance with the approved details, unless otherwise agreed in writing, for the life of the development.

Reason: The green wall is part of the approved design intention and visual mitigation of the development.

11. Prior to the development being occupied, a scheme for external lighting (building and open spaces) shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, angle, design and lux of all external lighting and shall include plans and elevations as necessary and technical and non-technical documentation, in order to explain the quality of the lighting proposal and to demonstrate non-intrusive impact of the proposal to both expert and non-expert. The development shall be carried out in accordance with the approved lighting scheme. Any subsequent revisions or alterations to the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

Note: The lighting scheme shall be informed and accompanied by a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for the appropriate Environmental Zone contained within the table taken from the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

Reason: To ensure that the development is well lit, providing natural surveillance

and make it safe for users. To safeguard residential amenity. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. Night time illumination may potentially impact on the night time ambience of the conservation area. To ensure that the proposed development is not unduly prominent within the conservation area and wider views of the city. On ecology grounds - to minimise light spill onto surrounding trees and the rivers.

12. The development hereby permitted shall not come into use until details of an ecological scheme of enhancement to comprise of integrated bat and bird boxes has been submitted to and approved in writing by the Local Planning Authority. The boxes shall be installed/constructed prior to first use of the development in accordance with the approved details and thereafter retained.

Reason: To take account of and to enhance the habitat for a protected species.

13. A full 3 stage road safety audit carried out with advice set out in the DMRB HD19/03 and guidance issued by the council, will be required for the internal highway layout and the nearby junctions, stage 1 of which must be submitted to and agreed in writing by the LPA prior to works commencing on site. More specifically, the RSA should include an assessment of:

- The MSCP / coach park exit onto Tower Street (taking account of additional vehicles exiting arising from the car park being made larger)
- The Tower street Bishopgate Street junction (taking account of additional vehicles exiting arising from the car park being made larger)
- The section of Tower Street from its junction with Fulford Road / Paragon Street and the its junction with the MSCP access
- The access ramps to the MSCP vehicle entrance and the Coach Park
- The combined cycleway / footway, particularly its northern termination
- The pedestrian crossing in the vicinity of the MSCP access junction with Tower Street and the accesses to the Marina and the Foss Basin

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

14. Prior to development taking place, details of an interim layout to account for the eventuality that the proposed crossing of Tower Street as part of the wider Castle Gateway Masterplan is not realised is to be submitted to and approved in writing by the Local Planning Authority. The interim layout is to be informed by the Road Safety Audit.

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

15. Fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by

the Local Planning Authority prior to the start of construction on site. The development hereby permitted shall be implemented and thereafter operated in accordance with the approved details.

Reason: In the interests of highway safety.

16. The development hereby permitted shall not come into use until the following highway works (at the junction of the access to MSCP / coach park and Tower Street, have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same;

- construction of the combined cycleway / footway on east side,
- enlarged paved area on west side
- pedestrian / cycle crossing and
- all required works on Tower Street

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

17. Prior to first use of the car park, 56 no. Electric Vehicle Recharging Points shall be provided in a position and to a specification to be first agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles (parking bay markings and signage should reflect this) . Prior to first use, an Electric Vehicle Recharging Point Management Plan will be submitted to the Council for approval in writing (such approval not be unreasonably withheld or delayed) that will detail the management, maintenance, servicing and public access arrangements for each Electric Vehicle Recharging Point for a minimum period of 10 years.

Reason; To provide facilities for charging electric vehicles on the site, in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

#### Notes

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

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

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

19. Prior to the commencement of development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

receptors.

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

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

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

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

22. Except in case of emergency, no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays nor at any time on Sundays, Bank or Public Holidays.

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

Reason: To protect the amenity of local residents.

23. 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 plan, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

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

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

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

Reason: To protect the amenity of the locality

24. Any and all piling operations shall be carried out using the method likely to produce the least vibration and disturbance. Full details of the dates, times and duration of operations shall be submitted to and approved in writing by the Local Planning Authority before any piling operations are begun and piling operations shall take place in accordance with the approved details.

Reason: To protect the amenity of local residents

25. The development shall be carried out in accordance with the submitted flood risk assessment (70034291-FRA-001 dated September 2019) and the following mitigation measures it details:

- The finished floor level of the first floor shall be set no lower than 11.75 metres above Ordnance Datum (AOD)
- The works shall be completed in accordance with table 5-1 to include but not limited to, the ramp to be built from box culverts, no increase in ground levels on landscaped areas or the coach park
- The ground floor of the car park is to be designed and built in such a manner that it allows the free ingress and egress of flood flows
- A maintenance plan and regime is to be written and approved in writing to ensure that there is no loss of storage on the site as a result of siltation following a flood event.

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.

Reasons:

- To reduce the risk of flooding to the proposed development and future occupants,
- To reduce the risk of flooding elsewhere by ensuring that loss of flood storage on the site is minimised,
- To ensure that the ground floor of the car park is able to flood freely,
- To ensure that the flood storage on the site is not reduced over time, and that the maximum flood storage volume is available for the lifetime of the development.

26. All spoil / arisings shall be removed from the floodplain and disposed of appropriately.

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

27. The proposed benches shown on drawings in the landscaped areas are to be designed and built in accordance with the drawing "The Field Sketch" (Dwg.No. SGF-BDP-ZZDR-L-90-301).

Reason; To ensure that flood waters are able to flow freely across the site which is classed as functional floodplain, and that they are not diverted elsewhere.

28. No construction works on the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority in consultation with the relevant statutory undertaker. The details shall include but not be exclusive to the means of ensuring that access to the pipes for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the required stand-off or protection measures are to be achieved via diversion of the infrastructure, the developer shall submit evidence to the Local Planning Authority that the diversion has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area (s), the approved works have been undertaken.

Reason; In the interest of public health and maintaining the public sewerage network.

29. A programme of post-determination archaeological mitigation, specifically an archaeological watching brief and excavation where necessary is required on this site. The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be approved.

A) No demolition/development/sewerage excavation shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

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

C) A copy of a report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3

months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

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

30. No development shall commence until a foundation design and statement of working methods (including a methodology for identifying and dealing with obstructions to piles and specification of a level in mAOD below which no destruction or disturbance shall be made to archaeological deposits except for that caused by the boring or auguring of piles for the building foundation) which preserve 95% of the archaeological deposits on the site has been approved in writing by the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and City of York Historic Environment Policy HE10.

Reason: The site lies within an Area of Archaeological Importance or the site is of Archaeological Interest which contains significant archaeological deposits. The development must be designed to preserve 95% of the archaeological deposits within the footprint of the building(s).

31. Wet, organic archaeological deposits survive on this site which merit preservation in-situ. An archaeological programme of hydrological and water quality monitoring is required on this site to assess continued in-situ preservation. The archaeological programme comprises 4 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No development shall commence until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority which sets out how appropriate hydrological and water quality monitoring will be introduced on the site and how it will be assessed and reported at suitable intervals. The WSI should conform to standards outlined in guidance written by CYC and from Chartered Institute for Archaeologists.

B) Installation of hydrological and water quality monitoring devices shall be completed in accordance with the programme set out in the WSI approved under condition (A)

C) Evidence of provision for monitoring of and analysis and reporting on data from the hydrological and water quality monitoring devices for a period of 5 years

shall be submitted in the form of an annual interim report and approved by the Local Planning Authority.

D) A copy of the final report on the archaeological programme detailed in the WSI will be deposited with City of York Historic Environment Record within six months of the completion of the monitoring period or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and the latest guidance from Historic England on in-situ preservation of organic deposits and subsequent monitoring.

Reason: The site lies within an Area of Archaeological Importance which contains nationally significant undesignated heritage asset (waterlogged organic archaeological deposits) which will be affected by development. The effect on these deposits must be monitored following construction of the new build.

32. The multi storey car park hereby approved shall be constructed to a CEEQUAL standard of at least 'Very Good'. A formal Post Construction assessment by a licensed CEEQUAL 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 in writing). Should the development fail to achieve a 'Very Good' CEEQUAL rating, a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Very Good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

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

33. Within three months of St George's Field Multi-storey Car Park becoming operational, Castle Car Park, identified on drawing number SGF-BDP-ZZ-XX-DR-A-00-1010 Rev A (Red line boundary and Castle Car Park Ownership Plan), shall be permanently closed with all ticket machines, and associated car park signs removed.

Reason: The construction of the multi-storey car park is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits namely the closure of the Castle Car Park and associated environmental improvements. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

## **8.0 INFORMATIVES: Notes to Applicant**

### 1. Environmental permit - advice to applicant

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

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506506.

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

### 2. Enhancement opportunities

There are opportunities within this site to better reveal the surrounding listed and scheduled buildings as well as highlighting the conservation areas. In particular St George's Chapel should be presented and interpreted for members of the public as part of this development.

#### **Contact details:**

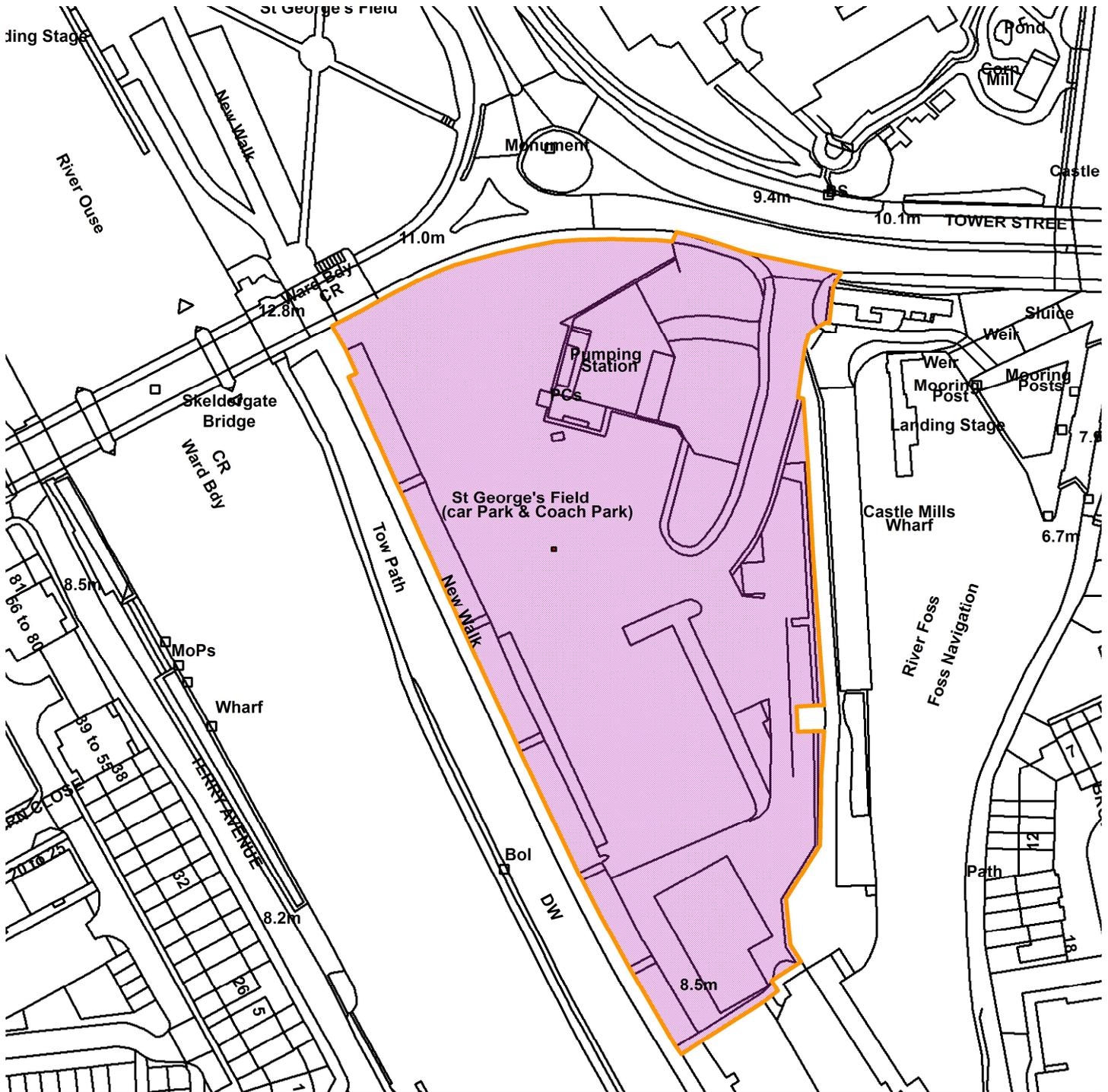
**Case Officer:** Rachel Tyas  
**Tel No:** 01904 551610

# St Georges Field Car Park, York

19/02063/FULM



GIS by ESRI (UK)



Scale : 1:1368

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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>	06 November 2020
<b>SLA Number</b>	

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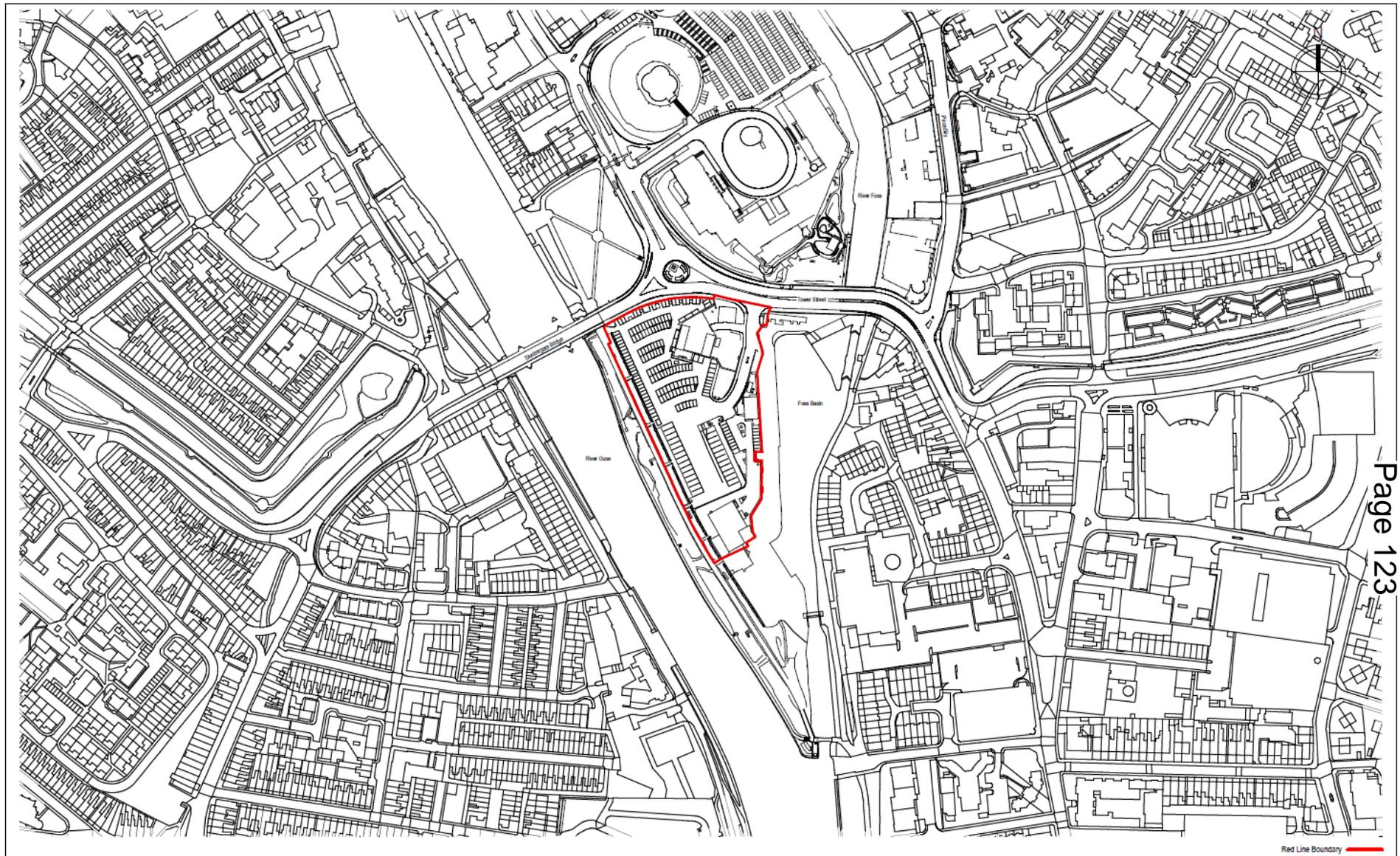
# Planning Committee

To be held remotely on 19<sup>th</sup> November 2020 at 4:30pm

# 19/02063/FULM - St Georges Field Car Park, Tower Street, York.

Erection of 5 level multi-storey car park with canopy to roof to provide 372 no. car parking spaces,  
demolition of public toilet, revised highway access and associated landscaping works

# Site Location Plan



Page 123

Red Line Boundary

<p><b>NOTES</b></p> <p>1. ALL DIMENSIONS SHOWN ON THIS PLAN ARE IN METRES UNLESS OTHERWISE STATED.</p> <p>2. THE INFORMATION ON THIS PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A CONTRACT.</p> <p>3. THE INFORMATION ON THIS PLAN IS SUBJECT TO CHANGE WITHOUT NOTICE.</p> <p>4. THE INFORMATION ON THIS PLAN IS SUBJECT TO THE TERMS AND CONDITIONS OF THE CITY OF YORK COUNCIL'S PLANNING POLICY.</p>	<p>Scale: 1:1250</p> <p>North Arrow</p>	 <p><b>CITY OF YORK COUNCIL</b></p> <p>3-31 Paul's Place 120 Markis Street Sheffield S1 2AE United Kingdom T +44 (0)114 273 1641 www.york.gov.uk</p>	<p><b>BDP.</b></p> <p>St George's Field Multi-Storey Car Park</p> <p>P2008399   Commercial in Confidence</p> <p>Site Location Plan with Red Line Boundary</p> <p>15/10/18</p> <p>SGF-BDP-ZZ-XX-DR-A-00-1001</p>
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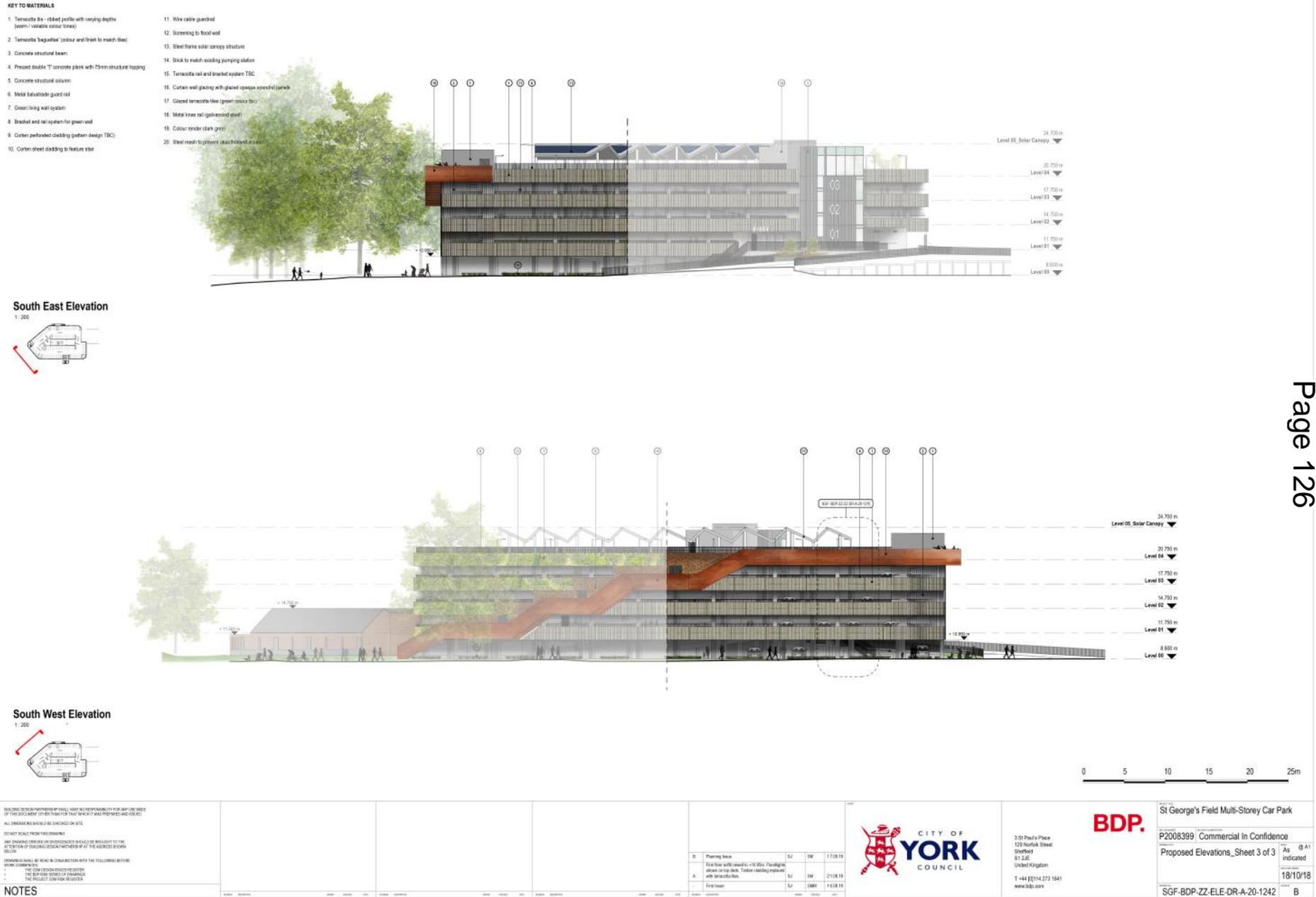
# Proposed Elevations (1)



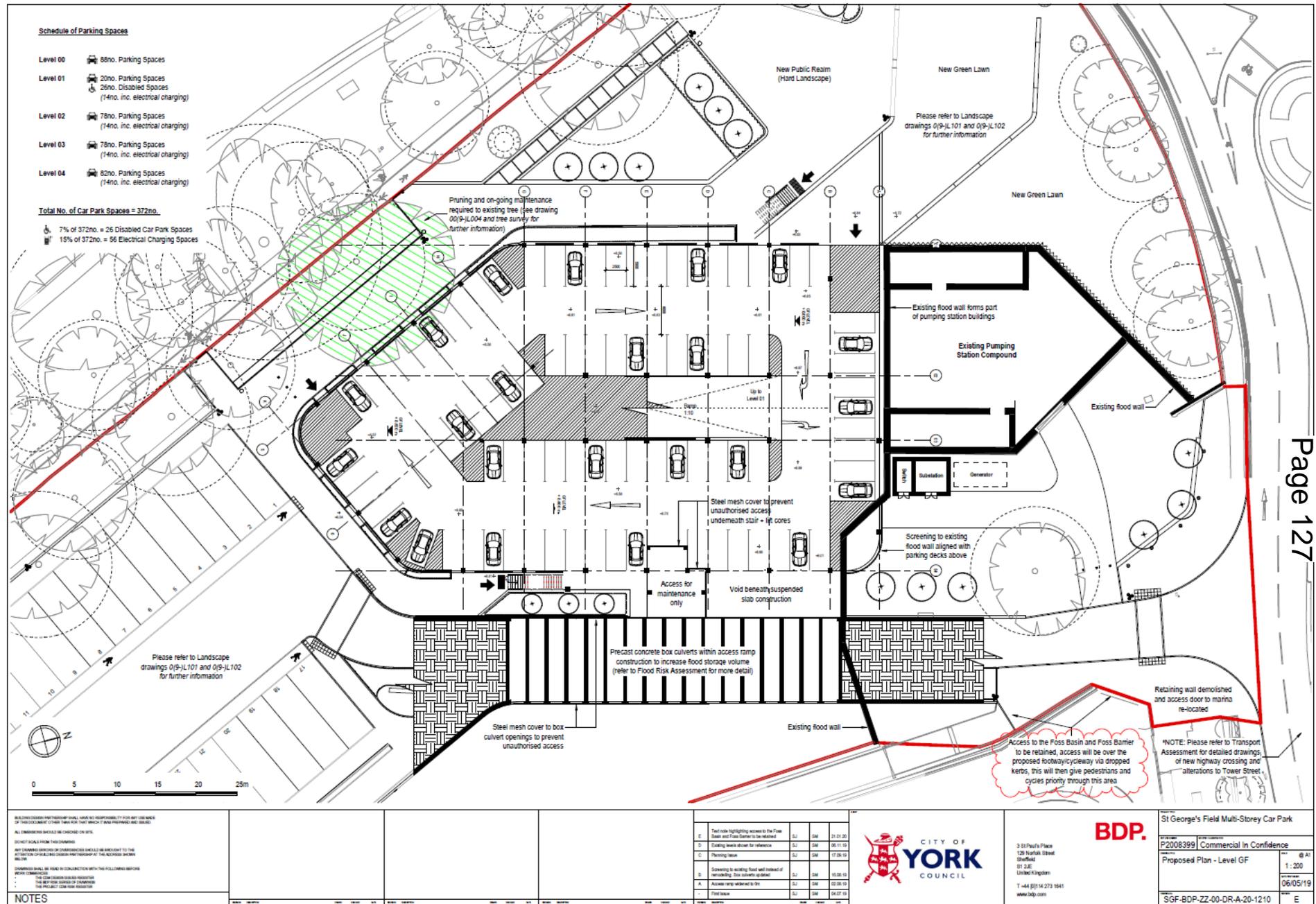
# Proposed Elevations (2)



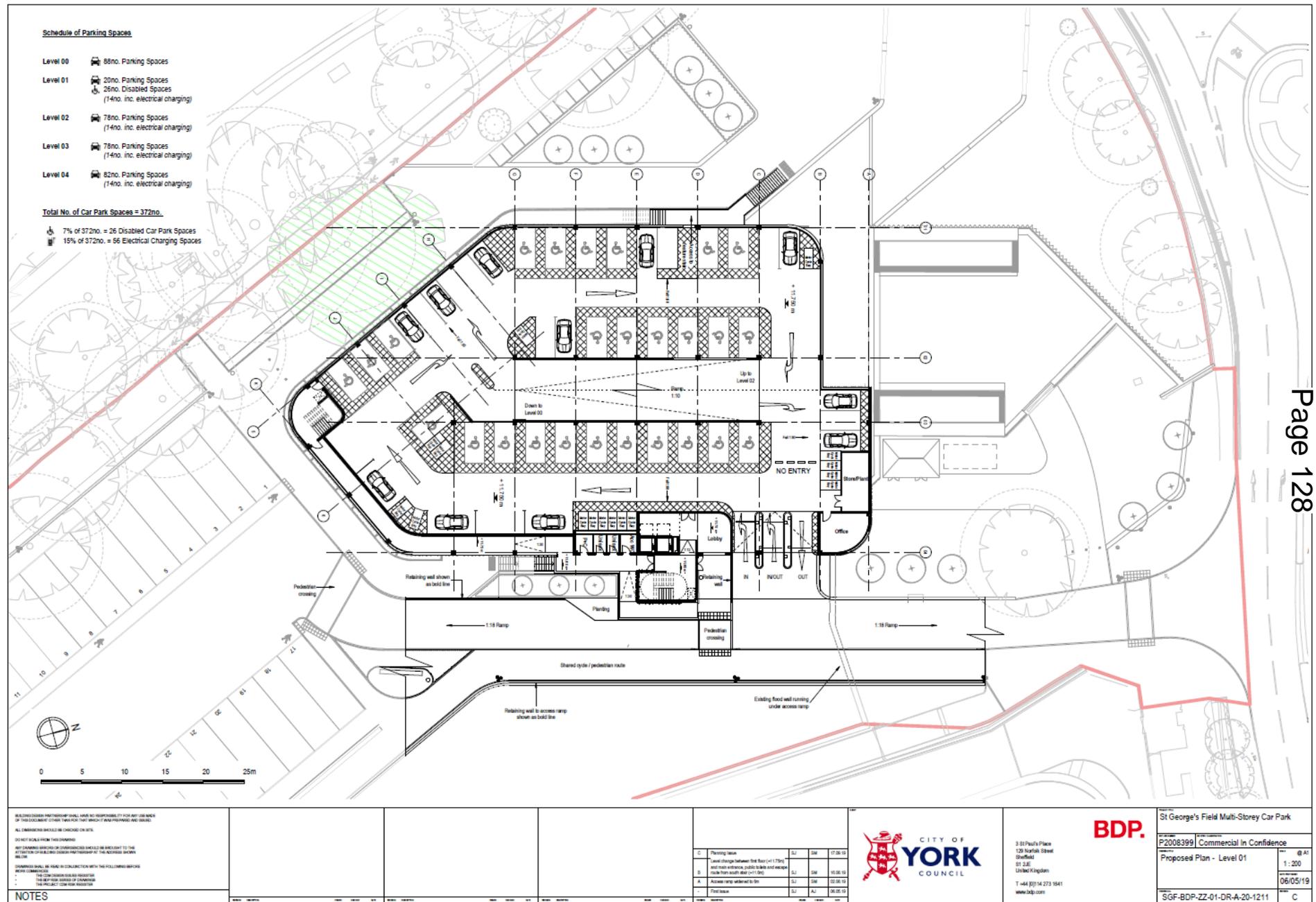
# Proposed Elevations (3)



# Proposed Ground Floor Plan



# Proposed Level 1 Plan



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St George's Field Multi-Storey Car Park	
Project Ref: P2008399	Commercial in Confidence
Proposed Plan - Level 01	Scale: 1:200
Issue Date: 06/05/19	Author: C
SGF-BDP-ZZ-01-DR-A-20-1211	

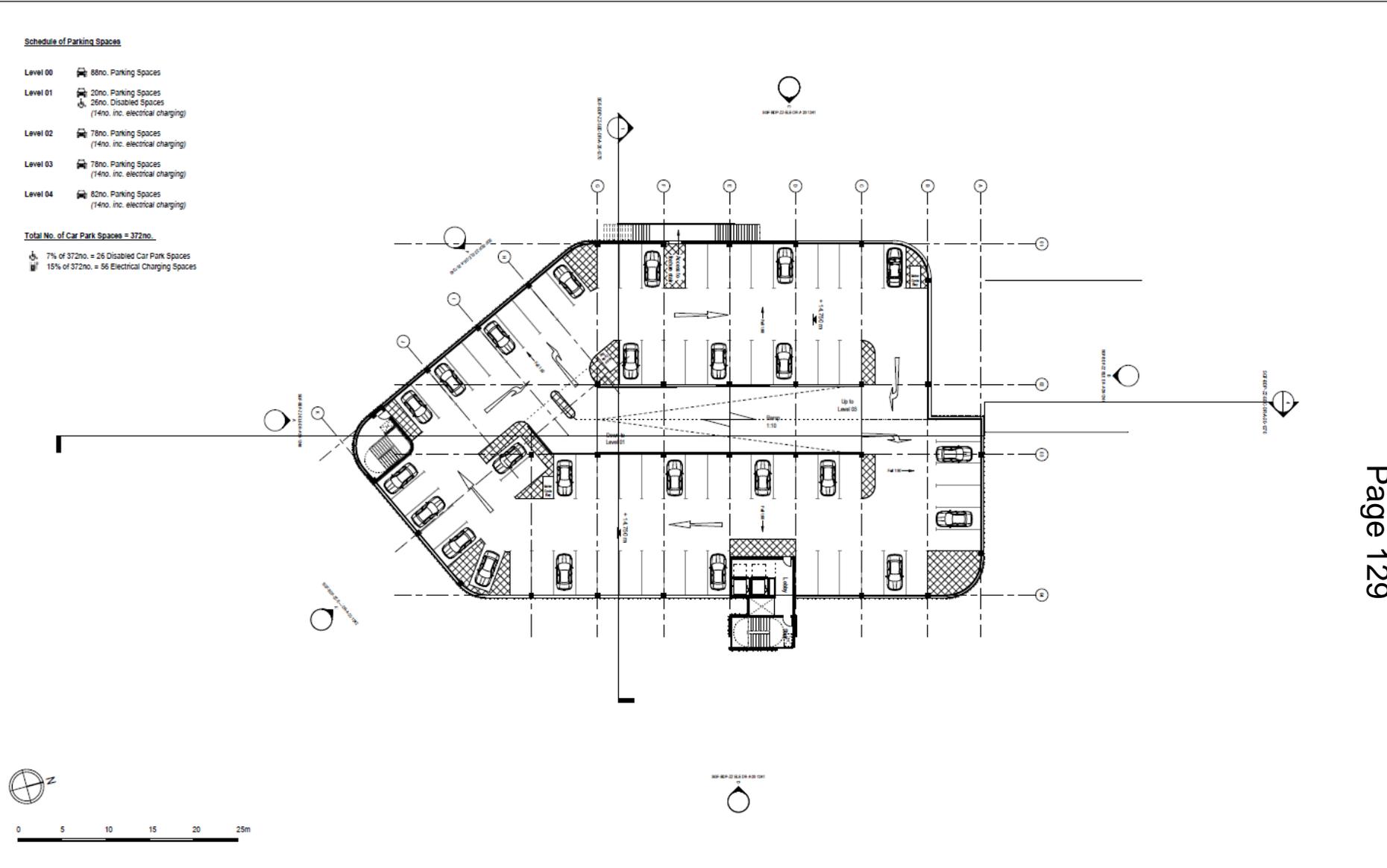
# Proposed Plan Level 2

## Schedule of Parking Spaces

- Level 00 88no. Parking Spaces
- Level 01 20no. Parking Spaces  
 26no. Disabled Spaces  
(14no. inc. electrical charging)
- Level 02 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 03 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 04 82no. Parking Spaces  
(14no. inc. electrical charging)

### Total No. of Car Park Spaces = 372no.

- 7% of 372no. = 26 Disabled Car Park Spaces
- 15% of 372no. = 56 Electrical Charging Spaces



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 THE REFERENCE TO DIMENSIONS  
 THE PROJECT CONSTRUCTION

### NOTES

C	Planning Issue	0.1	0.6	17.06.19
D	Design of escape route updated to include ridge beams	0.2	0.6	15.06.19
A	Access route updated to be Final Issue	0.1	0.6	02.06.19
-	Final Issue	0.1	0.6	05.06.19



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St George's Field Multi-Storey Car Park	
P2008399	Commercial in Confidence
Proposed Plan - Level 02	1:200
06/05/19	C
SGF-BDP-ZZ-02-DR-A-20-1212	



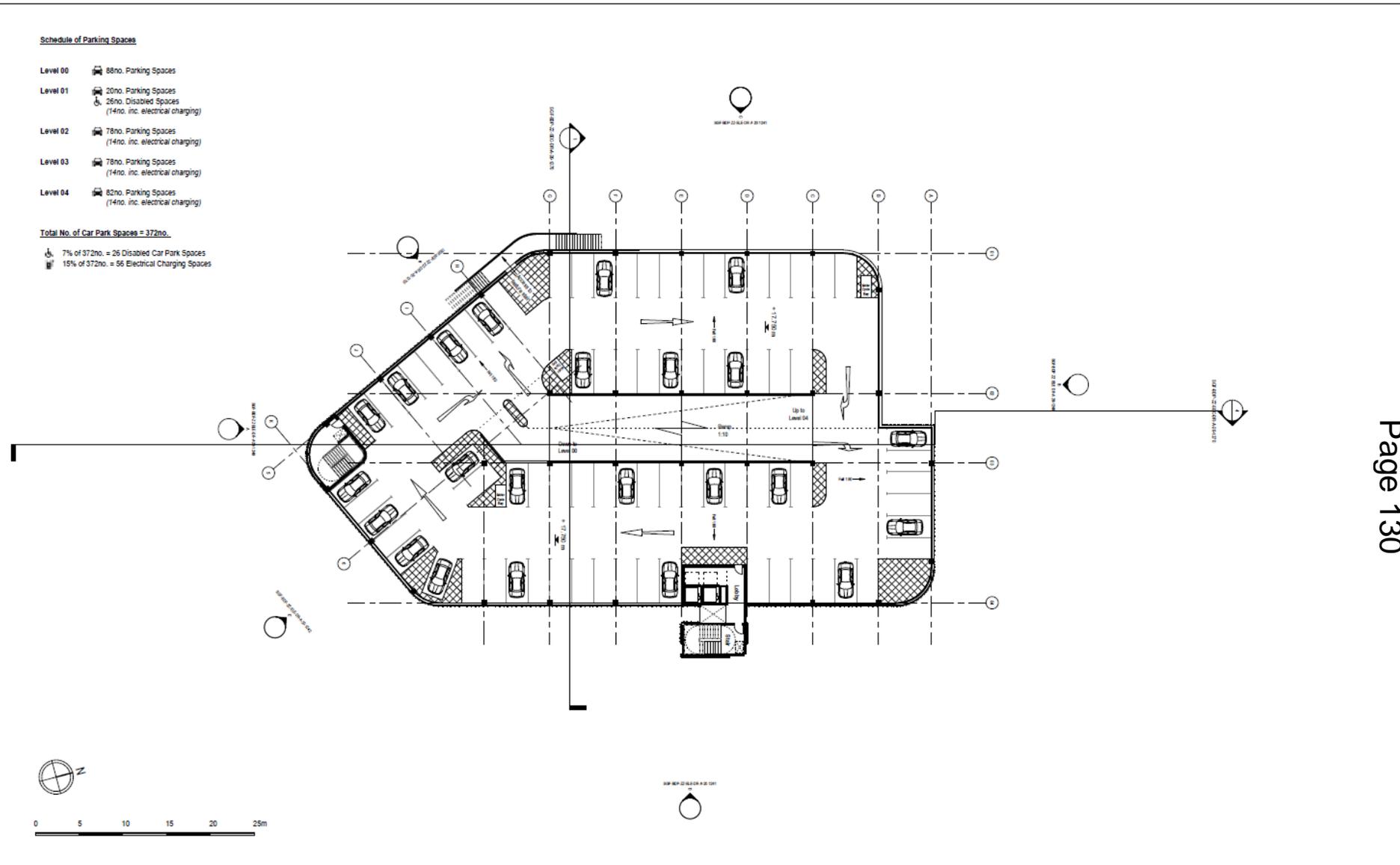
# Proposed Plan Level 3

## Schedule of Parking Spaces

- Level 00 88no. Parking Spaces
- Level 01 20no. Parking Spaces  
 26no. Disabled Spaces  
(14no. inc. electrical charging)
- Level 02 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 03 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 04 82no. Parking Spaces  
(14no. inc. electrical charging)

## Total No. of Car Park Spaces = 372no.

- 7% of 372no. = 26 Disabled Car Park Spaces
- 15% of 372no. = 56 Electrical Charging Spaces



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### NOTES

C	Planning Issue	SJ	089	07.08.19
D	Design & escape stair updated to include fire escape	SJ	090	16.08.19
A	Access ramp updated to 1:12	SJ	090	20.08.19
-	Final Issue	SJ	091	06.09.19



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St George's Field Multi-Storey Car Park	
P2008399	Commercial in Confidence
Proposed Plan - Level 03	1:200
	06/05/19
SGF-BDP-ZZ-03-DR-A-20-1213	C



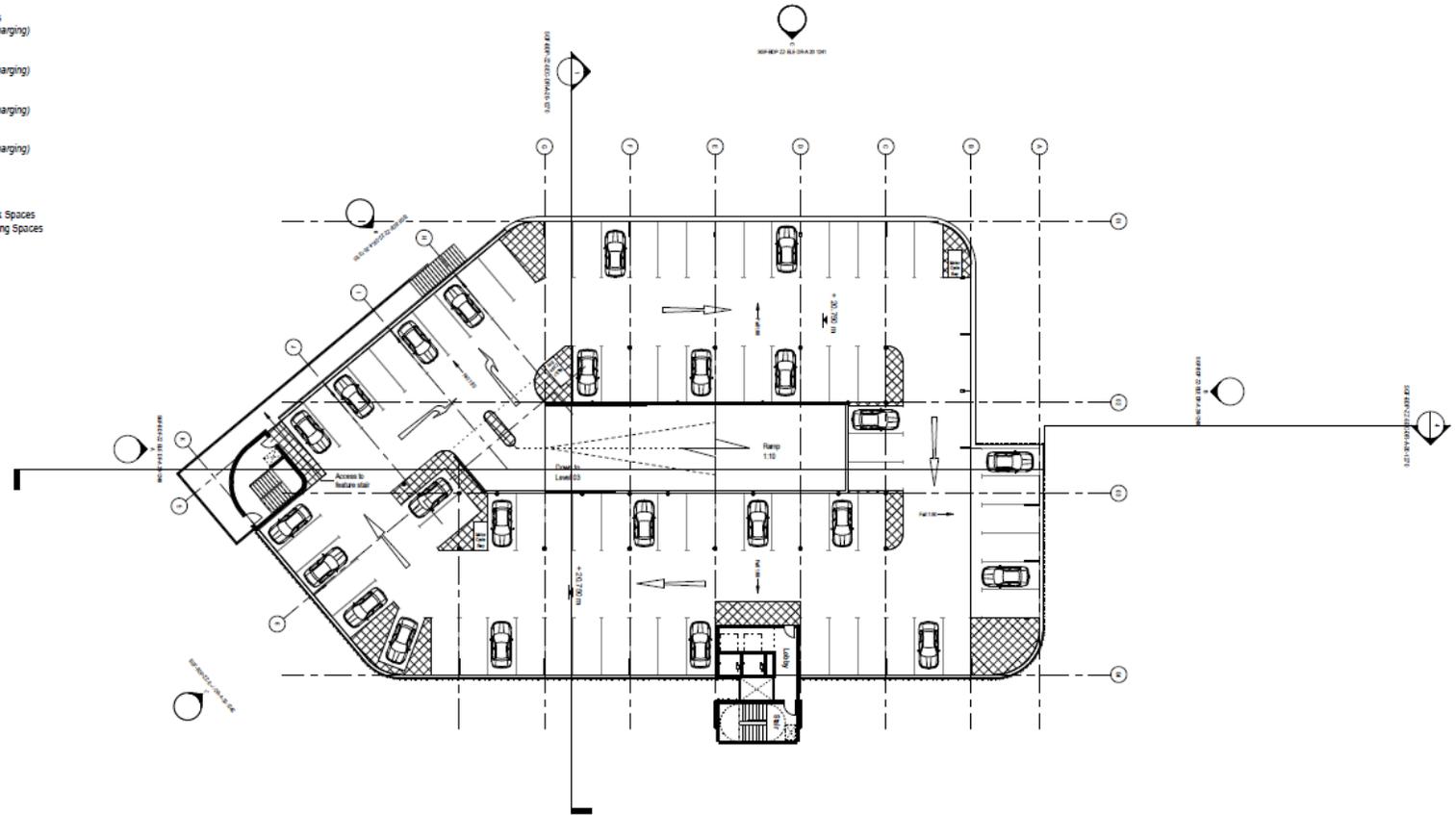
# Proposed Plan Level 4

## Schedule of Parking Spaces

- Level 00 88no. Parking Spaces
- Level 01 20no. Parking Spaces  
 25no. Disabled Spaces  
(14no. inc. electrical charging)
- Level 02 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 03 78no. Parking Spaces  
(14no. inc. electrical charging)
- Level 04 82no. Parking Spaces  
(14no. inc. electrical charging)

**Total No. of Car Park Spaces = 372no.**

- 7% of 372no. = 26 Disabled Car Park Spaces
- 15% of 372no. = 56 Electrical Charging Spaces



0 5 10 15 20 25m

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- THE CITY OF YORK DESIGN HANDBOOK  
- THE CITY OF YORK CONSTRUCTION HANDBOOK  
- THE CITY OF YORK HIGH ROAD DESIGN

**NOTES**

Code	Description	SL	DM	Issue Date
C	Parking Issues	SL	DM	17.06.19
B	Space allocation plan updated to include all space + layout of footway to street	SL	DM	16.06.19
A	Access ramp related to 01	SL	DM	02.06.19
-	2018 Issue	SL	DM	06.05.19



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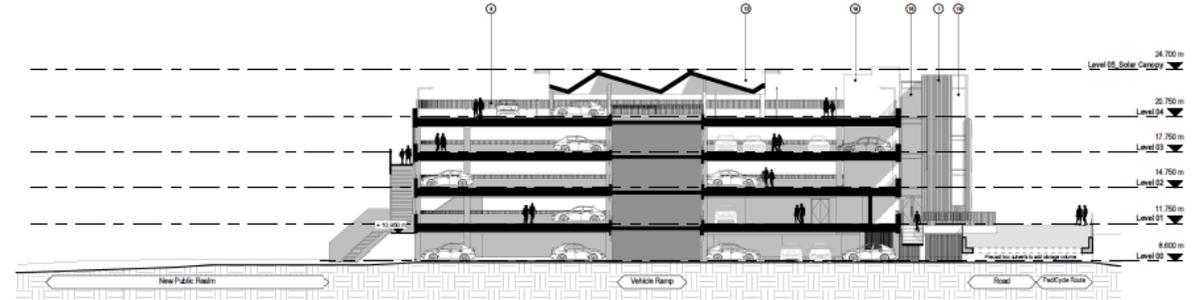
St George's Field Multi-Storey Car Park	
P2008399	Commercial In Confidence
Proposed Plan - Level 04	1:200
06/05/19	C



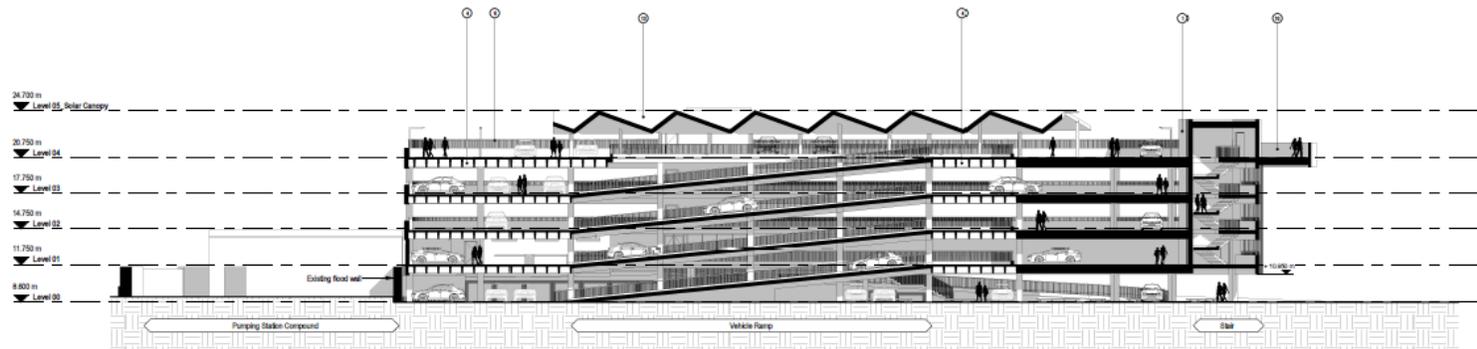
# Proposed Sections

## KEY TO MATERIALS

- |  |   |
|--|---|
| 1. Terracotta tile - ribbed profile with varying depths (warm / variable colour tones) | 11. Wire cable guardrail                                    |
| 2. Terracotta balustrade (colour and finish to match tile)                             | 12. Screwing to fixed wall                                  |
| 3. Concrete structural beam  | 13. Steel frame solar canopy structure                      |
| 4. Precast double 'T' concrete plank with 75mm structural topping                      | 14. Brick to match existing pumping station                 |
| 5. Concrete structural column  | 15. Terracotta rail and bracket system TSC                  |
| 6. Metal balustrade guardrail  | 16. Curtain wall glazing with glazed opaque spandrel panels |
| 7. Green living wall system  | 17. Glazed terracotta tile (green colour tile)              |
| 8. Stacked and rail system for green wall  | 18. Metal knee rail (galvanneal steel)                      |
| 9. Curtain perforated cladding (pattern design TSC)                                    | 19. Colour render (dark grey)                               |
| 10. Curtain sheet cladding to feature stair  | 20. Steel mesh to prevent unauthorised access               |



Section A-A



Section B-B



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 - THE CONSTRUCTION ORDER ADDENDUM  
 - THE BIDDING BASIS OF CONSTRUCTION  
 - THE PROJECT CONSTRUCTION ORDER

NO.	REVISION	DATE	BY	CHKD.	DATE
A	Planning Issue	SL	JAW		17/08/19
-	Final Issue	SL	DAW		18/02/19

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St George's Field Multi-Storey Car Park	
P2008399	Commercial in Confidence
Proposed Sections	@ A1
	indicated
	25/09/18
SGF-BDP-ZZ-SEC-DR-A-20-1270	A



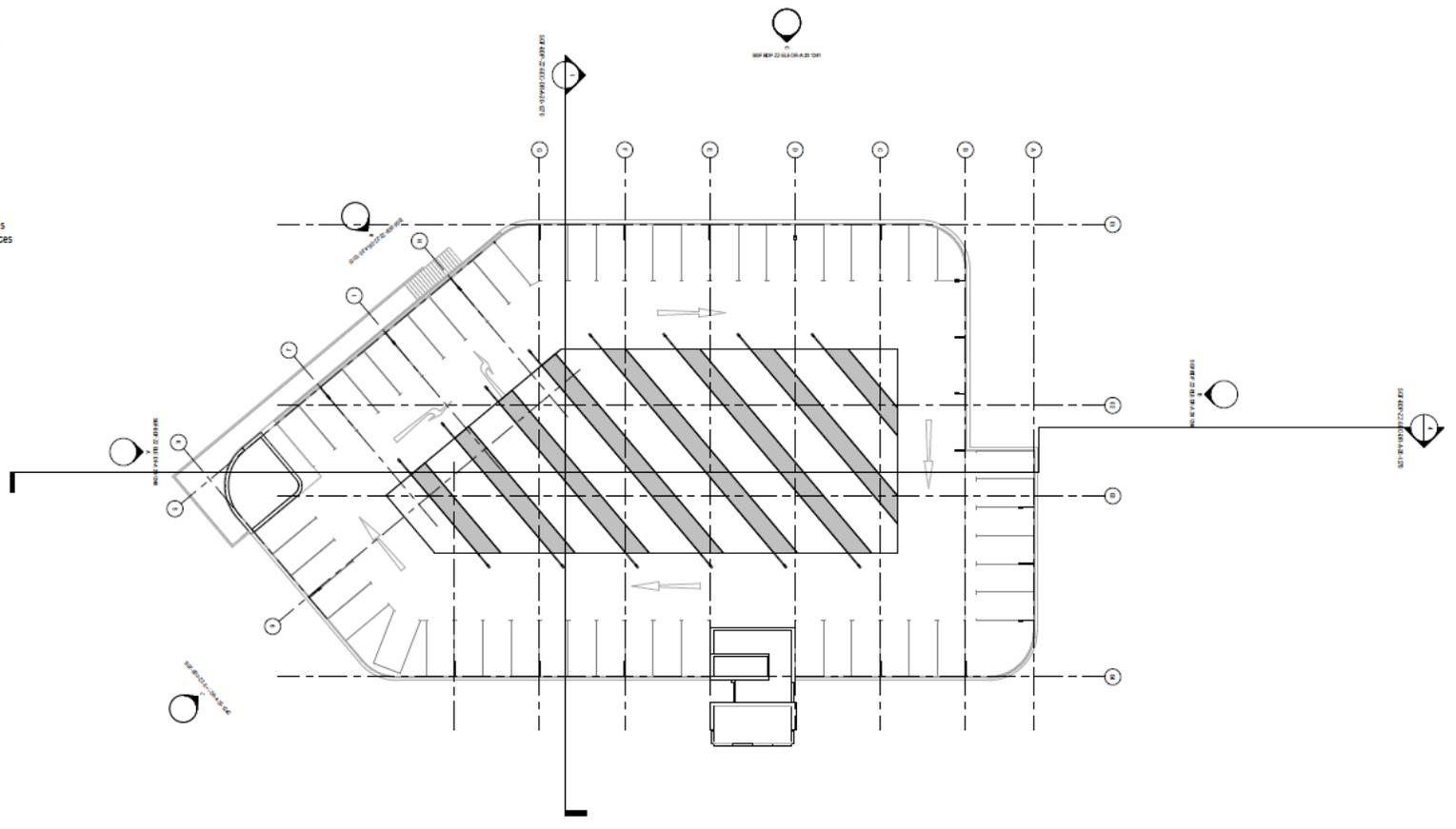
# Proposed Solar Canopy

## Schedule of Parking Spaces

- Level 00 88no. Parking Spaces
- Level 01 20no. Parking Spaces  
 26no. Disabled Spaces  
(14no. inc. electrical charging)
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- THE CIVIL ENGINEER'S DESIGN  
- THE MEP ENGINEER'S DESIGN  
- THE PROJECT COORDINATOR'S DESIGN

NO.	REVISION	DATE	BY	CHKD.

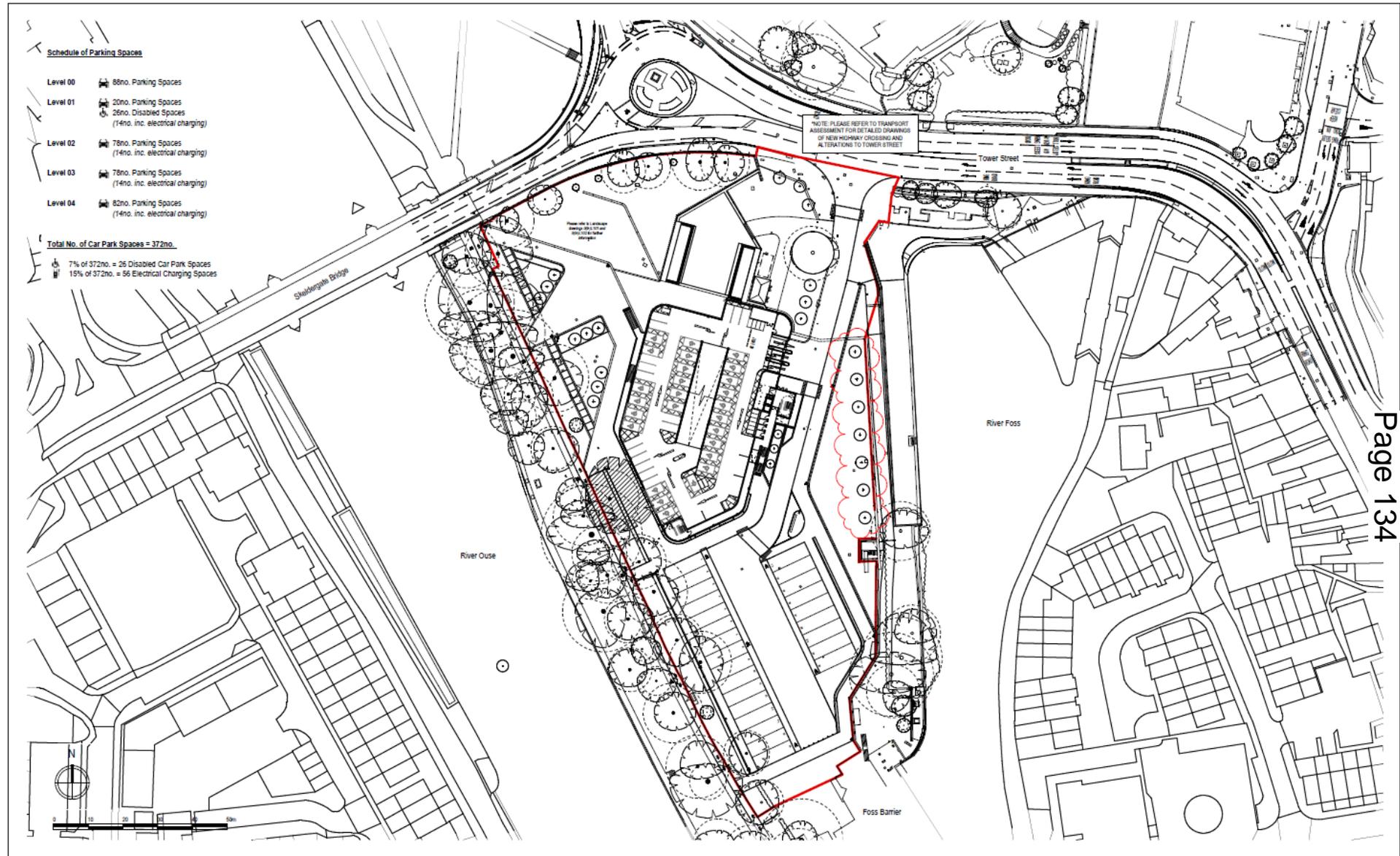
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St George's Field Multi-Storey Car Park	
P2008399	Commercial In Confidence
Proposed Plan - Solar Canopy	1:200
SGF-BDP-ZZ-05-DR-A-20-1215	06/05/19
	C

# Site Plan Vehicular Access



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- THE CITY OF YORK COUNCIL
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NO.	REVISION	DATE	BY	CHKD	DATE
D	Addition of tree along water's boundary	01.01.20	DM	DM	01.03.20
C	Parking layout	01.01.20	DM	DM	01.06.19
B	Level changes to main entrance, public toilet addition and minor changes from site visit	01.01.20	DM	DM	03.08.19
A	Access route selected to site	01.01.20	DM	DM	02.08.19
-	Final issue	01.01.20	DM	DM	04.07.19



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St George's Field Multi-Storey Car Park	
P2008399	Commercial in Confidence
Site Plan - Vehicular Access (Level 01)	1:500
06/05/19	D
SGF-BDP-ZZ-01-DR-A-20-1101	



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**COMMITTEE REPORT**

**Date:** 19 November 2020      **Ward:** Guildhall  
**Team:** East Area                      **Parish:** Guildhall Planning Panel

**Reference:** 19/02415/FULM  
**Application at:** Castle Mills Car Park Piccadilly York  
**For:** Erection of 106 apartments including 36no. 1-bed, no. 68 2-bed and 2no. studios, flexible commercial floorspace (A1-A3 and B1 1458sqm gross), provision of new pedestrian and cycle bridge across the River Foss and creation of new public realm and pedestrian and cycle route at riverside north  
**By:** City Of York Council  
**Application Type:** Major Full Application  
**Target Date:** 30 November 2020  
**Recommendation:** Approve

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

1.1 The site, which occupies an area of 6,186sqm, is spread across the two banks of the River Foss, with the western part referred to as “Riverside North” and the eastern part as “Castle Mills”. A narrow section which connects the two is to accommodate the proposed pedestrian and cycle bridge.

1.2 Castle Mills is bordered by the River Foss to the west and Piccadilly to the east. Ryedale House lies to the north of the site and the Travelodge Hotel adjoins the site to the south. The Castle Mills site was recently cleared of two car park buildings (17/01499/FUL). Riverside North has a triangular shape and is bordered by the River Foss to the east. It is bound to the north-west by the York Castle Curtain Wall beyond which is the Eye of York. The southern boundary of the site abuts Tower Street.

1.3 The application site has a prominent and sensitive location being visible from the top of Clifford’s Tower and from the City Walls at Fishergate Postern, from Fishergate and from the approaches to and along Skeldergate Bridge. It is located in the Central Historic Core Conservation Area and the Area of Archaeological

Importance and lies within the setting of the Eye of York, which includes Clifford's Tower (Scheduled Monument and Grade 1 listed), Castle Museum (formerly the Debtors' and Female Prisons, both Grade 1 Listed) and the Crown Court (Grade 1 listed). Part of York Castle (Scheduled Ancient Monument) and Raindale Mill (a non designated Heritage Asset), lie within the land at Riverside North and the City Walls (Scheduled Monument) lie to the south west of the site.

1.4 The site is within Flood Zones 2 and 3, the medium and high probability zones.

## THE PROPOSAL

1.5 The proposed development involves the erection of two mixed use buildings on the Castle Mills part of the application site. A part 7 / part 8 storey building is proposed to the north comprising two blocks (Blocks A and B) with a five storey building (Block C) proposed to the south, running along the site's boundary with the Travelodge Hotel. The space between the two main buildings would accommodate landscaped public realm which would connect to the proposed pedestrian and cycle bridge providing a link to the opposite (west) bank of the Foss (Riverside North). The buildings would accommodate 106 apartments (2 x studios, 36 x one bed and 68 x 2 bed apartments) with 20 of the units (Block C) proposed as affordable apartments. Flexible commercial space (Class A1 to A3, 1458sqm) would be provided at ground floor.

1.6 The proposals for Riverside North comprise a re-design of the public realm with the creation of usable space and a functional cycling and walking route which would link Castle Mills to the proposed surface level crossing at Tower Street. This crossing, which forms a part of the wider Masterplan, is outside of the application site boundary.

## COUNCIL'S MASTERPLAN

1.7 In April 2018 the council's Executive approved the high level spatial masterplan for the regeneration of the Castle Gateway. It was developed through public engagement with detailed input from key stakeholders through the Castle Gateway Advisory Group. The resulting masterplan seeks to celebrate the city's heritage and balance the public's desire for high quality public realm with commercial development opportunities that help fund that ambition.

1.8 A key objective of the Castle Gateway masterplan is the relocation of surface car parking away from the Eye of York and the provision of a vibrant public realm which offers a flexible, multi-purpose civic space. This requires the closure of the Castle Car Park and the re-provision of the car parking, at a reduced capacity, at St George's Field (current planning application ref: 19/2063/ FULM). The commercial revenue generated by the development of the Castle Mills site would be dedicated to fund the construction of the proposed multi storey car park at St. George's Field.

## CONSULTATION PRIOR TO SUBMISSION OF APPLICATION

1.9 A series of six public events were held at pre-application stage which included four drop-in exhibition and guided walks events and two workshop sessions. A Statement of Community Involvement detailing discussions and feedback from the events accompanies the application.

## REVIEW AT EXECUTIVE IN LIGHT OF IMPACT OF COVID-19

1.10 The applicant has provided the following the statement with respects to the impact of Covid-19 on the Castle Gateway project;

*Having considered all options, the Executive have taken the decision to commit to the delivery of the Castle Gateway masterplan and to continue as planned with the procurement of a construction partner for the Castle Mills apartments, allowing the council to retain the commercial return to cross-subsidise the wider public benefits of the Castle Gateway, as well as delivering many of the key elements of the first phase of the masterplan. This includes the new pedestrian/cycle bridge over the Foss; the riverside park at the rear of the Castle Museum; and the pedestrian/cycle crossing over the inner-ring road. The final decision to proceed with construction would then be taken next summer, on completion of the detailed design and receipt of the actual tender price.*

*The Executive have also reiterated their commitment to providing replacement car parking before the closure of Castle Car Park. However, due to the uncertainty created by Covid, the intention is to delay the procurement of a construction partner for the new multi-storey car park at St George's Field until next summer. This is to ensure that the full impact of Covid on car parking is known before committing to the next stage of expensive detail design. The detailed design of the public realm to replace the Castle car park would be*

*brought forward in to the first phase of development. It is important to stress that the closure of Castle Car Park remains dependent on the replacement car parking being provided.*

## ENVIRONMENTAL IMPACT ASSESSMENT

1.11 As part of the site falls within a Scheduled Ancient Monument, the proposal is within a “sensitive area” as defined by the Environmental Impact Assessment Regulations 2017. The proposed development has been screened and it is concluded that the proposals are not likely to have a significant effect on the environment and / or are of a complexity such that the environmental impacts can be assessed through the planning application process rather than through requiring the preparation of an Environment Impact Assessment.

## 2.0 POLICY CONTEXT

### Key Sections of the NPPF

Section 4 – Decision Making

Section 5 – Delivering a sufficient supply of homes

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

### Key relevant policies of the 2018 Publication Draft Local Plan

DP2 – Sustainable Development

DP3 – Sustainable Communities

SS3 – York City Centre

SS5 – Castle Gateway

R3 – York City Centre Retail

H2 - Density of Residential Development

H3 – Balancing the Housing Market

H10 – Affordable Housing

HW2 – New Community Facilities

HW3 – Built Sport Facilities

HW7 – Healthy Places

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas  
D5 – Listed Buildings  
D6 – Archaeology  
D7 – The Significance of Non Designated Heritage Assets  
GI6 – New Open Space Provision  
ENV1 – Air Quality  
ENV2 – Managing Environmental Quality  
ENV4 – Flood Risk  
ENV5 – Sustainable Drainage  
T1 – Sustainable Access  
T5 – Strategic Cycle and Pedestrian Network Links and Improvements  
DM1 – Infrastructure and Developer Contributions  
CC1 - Renewable and Low Carbon Energy Generation and Storage  
CC2 - Sustainable Design and Construction of New Development  
CC3 – District Heating and Combined Heat and Power Networks

Relevant policies of the 2005 Draft Development Control Local Plan

SP3 – Safeguarding the Historic Character and Setting of York  
SP7B – York City Centre and Central Shopping Area  
GP1 – Design  
GP3 – Planning against crime  
GP4A – Sustainability  
GP4B – Air Quality  
GP9 – Landscaping  
GP15A – Development and Flood Risk  
T2B – Proposed Pedestrian / Cycle Networks  
NE2 – River and Stream Corridors  
HE2 – Development in Historic Locations  
HE3 – Conservation Areas  
HE9 – Scheduled Ancient Monuments  
HE10 - Archaeology  
HE11 – Trees and landscape

### **3.0 CONSULTATIONS**

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT  
(CONSERVATION ARCHITECT)

Comments further to receipt of amendments made to the photomontage and revisions to the Heritage Statement

3.1 The assessment of significance is weak as it underestimates the level of harm that will be caused to significance by the scale of the proposal. The setting of the heritage assets has not been fully understood and any impact of the development is not properly assessed. The impact on views, wider setting, and how the heritage assets are appreciated is underplayed and this is a fundamental problem. The importance of the historic relationship between places, identified by Historic England has not been taken into consideration in the design of the proposals.

3.2 Overall, the proposal is too tall for this site resulting in a fundamental change to the character and appearance of the Conservation Area and the setting of numerous and very important heritage assets. The cumulative harm to so many heritage assets could be considered less than substantial harm but at the highest level in terms of the NPPF. The impact of the proposal is not on a single heritage asset or even on a number of different heritage assets with no interrelationship; there are a substantial number of assets that form a complex of the highest heritage values that together make a unique and incredibly important whole. The cumulative and negative impact of the development will cause irreversible harm.

3.3 The harm caused is considered to be at the upper level of less than substantial to all of the designated heritage assets identified. This is because of the connectivity and interrelationship of all those assets. The scale of the proposed development will 'loom' over the heritage assets and interrupt important views that assist in understanding their significance. I, therefore, object to the application in the strongest terms.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (DESIGN MANAGER)

Comments which take into account the revised submission

Proposed Masterplan Approach

3.4 There is a need for appropriate mechanisms to link this application to these other wider benefits, in order to be able to consider these wider benefits as material to any negatives of this application. There is also an issue of how to be certain that

these wider benefits will be realised given the likely long timescale of the whole project, and the funding gap.

3.5 The proposal will improve pedestrian and cycle connectivity within the wider neighbourhood. Key to this is the new bridge. Improved connectivity is very beneficial as is improved use of the land around Castle Museum.

#### Proposed Site Layout

3.6 Splitting the proposal into two buildings was necessitated by a drainage easement crossing the site but it fortuitously drives a wedge of new public realm from street to riverside. This space is very beneficial. The subsequent bridge is in a less than ideal crossing place (being slightly obscured and blind from some approach routes in the area), but, it's the only place that the council can realistically control its delivery. It is still beneficial to bridge the Foss here, although its benefits will have to wait.

#### Ground Floor uses

3.7 The exclusion of parking ensures the ground floor will be a people centred place and this is supported. The inclusion of commercial uses will help animate the ground floor. The main building A&B positions itself on the Foss edge which is an appropriate response. In relation to Foss edge treatment 2, the Travelodge is set back from the river and has a private walkway along the Foss edge. This currently has limited public access but there is the potential for the proposed site to connect into this walkway to promote future connectivity to Travelodge. Further to a request for a deeper Foss edge covered walkway in front of the smaller proposed building, revised plans which detail the moving of the column line, have been submitted. There is now an approximate 1.5 m gap for access which is ok but not generous.

#### Public realm & bridge design

3.8 The approach of a visually "quiet" bridge design is supported. The bridge uses the depth of the guarding as a structural beam which hinders views for some users. The Castle Mills Plaza side landing of the bridge on plan is also tight up against a commercial unit. This should be given more free space here, because, again, it unnecessarily limits view-ability of the river setting for some users. The bridge design has been amended to accommodate better visibility and this is now a good

proposal. The recommendation to reduce the size of the commercial space or realign the bridge landing has not been addressed.

### Architectural design

3.9 The smaller building block C is designated for affordable units and is not considered to be segregating, given that this overlooks the primary public space. The larger building block A&B has a relatively narrow light-well. Whilst this is not ideal, the overall idea, to have dual aspect living for nearly everyone, is rarely achieved and to be supported.

3.10 Fenestration reflects aspect - different brick choice; different height (smaller building on Foss side). This will impart a feeling of quality and ensure the overall façade has elements in light/shade. The top two floors and the roof profile have been revised in an attempt to make them less noticeable or less monolithic, however this has *not* remedied concerns of overall height.

3.11 Overall, the building design is a higher standard than most recent apartment building planning applications and the DAS demonstrates a thorough exploration of design ideas and explanation of the final proposal.

### Massing & Height / Townscape impact

3.12 Urban infill occurs in the gap between Ryedale House and Travelodge, sloping in height from one to the other. This is not an appropriate design response for this site. In reaching up almost to the parapet line of Ryedale House, the proposal mistakenly takes the approach of making a continuous development form that runs from Ryedale House all the way down to the Travelodge. This does not blend Ryedale House into the urban fabric - it magnifies its impact. Instead of one form - narrow in width compared to the full composition of the three 18th century buildings, it now presents an overall footprint of development form similar in size to the footprint of the Castle Museum/Crown Court, rising above and behind these buildings when seen from Clifford's Tower. This would clearly harm the setting of these buildings. In addition, these Grade I listed buildings would no longer dominate the surroundings from this view.

3.13 The above also applies to the experience of Piccadilly as townscape. Other than Ryedale House, there are no buildings of comparable scale to the proposal, all are at least two floors lower. Piccadilly is often referred to as one able to

“accommodate change” because of its lack of 19th century and earlier buildings that would otherwise shape its direction of change. This puts it under huge pressure to be a type of tall building zone but proposals for height should be assessed for their interrelationship with other sensitive areas and assessed correctly this should limit height.

3.14 Recommendations: Reduce the height of the main building by at least a floor, and for this omission to be taken from the mid-level rather than top-level (so as to make the greatest reduction in impact).

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.15 The introduction of a footbridge across the Foss increases the status of the river as an asset to the city. Unfortunately this is not the best location for it, but the potential for alternative locations appear to have passed.

3.16 The proposed development would result in the removal of a significant quantity of existing vegetation on the west bank but there are no particularly valuable individual specimen trees. Overall, the proposed planting on the western bank would compensate for the losses. A nicely established hedge adjacent to Tower Street and some young trees would also be removed; it might be possible to retain these.

3.17 The landscape proposals for the west bank achieve a reasonable balance between maintaining the environment of the Foss as a natural wildlife corridor and celebrating a new entrance into the city. The proposed landscape would make a positive contribution to the visitor experience along the new route between Tower Street and the proposed bridge, such that the area would become an open space in its own right. The circle of paving close to Tower Street seems to be an unnecessary additional gathering space in an otherwise strong and simple concept of broad sweeps and a path through a landscape. The lighting scheme is too busy and needs to be more selective about which items are the most essential and effective.

3.18 The scale of the building with no greenery to soften its western elevation is rather stark for this intimate stretch of river that offers considerable natural environment benefits to the city centre location. Means of introducing more vegetation should be investigated. The proposed trees would be in raised planters; relative to the scale of the building and the space in which they sit, they will look rather dwarfed, though they will provide greenery at the more immediate eye level.

The levels of activity within the spill out space and the courtyard do not warrant that much paving. There may be greater value in creating a softer environment with some additional planting at ground level and/or larger beds within the plaza and courtyard.

3.19 The street trees proposed on the Piccadilly frontage would be a positive addition to the street along with the narrowing of the carriageway.

#### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGIST)

3.20 During the bat activity surveys, the group of trees on the west bank proposed for removal were noted to provide foraging and commuting habitat for common bat species. This area of trees and scrub will be replaced by riparian planting. A lighting strategy has not been submitted with the application but would have potential to impact on the River Foss as a wildlife corridor and which should be considered a sensitive receptor. A sensitive lighting strategy could be secured through a planning condition.

3.21 Overall this proposal does not have a significant negative impact on biodiversity, however neither does it make a significant contribution to enhancing the biodiversity and wildlife interest of the area. The Environment Agency has provided comments on the missed opportunities for improving the overall form and function of the River Foss for biodiversity, including the creation of riparian and over-hanging bankside vegetation throughout the site, reducing hard engineered banks; but where required designing these with features that provide ecological improvements.

#### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGIST)

##### Piccadilly Investigations

3.22 A desk-based assessment, six months data from ground water monitoring and an archaeological report characterising the deposits on site and assessing their state of preservation have been carried out. These investigations will inform an archaeological mitigation strategy for the area proposed for the apartment block.

##### Castle Riverside Investigations

3.23 Two archaeological evaluations have been carried out comprising two small trenches excavated in the area proposed for flood storage and bridge abutment on the western bank of the River Foss and a further two linear evaluation trenches following revised proposals for flood storage.

#### Impact of proposals

3.24 The impacts of the proposed development on the archaeological deposits are:

- Foundations – piling, pile caps and ground beams.
- Drainage and flood storage areas.
- Bridge abutment foundation.
- Impact on groundwater movement/drying out of deposits through the use of piles through anoxic deposits.

3.25 The foundation design for the site is currently unknown and will not be determined until ground investigation has been carried out. The design will need to be such that it preserves at least 95% of the most significant archaeological deposits. The impact of the piling on the longer term preservation conditions is unknown. A condition to secure further water monitoring will provide further data on this impact. Archaeological conditions requiring a watching brief, a programme of archaeological excavation, a foundation design, organic deposit preservation, and outstanding post-excavation work, are recommended.

#### AFFORDABLE HOUSING

3.26 Provision of mainly on site affordable housing with a supplementary off site commuted sum contribution is in accordance with Local Plan policy H10 and is supported for this planning application. There will also be a set of 'cascade' provisions agreed whereby the on-site homes would be replaced by a commuted sum in the event that the council does not itself acquire the homes, and suitable terms cannot be agreed with a Registered Provider.

3.27 For detailed comments relating to how the proposals meet the requirements of Policy H10, please refer to paragraphs 5.18 to 5.23.

#### FORWARD PLANNING

3.28 Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the

stated consistency with the Framework, we would advise that the policy requirements of emerging plan policies DP2, DP3, SS3, SS5, R3, H2, H3, H10, HW2, HW3, HW7, D1, D4, D5, D7, D10, GI6, ENV1, ENV2, ENV4, ENV5, T1, T5, T7 and DM1 should be applied with moderate weight.

3.29 We support the principle of mixed use development in this location to include residential and commercial floorspace. Further information has been submitted in relation to climate change which demonstrate high standards of sustainable design and construction which is welcomed and appear to be in accordance with Policies CC1 and CC2.

3.30 We do not raise a policy objection to this application, subject to any comments from colleagues in design and conservation on the design and historic environment considerations in this sensitive location.

## PUBLIC PROTECTION

3.31 Recommend conditions relating to machinery and plant noise, noise insulation measures for protecting the residential accommodation above the commercial units, extraction equipment, noise insulation measures to protect residential units from externally generated noise, details of the area to be used for external seating, hours of deliveries and waste collection, flood lighting and a Construction Environmental Management Plan condition. No objections in relation to air quality.

3.32 With respects to contamination, the submitted assessment identifies a number of potential sources of contamination associated with the site's historical use and identifies a moderate risk in the context of a mixed commercial and residential end use. Public Protection agree with the report recommendation of an intrusive ground investigation (including soil sampling, groundwater monitoring and ground gas monitoring). If contamination is found, appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Recommend the appropriate land contamination conditions.

## HIGHWAY NETWORK MANAGEMENT

### Car parking

3.33 Although the highway authority does not object to the proposed development being "car free", the preference of the authority would be for a small amount of car

parking to be provided on site (20 to 25 spaces), including some disabled spaces, to ensure that the development is accessible to all and does not result in additional pressure on parking provision in the area.

### Servicing

3.34 All servicing would take place from Piccadilly. This will need to be supported by a servicing strategy to be conditioned and measures to ensure no access on site by delivery/servicing vehicles. The applicant will be required to fund the implementation of any TRO/physical measures (such as bollards) required.

### Cycle Parking / Sustainable Travel

3.35 As there is over 50% provision of Sheffield stands, no objections are raised to the revised cycle parking arrangements.

3.36 CYC will want to be involved in the delivery and monitoring of the travel plan. Please secure the following contributions:

- £400/unit for first residents to get bus pass or cycle offer
- £200 per unit for car club
- £300/unit Travel plan contribution (to cover implementation and monitoring by CYC for a 5 year period)

3.37 Conditions relating to access layout and off-site improvements layout and detailed design, construction management plan, technical approvals for the bridge, also required.

### EDUCATION

3.38 Education Contributions are requested for this development, totalling £367k for 19 places across all 3 sectors (7 x Primary, 3 x Secondary and 9 x Early Years). This would fund expansion works at Fulford School, in Primary Planning Area 7 (which contains Fishergate, St George's and St Oswald's) and nearby Early Years provision.

### LEAD LOCAL FLOOD AUTHORITY

3.39 We note the objection from the Environment Agency with regards to Sequential and Exceptions Tests and flood storage compensation and therefore await further

details. An Emergency Flood Evacuation Plan should be submitted for approval prior to determination.

3.40 In line with CYCs Sustainable Drainage Systems Guidance, the use of soakaways of a means of surface water disposal should be explored by carrying out site specific infiltration testing. Existing connected impermeable areas should be proven by way of site specific CCTV Survey and should not be assumed to be 100% impermeable. We understand an existing drainage survey has been carried out but this has not been included within the submitted Drainage Strategy which may prove the existing connected impermeable areas.

3.41 Peak run-off from Brownfield developments must be attenuated to 70% of the existing rate. 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.

## LEISURE / OPEN SPACE

3.42 As there is no new on site open space and play place space within the application site, off site contributions of £26,274 and £35,768 are required. The contribution can be towards the creation of new open space and play provision within the immediate vicinity or for use at the Cemetery Road play area. A contribution of £37,062 towards outdoor sport provision is also required. The potential spend could be used for outdoor gym equipment on the riverside path close to the development, or potential beneficiaries of Rowntree Park, York Railway Institute, York Rowing Club etc.

3.43 The area to the rear of the Castle Museum is to be opened up to public access including a new bridge crossing the River Foss to Piccadilly. This will greatly increase the number of people coming into contact with the River and therefore the following water safety measures are sought:

1. Measures which reduce the likelihood of people being in the water e.g. fence or hedge. Where no barrier is present there shall be a strong demarcation of the water's edge.
2. People in the river shall have the means to self-rescue, through the provision of ladder(s) or chains.

3. People on the river banks shall have access to the necessary safety equipment to attempt a rescue e.g. life buoy(s). These shall be located under street lighting.
4. Safety signage advising of the dangers of the River.

## EXTERNAL

### HISTORIC ENGLAND

3.44 Whilst we are supportive of the redevelopment of this site we have serious concerns about the impact the development will have on the setting and key views to and from Clifford's Tower, of the wider Eye of York and its key components including the distinctive cupola of the Debtors Prison. We also have concerns about the design and articulation of the elevation facing onto the River Foss and feel this could be strengthened by introducing a strong vertical emphasis to the design to break up the massing and to tie it more strongly to the River Foss frontage. We also have concerns about Piccadilly and how the development will contribute to the wider development of this street.

3.45 Without a clear document by the Council setting out clear and convincing justification for the proposals and how any public benefit will be secured we do not consider this application meets paragraphs 193, 194 or 196 of the NPPF. Therefore whilst we remain supportive of the overall objectives of the Castle Gateway Masterplan we are unable to support this application or the related St George's MSCP application at this time since we are not convinced that there is an adequate mechanism in place to ensure the harm will be outweighed by the delivery of public benefits.

### Comments in response to additional / revised information

3.46 The two development schemes constitute 'harm' to designated heritage assets, but the potential public benefits associated with the removal of the Castle Car Park are considerable. In order to demonstrate the relationship between harm and public benefit, it is necessary to clearly and accurately state the degree of harm. Unfortunately the Statement of Heritage Significance fails to do this. There are inconsistencies and unusual omissions from the assessment whilst the significance and degree of harm are frequently under-assessed.

3.47 The design details of the apartment blocks have not been revised, and therefore we reiterate our previous comments that the apartment buildings cause

'harm' by their height and massing. The northernmost block is too tall, particularly given the relationship with the Debtors' Prison. It is not clear why the penthouse apartments should appear as two storey units, thereby making a 6 storey building appear as 7 storeys. It is essential therefore that the justification for the scale and height of the proposed buildings is made explicit, as in this way the harm generated by the structures can be effectively judged against the public benefit of the whole scheme. This is then further necessity why the Assessment of Significance document should be robust with a clear and consistent and consistently applied methodology.

## ENVIRONMENT AGENCY

3.48 The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails:

- to demonstrate that all compensatory storage proposed is both achievable and feasible
- to detail all proposed mitigation in detail
- Is lacking in detail to demonstrate that the mitigation that is proposed will work as intended

3.49 In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused.

### Missed opportunities for river improvement to support implementation of RBMPs

3.50 In line with the Humber River Basin Management Plan (RBMP), we recommend that the proposed development is used as an opportunity to restore more natural processes, form and habitat to the River Foss water body.

YORKSHIRE WATER

### Comments in response to revised information

3.51 We have no objection to the proposed building stand-off from public sewer centre-line of four metres on the Castle Mills side and 6 metres on the Castle side; and the proposed bridge foundation stand-off from public sewer centre-line. The

developer is now required to enter into a formal build-over agreement with Yorkshire Water.

3.52 The submitted drawing does not show any foul water or surface water drainage proposals however it is noted in the submitted Drainage Strategy (November 2019) that surface water will discharge to the river via storage with restricted discharge of 40.5 litres/second, subject to LLFA/EA requirements. Foul water will discharge to public combined sewer running along Piccadilly. We have no objection to these proposals.

3.53 There is a public combined sewer and a 1200 mm diameter public combined sewer recorded to cross the site. The presence of this infrastructure shall be taken into account in the design of the scheme.

#### POLICE ARCHITECTURAL LIAISON OFFICER

3.54 There is limited reference as to what crime prevention measures will be incorporated into this development. The most significant crime issues that could affect this development are burglary, criminal damage and cycle theft. Antisocial behaviour and violence are also major problems in the area. The following points are made;

- The cycle / pedestrian route is located so that it can be well used, providing fewer opportunities for crime and generally increase safety, is overlooked and illuminated either directly or indirectly and has short, direct, wide and attractive to use and avoids passing along rear boundaries.
- Recommended that the communal entrance doors for the apartment blocks are fitted with an electronic door release mechanism connected to a videophone in each apartment. Where there is communal access to 25+ dwellings, compartmentation should be considered to curtail unlawful movement.
- The proposed site layout plan has outward facing frontages providing natural surveillance of the public realm.
- Lighting or the lack of it can have a significant impact on crime and the fear of crime. External lighting is recommended for every doorset.
- The landscaping details appear to be appropriate and raise no concerns in relation to designing out crime.
- Any future operating hours for the commercial units needs to take into consideration the amenity of residents.

- There is clear demarcation of private, semi-private and public space that creates defensible space, where it is clear who has control and ownership.
- Recommended that the cycle stores be limited in size, by using compartmentation, to hold a maximum of 25 cycles each and access controlled with an electronic fob key that only gives access to the store required.
- Amenity space around the site should be subject to an effective maintenance plan to address such issues as litter removal, damage repair, repair to security features in communal areas (lighting, access control, CCTV etc.).
- A condition is recommended requiring the applicant to provide full details of how the above 'designing out crime' advice and recommendations are to be addressed.

#### Further Comments in response to additional information submitted

3.55 Having reviewed the documents submitted in relation to designing out crime, it is pleasing to note that the advice and recommendations from initial set of comments has been taken into consideration. In particular, the redesign of the secure cycle storage is to be commended.

#### GUILDHALL PLANNING PANEL

3.56 The Guildhall Planning Panel raises the following objections;

- This proposal is for an unexciting building in a prestigious location.
- The height of the proposed northern building. It is only a few metres lower than Ryedale House and will lead to a canyon effect on Piccadilly.
- The height, length and repetitive nature of the roofline of the northern building which continues the blocking effect of Ryedale House as seen from Clifford's Tower and the Eye of York.
- The reduced size of the public space compared with earlier concepts. The projection of the northern building into the proposed public square area reduces the useful community space and narrows the connection with Piccadilly and beyond.
- The narrowness of the ramp to the bridge as it passes the commercial unit under the projection as it will be a hazardous area for cyclists and pedestrians.
- The original proposals for this site also included an accessible public riverside walk along the Foss and additional trees on Piccadilly, which are not present in this application.

- The amount of private space for 106 flats. The building courtyard is small and will be dark as it will be surrounded completely by the high building. The ability of residents from the southern building to safely and easily access this courtyard.
- The loss of the view of the Castle Walls from Mill Street, to be replaced by views of the southern five-storey building.
- The impact on the local community of an increase of an additional 62mm flood level in the event of a major flood, caused by the lack of required water storage on the site in the event of flooding.
- The mix of flats proposed includes too many single bedroom units. There is no indication as to how the social units will be delivered, whether by "affordable" housing, housing association or other means.
- The Panel is concerned that the requirement for financial gain from this development to cover the cost of the St. Georges Field car park development will disadvantage the community in this area of the Guildhall Ward.

## WATER SAFETY FORUM

3.57 We welcome the regeneration of the riverside but would like to promote water safety within the plans. We would recommend appropriate lighting along all public access routes and the removal of any potential trip hazards that may lead to people accidentally falling in the river. We would also ask for appropriate lifesaving equipment to be strategically placed within the public access areas. Where at all possible access to the river should be restricted to prevent people accidentally falling into the water.

## YORK MUSEUM TRUST

3.58 Support the application. YMT have been fully consulted on the project throughout and have had detailed dialogue to ensure the Castle Walls and other Heritage assets have been fully recognised as part of this process. YMT believes this is an important step in opening up the potential the Castle Gateway area, creating a sense of place and community and improving the environment for residents and visitors.

## 4.0 REPRESENTATIONS

4.1 10No. third party representations have been received. 9No. objecting to the scheme and one in support. Comments made are as follows;

- (i) The proposed 8-storey northern building is too high and would dominate both Piccadilly and the Eye of York. It is only two metres lower than Ryedale House and much higher than the Travelodge and the buildings opposite as well as the proposed new hotels further up Piccadilly, the Castle Walls and the museum buildings on the other side of the River Foss. It will dominate the museum buildings when seen from many points in the Eye of York, Clifford's Tower and parts of Tower Street.
- (ii) The length and height of this building will block much of the westerly light and will make Piccadilly seem like a canyon cutting out all the sun onto the street. In winter months, the shadow cast by the proposed buildings will keep the narrow passage between the proposed buildings and neighbouring areas on the Piccadilly side without any sunlight at all. No west-east cross-sectional drawing, showing the relation of the buildings to the residential properties, Mayfair House and Trafalgar House, located directly opposite provided. Infer from the plans that the height and mass of the proposed development would result in a denial of natural light to these residential properties, as measured by the 25 degree "rule of thumb test" described in the Building Research Establishment (BRE) guide "Site Layout Planning for Daylight and Sunlight" 2011.
- (iii) A building of this height will create excess wind onto an area which can be extremely windy.
- (iv) The designs are an architectural "light concoction" which "could be anywhere" except opposite a Grade 1 listed building in a Conservation Area.
- (v) Views - The attractive view of the Cupola and the Castle Walls from Mill Street will be lost due to the size and positioning of the southern building. The symmetry of the views from the Eye and Clifford's Tower will be lost as all the new buildings will be visible between and above the Castle Museum buildings. The external balconies overhanging the River Foss will distract from the views of the listed buildings around the Eye. One of the stated aims of the development was to open up the views of the River Foss from Piccadilly and yet the south-eastern corner of the northern building breaks into and blocks much of the view of the Plaza and the River Foss from Piccadilly.

- (vi) Insufficient open space. The plaza is too small and congested where it meets Piccadilly. The diagonal ramp across the plaza area breaks up the connection between Piccadilly and the river and considerably reduces the useful size of the plaza.
- (vii) The bottom of the bridge ramp where it meets Piccadilly will be a hazardous area with so many conflicting cycle and pedestrian routes. This junction area needs more space to allow better segregation of routes.
- (viii) The original footbridge was proposed to link the vista and desire line between Clifford's Tower and St. Deny's. The new bridge will do neither. The proposed design for the bridge is functional and unattractive and will not provide an opportunity for people to pause. Its high abutments will prevent wheelchair users and children from enjoying the views of the river below.
- (ix) Some of the visualisations from the Eye provided in the application appear to be incorrect as they show the new buildings to be 2-storeys lower than Ryedale House rather than 2 meters (approximately 2/3rd of a storey).
- (x) The proposed commercial units on the ground floor will introduce commercial activities which will detract from the living conditions of the new residents – especially in the social housing.
- (xi) Original ideas for the scheme discussed at consultation stage have been abandoned.

## **5.0 APPRAISAL**

### **KEY ISSUES**

5.1 The key issues to be considered are:-

- Principle of the proposed development
  - Housing – Density and Mix
  - Affordable Housing
  - Design and External Appearance
  - Impact on Designated Heritage Assets (Listed Buildings / Conservation Area /
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Archaeology)

- Landscaping
- Ecology
- Impact on Residential Amenity / Health and Well-Being
- Highways
- Flood Risk and Drainage
- Sustainable design and construction
- Open Space
- Education

## **POLICY CONTEXT**

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

### National Planning Policy Framework (February 2019)

5.3 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", 2019). It is a material consideration in the determination of this application. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

### Emerging Local Plan

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

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

5.5 Relevant draft policies are set out in section 2 of this report.

5.6 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The directly relevant evidence base comprises –

- Strategic Housing Market Assessment (SHMA)
- Heritage Impact Appraisal
- Open Space and Green Infrastructure Update 2017

#### 2005 Draft Development Control Local Plan

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

#### **PRINCIPLE OF DEVELOPMENT**

5.8 In line with the NPPF, the application is in principle weighed in favour of the proposed development as the site is within the urban area, vacant and is classed as 'brownfield land'. The site is on the National Brownfield Land Register adding weight to the principle of housing at the site. NPPF Paragraph 119 states "*Local planning authorities should take a proactive role in helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers, using the full range of powers available to them*". At paragraph 117, the NPPF states that 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."*

5.9 The proposed development forms a key component of the York Castle Gateway masterplan development proposals, which are addressed in Policy SS5 of the 2018 Draft Plan. Policy SS5, which Officers consider can be afforded moderate weight, allocates Castle Gateway as an “*Area of Opportunity*”, with the proposed site allocated for mixed use development on the Proposals Map. The Policy identifies Castle Gateway as a major regeneration area of the city centre and an area home to high quality cultural, river and heritage assets that form part of York’s unique character, but suffer from a poor quality setting amongst car parking and neglected buildings.

5.10 The aims of the regeneration of the Castle Gateway area include;

- The enhancement of the setting of Clifford’s Tower and other features within the Eye of York,
- Improvement of the economic, environmental and social sustainability of the area,
- Integration of the area with the broader city centre,
- Improvements to pedestrian and cycle flow throughout the area and improve connections with the wider city,
- Bringing forward of new commercial and other development that improve the area and complements and facilitates the implementation of the public realm enhancements.

5.11 The principle of the proposed development which makes provision for a mix of uses to include residential, active ground floor commercial uses, alongside the provision of a new pedestrian and cycle bridge across the River Foss and creation of new public realm is in accordance with the provisions of Policy SS5 of the 2018 Draft Plan, with the proposals reflective of the key aspirations for the regeneration of this part of the city centre.

## **HOUSING DENSITY**

5.12 The application site falls within the city centre and city centre extension zone as identified in the 2018 Draft Plan. Policy H2 (which Officers consider to carry moderate weight), stipulates that housing developments within the city centre will be expected to achieve a net density of 100 units per hectare. Policy H2 also states

that higher density will be supported for sites within 400m of a high frequency public transport corridor, which this site is. The policy highlights the issue that delivering densities that support the efficient use of land requires good design and within Conservation Area, should also have regard to any relevant guidance contained in the appraisal of the conservation area.

5.13 106 residential units are proposed on a site 0.6ha in size. This equates to a density of 177 dwellings per hectare. The location of the site and its proximity to infrastructure and transport links is one where the NPPF would support a higher density, making optimal use of the site. However, notwithstanding the consideration that maximising the use of brownfield development in such a sustainable location is desirable, there is a complex relationship and balance to achieve in relation to high density development, the surrounding context and viability. Whether the amount of development proposed is acceptable for the site, considering local character, the setting of heritage assets, the need to promote regeneration and the importance of good design, is assessed in the following sections.

## **HOUSING MIX**

5.14 106 residential units are proposed consisting of 2No 1 bed studios, 36No 1 bed roomed apartments and 68No. 2 bed roomed apartments.

5.15 NPPF paragraph 61 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). The national design guidance states that “well-designed neighbourhoods provide a variety and choice of home to suit all needs and ages” and that good design promotes social inclusion by: contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all; maximising the potential for social integration in the layout, form and appearance of types of development.

5.16 2018 Draft Plan Policy H3 states "proposals 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, as defined by the most recent Strategic Housing Market Assessment (SHMA). 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 local people”. The policy requires that the housing mix proposed should also be informed by the nature of the development site and the character of the local surrounding area. The policy is considered to carry moderate weight.

5.17 Although the scheme over provides 1 and 2 bed apartments in relation to the current and future demographic trends identified in the SHMA, it is recognised that the SHMA seeks to set a housing mix at a strategic level and as such, the range of housing delivered will vary by site. This site is within an urban context within the city centre and therefore is compatible with higher density living and accordingly it will be apartment led. Delivering higher density apartment living on this site can be balanced with the provision of a suitable proportion of larger homes on the strategic housing sites identified in the plan, out of the city centre and therefore Officers consider the housing mix proposed is reasonable for this urban site.

## **AFFORDABLE HOUSING**

5.18 There is a demonstrable need for affordable housing provision in the city, estimated at 573 homes per year in the SHMA. Local Plan policy H10 (affordable housing) sets a target of 20% provision on urban sites where more than 15 dwellings are proposed of which 80% should be social rented tenure allocated to households identified through the Council’s waiting list. The other 20% should be for Discount Sale at fixed prices.

5.19 For this scheme of 106 apartments, the policy obligation is the provision of 21.2 affordable of the total homes. All 20 units in the 5 storey block are proposed as affordable apartments (12No.1 bed units and 8No. 2 bed units). In addition, a commuted sum in lieu of 1.2 equivalent apartments has been agreed which will be calculated at 1.2x the difference between the market value of a typical 2-bed flat, and the estimated affordable housing transfer value (£65,000). The 20No. affordable units and commuted sum in combination are considered to meet the policy requirement.

5.20 Policy H10 also requires the size and type of affordable homes to be a pro-rata mix of the total homes provided on site, taking into account assessments of local need where on-site provision is required. Whilst it is acknowledged that a disproportionate number of 1 bed affordable units is proposed, given that 2-bed social rented apartments are expected to be occupied by families in the majority of cases and the facilities and amenities available in the proposed development and its

surrounding area, which may not prove suitable for some family households, the greater proportion of 1 bed homes is considered appropriate in this case.

5.21 Another key requirement of Policy H10 is that the affordable homes need to be fully integrated within the development by pepper-potting throughout with no more than two affordable dwellings placed next to each other. The exception to this is apartment blocks if they are to be transferred freehold to Registered Providers. The applicant has advised that future management arrangements for the larger blocks are not known at present and therefore there is uncertainty as to whether affordable housing could be included in these blocks due to factors such as the affordability of service charge levels and provision of suitable management of shared areas. The applicant therefore intends to provide on-site affordable housing solely within Block C. This is considered to accord with Policy H10, provided the freehold is transferred to the affordable housing landlord at a price which enables the agreed tenure mix to be delivered with no public subsidy.

5.22 Due to site constraints the proposed 1-bed affordable homes are not considered equivalent to the open market apartment types nor visually indistinguishable, being single aspect and not afforded any external balcony. The 2-bed apartments are however dual aspect and each include a balcony, and offer comparable size and equivalent design quality to the market 2-bed homes. At a size of 50 sqm per 1 bed apartment and 70 sqm per 2 bed apartment, the affordable homes offer good internal space.

5.23 The proposed tenure of the affordable homes is 80% (16no.) social rent and 20% (4no.) intermediate tenure. Although the policy compliant intermediate tenure provision is considered to be Discount Sale, taking into account the wider benefits of the scheme and the overall suitability for households who may not be able to access a mortgage, Officers consider it is acceptable to deliver Intermediate Rent apartments at up to Local Housing Allowance (LHA) levels for this application. These are likely to provide excellent homes for groups who would not qualify for high priority through the North Yorkshire Homechoice system, such as local key workers on lower incomes.

## **DESIGN AND EXTERNAL APPEARANCE**

5.24 The assessment of design takes into account the local context, the impact on heritage assets and the form and function of the scheme. The following sections of the 2018 Draft Plan and NPPF are relevant in this respect.

5.25 NPPF policy on developing previously developed land allows for an approach which either maintains an area's prevailing character and setting, or of promoting regeneration and change. It places importance on securing well-designed, attractive and healthy places (paragraph 122). Chapter 12 of the NPPF gives advice on achieving well-designed places. At paragraph 127 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, be visually attractive through good architecture, layout and appropriate landscaping, be sympathetic to local character whilst not stifling innovation, establish a strong sense of place, and create safe and accessible environments.

5.26 At paragraph 130, the NPPF advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These aims are reflected in Policy GP1 of the 2005 draft Local Plan and D1 and D2 of the 2018 Draft Plan. Policy D1 (Placemaking) advises that schemes will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. In this respect, further advice is given on urban structure, density and massing, streets and spaces, building heights and views and character. Local plan policy SS5 for the Castle Gateway is also relevant. With regards to Piccadilly it has aspirations that regeneration schemes provide active frontages and contribute to public realm improvements (reducing the size of the vehicular carriageway on Piccadilly and improve the size and quality of the pedestrian foot streets, including tree planting).

### Site layout

5.27 The fundamental constraint in the design process has been the existence of a sewer which runs across the southern part of the site, owned and maintained by Yorkshire Water and which requires an easement zone of 3 metres to either side of its enclosure. The sewer impacted on the form of the building (as well as the location of the bridge) and led to the creation of two smaller blocks rather than one central building with the new buildings pushed as much as possible away from the sewer, running adjacent to the site's northern and southern boundaries. Splitting the development into two blocks has resulted in the creation of a wedge of new public realm from street to riverside, connecting to the pedestrian / cyclist bridge, which is welcomed as a significant public benefit.

5.28 The ground floor of both buildings is designated for the commercial and ancillary activities such as refuse, plant rooms and cycle storage. The exclusion of parking from the scheme and the inclusion of commercial uses is supported as a means to help animate the ground floor space and ensure it is a people centred space.

5.29 The main building (Blocks A and B) is positioned on the Foss edge which results in more space being available for the new public realm and, overall, creates a desirable variety of approaches along this stretch of the Foss. In terms of the smaller building (Block C), an approximate 1.5 metre gap has been provided to the Foss edge to allow the potential for the proposed site to connect to the private riverside walkway which lies in front of the Travelodge. Block C, which is designated for affordable units, overlooks the primary public space. This is appropriate given that the Travelodge boundary is a blank wall.

### Bridge Design

5.30 The bridge design is visually “quiet” (i.e. without bow string arch or structural complications) which is considered appropriate given that the space in which it is situated is relatively constrained and due to the importance of the setting of the castle. Officers had raised concerns with respect to the guarding which at a height of 1.1m above deck level would hinder views for some users. This element of the design has since been amended to accommodate improved visibility to the satisfaction of Officers.

### Architectural Design

5.31 The development comprises two buildings; Block C (a five story block) and the larger building (Blocks A and B), which is split into two primary components, one running parallel to Piccadilly, the other parallel to the Foss. Blocks A and B are linked to each other by two service cores, leaving an open space in the middle that provides a deep light-well lined by walkways that access the apartments. This building has a highly modelled and varied skyline, seven storey in the main, but with three protrusions at eight floors, that are the upper levels of three duplex apartments.

5.32 Although Blocks A and B have a relatively narrow light-well, the provision of dual aspect living for almost all units is welcomed. Primary living spaces

appropriately face outwards rather than to the light well and Officers support the overall floor plan which it is considered will provide a spatially dynamic experience.

5.33 The building design is considered to be of a high standard. The design of the fenestration reflects the aspect with projecting balconies to the Foss and recessed balconies to the road elevation with different brick choices and different heights. Both elevations are considered to have sufficient chunkiness, i.e. set backs, wall reveals, in the composition of ordinary/repeated aspects like windows to ensure the overall façade has elements in light/shade, a mechanism used to make large buildings feel less oppressive.

#### Massing and Height – Townscape Impact

5.34 Other than Ryedale House, there are no buildings of comparable scale to the proposal with all other buildings at least two floors lower in height. Given its relationship to the impact on heritage assets, consideration to the impact on townscape from the massing and height of the proposed buildings is provided in the following section.

### **IMPACT ON HERITAGE ASSETS**

5.35 The site is within the Central Historic Core Conservation Area and within an Area of Archaeological Importance. It also forms part of the wider setting of Clifford's Tower and the Castle precinct. The Castle Museum, the Female Prison, the debtor's prison, curtain wall, are all Grade I listed as are the Crown Court and Railings and Clifford's Tower. York Castle is a scheduled ancient monument.

5.36 The Central Historic Core Conservation Area Appraisal (2013) (CHCCAA) sets out important considerations for the area which should be met by any new development. The Castle Piccadilly area includes buildings of exceptional historical and architectural quality of international importance. Regeneration could transform this part of the City by enhancing the unique setting of these buildings and securing their sustainable future, in particular, the character, setting and appearance of the Castle Precinct (the area of the Scheduled Ancient Monument including Clifford's Tower).

5.37 The CHCCAA sets out that the majority of the buildings along the bank of the River Foss are designated as detractors (including the former Castle Mills car park which previously occupied the site). The reason Piccadilly is included within the

conservation area is less related to the buildings in it and more related to how it contributes/impacts on the extensive patchwork of other conservation areas around it and how it contributes to the understanding of the history of the city. The Appraisal comments on the deteriorated quality of the buildings along Piccadilly and the fact that its location is particularly sensitive since it is directly opposite the Castle precinct. The Appraisal sets out the sensitivity of views to the Castle buildings and that building heights and layouts must respond to this. Breaking up blocks into a series of smaller elements and controlling building heights would help to achieve this.

5.38 The application site falls within a strategic panoramic view point from Clifford's Tower, Key View 16 (CHCCAA). The appraisal sets out that no new development should be permitted which would break the skyline of the historic core when viewed from this point. The views from Clifford's Tower provide an understanding of the 'topography' of the townscape. The appraisal sets out that there is a clear material division from this elevated vantage point: the everyday mass of the city is coloured in the reds and browns of brick and clay tile. From this 'choppy sea', as it has been described, rise the medieval buildings of Church and State.

5.39 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local Planning Authority to have regard to preserving the setting of Listed Buildings or any features of special architectural or historic interest it possesses. Where there is found to be harm to the character or appearance of the Conservation Area, or the setting of a listed building, the statutory duty means that such harm should be afforded substantial weight.

5.40 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal. The NPPF goes on to state that Local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to sustain and enhance their significance. The 2018 Draft Plan Policy D4 (2018) advises that harm

to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

### Conservation Area and Setting of Listed Buildings

5.41 Ryedale House is the most prominent building on Piccadilly, designed to stand significantly taller than the predominant urban neighbours. The Council's Design Manager assesses it as having "*an arrogant lack of urban neighbourliness and this approach is not something to repeat*". In being so clearly viewable, it was referred to as impacting negatively on the setting of the Castle Site by Historic England and within the CHCCAA.

5.42 Block A / B (largely seven storey with three protrusions at eight floors), fills the gap between Ryedale House and the Travelodge by sloping in height downwards from one to the other. It reaches almost to the parapet line of Ryedale House and as a result, appears as a continuous development form that runs from Ryedale House to the Travelodge. It is contended that this does not blend Ryedale House into the urban fabric as instead of it appearing as one form, relatively narrow in width, it presents an overall footprint of development form similar in size to the footprint of the Castle Museum/Crown Court, rising above and behind these buildings when seen from Clifford's Tower (Key View 16: CHCCAA).

5.43 The views from Clifford's Tower are characterised by a fine-grained roofscape of small-scale patchwork roofs above which rise the buildings of Church and State. The Eye of York and its key components including the distinctive cupola of the Debtors Prison, The Female Prison and Crown Court and the surviving elements of the Castle Walls, derive their significance as centres for justice, power and authority, which is clearly evidenced by their prominence when compared to the subdued scale of the built city within its setting.

5.44 By rising above and behind the buildings comprising the Eye of York, it is considered that the proposed development, together with Ryedale House, would cause harm to their setting and to the significance of the conservation area as these buildings would no longer dominate the surroundings from this view. The proposed development would also encroach on views along Bishopgate Street and Skeldergate Bridge towards the Eye of York and will rise above the roofline of the debtors Prison and encroach on the dominance of the distinctive cupola. The southern penthouse apartment of the new development would also be highly visible

in views from Fishergate and the City Walls at Fishergate Postern.

5.45 In response to concerns relating to the height of the proposed development, the applicant has assessed the financial implications of reducing the height of the main building (Block A / B) by one storey. The results of this review conclude that whilst build costs would be reduced, there would be a loss of 1,050m<sup>2</sup> of saleable floor area resulting in an overall net loss of £3.2m of development value. With the project viability gap already anticipated to be £3.3m, this would double the overall first phase project viability gap to £6.5m putting the whole project delivery at risk. The applicant states the following;

*“As a minimum this would lead to a full reconsideration of the delivery strategy, including the option to dispose of Castle Mills to the highest bidding private developer. Independent valuations of the site suggest that this would likely result in hotel or student accommodation, and we are of the view that any private developer led application would result in lower architectural quality and, as a minimum, proposals of the same height and massing”.*

5.46 Taken as a whole, the development proposals would harm the setting of a number of heritage assets. Legislation requires considerable importance and weight to be given to the desirability of avoiding such harm. The NPPF also requires great weight to be given to such harm in the planning balance, despite it being minor. The harm is assessed as “less than substantial”.

5.47 Balanced against the identified harm to heritage assets caused by the height and massing of the proposed development are a number of public benefits comprising the provision of much needed new housing, including twenty affordable units which meet the 2018 Draft Plan 28% carbon reduction targets, the creation of ground floor spaces for commercial units (the intention being that they are for small independent traders) and the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside route. Through the inclusion of the bridge, the proposed development will also significantly improve pedestrian and cycle connectivity within the wider neighbourhood with the intentions of the Castle Gateway Masterplan being for a continuous pedestrian and cycle route linking with the 2015 Hungate bridge and the proposed new surface level crossing on Tower Street, to St. George’s Field.

5.48 Beyond this, the proposed development at Castle Mills has an integral role to play in both direct delivery of the key public benefits of the regeneration and funding

of the wider Castle Gateway Masterplan. The financial return from the sale of the apartments would provide in the region of £35m, the major funding source for phase one of the Masterplan. This sum will be dedicated to fund the construction of the proposed multi storey car park at St. George's Field, which in turn will allow the closure of the Castle Car Park. This would allow the realisation of one of the key objectives of the masterplan, to remove surface car parking away from the Eye of York and to replace it with a flexible, multi-purpose, vibrant area of public realm. Without the Castle Mills development, there is no funding to pay for the St George's Field multi storey car park (MSCP) and as a consequence, Castle Car Park would not be able to close.

5.49 These public benefits are significant and far reaching and have the potential to enhance the setting of heritage assets. It is acknowledged however that these wider public benefits cannot be secured through this planning application and there is a lack of certainty that these benefits can be realised given the long timescale of the project and funding complexities. Historic England are unable to support the applications for this reason advising that they are not convinced that there is an adequate mechanism in place to ensure the delivery of the public benefits. In effect, they are concerned that the scenario could emerge whereby the Castle Mills scheme may proceed in isolation, without the public benefit from the closure of Castle Car Park being realised. This is particularly pertinent in light of the review of the Castle Gateway project and the intention to delay the procurement of a construction partner for the new multi-storey car park until next summer so as to ensure the full impact of Covid on car parking is known before committing to the next stage of expensive detail design and given that the applicant has emphasised that the closure of Castle Car Park remains dependent on the replacement car parking being provided. Questions are therefore asked as to the weight that can be attributed to these public benefits in the exercise of balancing them with the identified harm to heritage assets.

5.50 To address these comments, the applicant has submitted a supplementary note explaining the relationship between the applications and the delivery of the Masterplan. The Council confirms that it would accept a planning condition, or other form of restriction, to be applied to the Castle Mills application that prevents the occupation of the development until such time as the Castle car park has closed.

5.51 It should be noted that whilst the closure of the Castle car park can be secured by means of a condition (to include a requirement that all ticket machines and associated car park signs be removed), the details of the public realm works would

be the subject of a future separate planning application. The applicant has confirmed that this body of work would be brought forward in to the first phase of development to ensure permission would be in place to create a shovel ready scheme and to help secure any external funding that may become available. With this approach, it is acknowledged that whilst the removal of cars from this area would result from the implementation of the permission, the works to transform the space into a flexible, multi-purpose, vibrant area of public realm would not be secured.

5.52 Officers are satisfied that adequate mechanisms are in place to ensure the delivery of the public benefits identified above. Therefore whilst it is considered that less than substantial harm to the setting of a number of heritage assets would result, this harm is considered to be outweighed by the closure of the Castle Car Park and other public benefits such as the provision of new housing including twenty affordable units, the creation of new public realm to the rear of the Castle Museum and through the inclusion of the bridge, improvements to pedestrian and cycle connectivity. Whilst harm to heritage assets is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.

## **ARCHAEOLOGY**

5.53 Castle Mills lies in the Central Area of Archaeological Importance in an area where there are deep archaeological deposits that include saturated, well preserved organic deposits. These deposits are non-designated heritage assets potentially of national significance.

5.54 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. 2018 Draft Plan Policies D6 and D7 reflect national planning guidance and require an understanding of the archaeology affected to avoid substantial harm (preserve 95% of deposits) or where there would be harm, undertake adequate mitigation.

5.55 Investigations carried out on the Piccadilly part of the site reveal the existence of natural deposits covered by alluvial clays, beneath fishpool deposits all covered by post-medieval and modern land reclamation deposits. The Castle Riverside investigations revealed 18<sup>th</sup> to 20<sup>th</sup> century levelling deposits covering a possible medieval rampart/bank associated with the Castle wall. In the areas of the deepest,

most intrusive areas of proposed flood storage, evaluation trenches revealed late 19<sup>th</sup> / early 20<sup>th</sup> century surfaces below the modern ground surface. The results suggest that this area has been landscaped and the ground raised. It is anticipated that below these surfaces, there will be mid - late 19<sup>th</sup> century archaeology to the formation depths of the storage areas at c.1.4m below ground.

5.56 The foundation design for the site (including piling, pile caps and ground beams), the drainage and flood storage areas and the bridge abutment foundations will cause harm and result in loss of deposits on this site. Although the foundation design for the site is currently unknown and will not be determined until ground investigation has been carried out, in accordance with 2018 Draft Plan Policy D6 and to avoid substantial harm, the foundation design will be such that no less than 95% of archaeological deposits are preserved in-situ. Any harm is considered to be less than substantial, outweighed by the economic and social benefits of the development in terms of the provision of new housing, the provision of regeneration in the area with employment benefits, and can be mitigated by conditions.

## **LANDSCAPING**

5.57 Policy D2 (Landscape and Setting) of the 2018 Draft Plan states that proposals will be encouraged and supported where they conserve and enhance landscape quality and character. The key elements of the landscaping proposals involve the creation of a new public space, improved connectivity through the introduction of a new bridge link and the redefinition of the area of landscape between the River Foss and the City Walls.

5.58 The Castle Mills public space will form several functions; (i) the entry point to both of the new buildings, (ii) the link between Piccadilly and the Foss and the access point for the proposed bridge link and (iii) the external space for commercial units. Level changes and the location of the sewer have been key to its design. An open, accessible base within the public space has been created incorporating terraced seating and planting to accommodate the level change. Feathered steps are also used in areas with a smaller level difference.

5.59 The existence of the sewer and its easement restrict the potential for planting large species trees into the ground which would have helped to balance the scale and dominance of the proposed buildings. Instead the proposed trees would be raised planters with incorporated seating which will provide greenery at eye level but relative to the scale of the building, may look rather dwarfed. In response to Officer

comments that this public space could be improved by a reduction in the extent of paving and the creation of a softer environment with additional planting at ground level and/or larger beds within the plaza and courtyard, without conflict with the sewer easements, the applicant states that the raised planter / seat elements are designed to accommodate small trees or large specimen shrubs to create greening at a human scale. No revisions to this element of the landscaping scheme have been submitted.

5.60 A proposed crossing point over the Foss is considered a significant public benefit as apart from increasing the status of the river as an asset to the city, it would provide a much needed cyclist/pedestrian link between St. Georges Field / the River Ouse and Piccadilly with potential connectivity allowing pedestrian flow into the Eye of York. The bridge link from Castle Mills will bring pedestrians and cyclists to the base of the City Walls. The 4 metre wide route will continue south, its alignment dictated by existing levels and the Tower Street crossing point, the location of Raindale Mill, and the landing stage for the footbridge. The introduction of this broad sweeping pavement as an important gateway link to the city centre via a new footbridge alters the status of this segment of landscape between the Castle Museum/Curtain wall and the river Foss.

5.61 To accommodate the landing of the bridge on the west bank and the change in levels, the scheme involves the removal of a significant quantity of existing vegetation, including a group of trees. Whilst this is valuable cover in terms of greenery, there are no particularly good individual specimens and overall, the proposed planting on the western bank is considered to compensate for the losses.

5.62 Sweeping gabion walls to create planted terraces and seating are proposed with different riparian species as the level above the water increase. The top of the embankment toward the castle walls becomes more ornamental. Given its historic and relatively inaccessible nature and strong association with the river Foss, it is considered appropriate to strike a balance between this area looking natural and yet celebrating it as a new entrance into the city with attractive features that provide horticultural interest and places to sit and enjoy the natural environment within the city. Officers consider that the structure of the landscape, and the mix of native and non-native/ornamental planting will make a positive contribution to the visitor experience along the new route between Tower Street and the proposed bridge and the area would become an open space in its own right.

5.63 Subject to detailed landscaping conditions including a condition relating to an appropriate lighting scheme, it is considered that the proposal accords with 2018 Draft Plan Policy D2 and Paragraph 170 of the NPPF which seeks to ensure valued landscapes are protected and enhanced.

## **ECOLOGY**

5.64 The application site lies within the Foss Corridor which is of regional importance. The River Foss is noted as a Site of Local Interest because of its wildlife interest and importance as a connecting green corridor. Policy GI2 of the Emerging Plan seeks to conserve and enhance York's biodiversity. Part (vi) of GI12 states that where appropriate, any development should maintain and enhance the rivers, banks, floodplains and settings of the Rivers Ouse, Derwent and Foss, and other smaller waterways for their biodiversity, cultural and historic landscapes, as well as recreational activities where this does not have a detrimental impact on the nature conservation value

5.65 A number of trees on the western bank are proposed for removal to facilitate the new bridge and public realm. During the bat activity surveys undertaken on site, this group of trees were noted to provide foraging and commuting habitat for common bat species. This area of trees and scrub will be replaced by 'riparian planting' which includes scattered trees and is a mix of native and ornamental plant species, and alongside the western bank, by an area of 'floating planting units' proposed within the river. An area of scrub on the eastern bank will be removed but not replaced with any semi-natural habitat.

5.66 In response to Officers concerns that this proposal would not have a significant negative impact on biodiversity but neither would it make a significant contribution to enhancing the biodiversity and wildlife interest of the area, the applicant recognises that further mitigation to the water's edge can be secured through the detailed landscaping scheme and could include additional soft planting and the creation of otter holts. It is forwarded that the river wall could also be softened by introducing overhanging plant species, or coir rolls, similar to the floating planting system, to allow the connection of vegetation between the river and bank and the line of the river wall could be amended to create a different wall profile, to make the level change between the river and bank more gradual to further enhance the provision of diverse habitat and create measureable net gains for biodiversity.

5.67 On the basis of the additional enhancements, which can be secured through the detailed landscaping condition, it is considered that the proposal accords with the 2018 Draft Plan Policy, which strives for “enhancement” of biodiversity and Paragraph 175 of the NPPF, which advises that development should encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

## **FLOOD RISK**

5.68 Policy ENV4 of the 2018 Draft Plan is in accordance with Paragraph 163 of the NPPF which states that when determining applications the LPA should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
- and development is appropriately flood resilient and resistant;
- it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- any residual risk can be safely managed;
- and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

### Sequential Test

5.69 The part of the site proposed to accommodate residential development is located within Flood Zone 3a and as such a sequential test is required to demonstrate that there is no other more suitable location for the development which is at a lower risk of flooding. In this case, the wider Castle Gateway area of opportunity and beyond that, the city centre, has been used as the site search area for this residential led, mixed use development. Within the Castle Gateway area of opportunity there are no other available sites that could accommodate the proposed development, or offer the benefits identified in the Castle Gateway Masterplan. Of the 5 alternative sites identified, none met the criteria for being reasonably available in terms of either size, suitability for the development proposed, deliverability and developability. In light of the lack of suitable alternative sites, it is considered that the sequential test is passed.

## Exception Test

5.70 For the Exception Test to be passed: it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk; and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall (para 160 of the NPPF).

5.71 The application involves residential development which is considered to be a 'more vulnerable' land use. The site has historically been developed having recently been cleared of two car park buildings. The scheme would provide much needed new housing, including twenty affordable units, the creation of ground floor commercial spaces and the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside route. Through the inclusion of the bridge, the proposed development will also improve pedestrian and cycle connectivity within the wider neighbourhood and beyond this, the proposed development has an integral role to play in both direct delivery of the key public benefits of the regeneration and funding of the wider Castle Gateway masterplan. All of the above demonstrate that the scheme would provide wider sustainability benefits to the community.

5.72 The Environment Agency has raised objections to the submitted Flood Risk Assessment for the reason that it fails to demonstrate that all compensatory storage proposed is both achievable and feasible and is lacking in detail to demonstrate that the mitigation that is proposed will work as intended. Discussions between the applicant and Environment Agency have been ongoing and it is anticipated that a revised Flood Risk Assessment will be submitted shortly which will need to include an effective evacuation plan. Members will be updated at the meeting.

## **DRAINAGE**

5.73 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Development Control Local Plan (2005) Policy GP15a (Development and Flood Risk) and 2018 Draft Plan (Policy ENV5 Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

5.74 The Council's Drainage Engineer has requested the applicant to explore the use of soakaways as a means of surface water disposal (in line with the Council's Sustainable Drainage Systems Guidance for Developers) and to undertake site specific infiltration testing and has requested that the applicant proves through CCTV survey, existing connected impermeable areas.

5.75 Further information from the applicant together with an updated response from the Flood Risk Management team, are awaited. Members will be updated at the meeting.

## **HIGHWAYS**

5.76 The proposed development does not include any dedicated car parking spaces on site. Whilst this could be a concern in terms of the impact of displaced parking, with residents parking in adjacent streets and using contract parking at public/private car parks, in the context of the climate change emergency declared March 2019, it is considered acceptable in this case. The site is centrally located and well served by a significant number of frequent bus services within a short walking distance. Shops, services and employment sites are also available within short walking/cycling distances. Also, based on the number of units proposed and census data, it is estimated that a maximum of 30 cars would be linked to households living in the proposed residential development and this additional demand for parking could be accommodated in the public/private car parks available (and proposed) in the vicinity of the site.

5.77 Whilst it is recognised that a small amount of parking on site, to include disabled spaces, would help to ensure that the development is accessible to all and would limit pressure on parking provision in the area, this is balanced against the consideration that the exclusion of parking allows the design to incorporate principles which promote physical and mental health and ensures that the ground floor becomes a people centred place, which is supported. Servicing will take place from Piccadilly with no access on site by delivery / servicing vehicles.

### Cycle Parking / Sustainable Travel

5.78 In accordance with 2018 Draft Plan policies T1 (Sustainable Access) and T5 (Strategic Cycle and Pedestrian Network Links and Improvements), the scheme involves significant improvement to pedestrian and cycle links in the vicinity of the

site as well as a high level of enclosed cycle parking. To address the request by Officers to look at options to separate the one large cycle store into smaller units and to ensure the use of Sheffield type stands with sufficient space between the stands and in the aisles, revised plans have been submitted. An additional room has been detailed with both locations accessed from the central courtyard. These rooms would accommodate 90 spaces for the 86 apartments of Block A containing a 50:50 split of Sheffield Style stands (preferred) and Two Tier (Gas assisted) racking.

5.79 Block C cycle provision has also been redesigned with two rows of Sheffield stands providing 28 high quality, usable spaces for the 20 apartments. The storage would be overlooked by the new public realm as well as the circulation core and the apartments of the larger block, and is sited close to the main entrance of the smaller block. These measures encourage frequent use of cycling as a transport option, while retaining appropriate levels of security and safety in line with the City of York Council's Cycle Parking Guidance v3 (Feb 2017). 18 spaces using Sheffield stands for the commercial element (in line with standards), is also proposed.

5.80 In order to promote and incentivise sustainable travel, contributions towards a Travel Plan, car club and to allow first residents to get bus pass or cycle offer, will be secured. The applicant has agreed to the payment of these contributions.

## **RESIDENTIAL AMENITY OF FUTURE OCCUPANTS**

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

5.82 The site is within the defined city centre, where mixed use schemes are appropriate in principle, as defined in both national and local policy. With regards town centres the NPPF policy is based on ensuring vitality and the need for 'town centre uses' to be accommodated. This policy context has to be borne in mind when assessing the impact on surrounding residential uses.

5.83 Considering the location of this site between the Travelodge and the residential Ryedale House, it is considered that subject to conditions to ensure environmental standards, the proposed uses are compatible in this city centre location. Whilst of a larger scale than the car park which previously occupied the site, the proposed

development is not considered to result in harm to the residential amenity of the occupants of the proposed flats in Ryedale House, or of those in Mayfair House and Trafalgar House located directly opposite, or impact on the viability of the Travelodge through being over-bearing or impacting on daylight. A Construction Environment Management Plan (CEMP) condition for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development, would be a requirement of the decision.

5.84 In relation to the amenity of future occupants of the proposed 106 residential units, this is considered acceptable. With respects to external public / private amenity space, the scheme incorporates the ground floor courtyard between Blocks A and B (private for the use of commercial tenants and residents only), new landscaped public realm between the main buildings together with public realm on the opposite (west) bank of the Foss (Riverside North). All units in Block's A and B have dual aspect views and have private external space in the form of projecting balconies, inset balconies or rooftop terraces. Although there are no balconies for the 12No. one bedroomed units in Block C, the 8No. two bedroomed units would have inset balconies.

5.85 No details have been submitted of the plant or equipment, such as air conditioning units and kitchen extraction units, to be provided within the proposed development and therefore conditions are proposed to reasonably control activity which can cause noise to mitigate the impact of the commercial units on the residential units. The conditions would cover noise from plant and machinery, noise insulation measures for protecting the residential accommodation above the commercial units, noise (and odour) from extraction equipment and noise insulation measures to protect residential units from externally generated noise, for instance from traffic, from any areas of public realm and from outside seating areas (including from the existing Travelodge riverside terrace). Conditions requiring details of the area to be used for external seating, hours of deliveries and waste collection and flood lighting would also be required.

5.86 In relation to security and designing out crime, Safer York Partnership (SYP) had highlighted a number of issues relating to illumination of paths and cycle routes, access controls for the apartment blocks, compartmentation and the design and management of cycle storage. The applicant has addressed these comments to the satisfaction of SYP.

## HEALTH AND WELL-BEING

5.87 Related to the above section is the requirement, stipulated by 2018 Draft Plan policy HW7, that design principles that can support healthy lifestyles are incorporated into plans for development.

5.88 As detailed previously, the scheme is a car free development which incorporates a new pedestrian cycle link across the Foss. Cycle parking provision meets CYC's minimum standards and in addition to the provision of a private ground floor courtyard for the use of commercial tenants and residents of Blocks A and B, a new landscaped public realm between the main buildings together with public realm on the opposite bank of the Foss is proposed. Consideration has also been given to how the design may impact on crime or perception and safety. Officers therefore consider that the scheme satisfactorily addresses the requirements of Policy HW7.

## OPEN SPACE

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

5.90 Policy GI6 (new open space provision) of the 2018 Draft Plan states 'all residential development proposals should contribute to the provision of open space for recreation and amenity... The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. Where there are deficiencies in certain types of open space provision in the area surrounding a proposed development, the Council will seek variations in the component elements to be provided by the developer in order to help to overcome them'. The policy continues by stating that the Council will encourage on-site provision where possible but off-site provision will be considered acceptable in certain circumstances.

5.91 The site is within the Guildhall Ward which has a surplus of parks and gardens but is deficient in natural / semi natural space, amenity green space, children's and

young person's facilities, outdoor space and allotments based on the Open Space and Green Infrastructure Update (September 2017). The requirements for this scheme (as detailed in this evidence base which is referenced in the local policy) amounts to the provision of 1566 sqm of amenity space, 476 sqm play space and 1,218 sqm towards sports.

5.92 With the evidence base identifying that the land within Riverside North is already allocated as natural and semi natural space in the local plan, it cannot be accounted for in any on site provision calculation, and on this basis, there is no new on site open space and play space within the application site. As such the off-site contribution can be requested subject to it meeting the CIL regulations – be necessary to make the development acceptable in planning terms, reasonable in scale and kind and directly related to the development.

5.93 The off-site contributions required for amenity space, play provision and sports pitches (totalling £99,104) would be spent on the creation of new open space and play provision within the immediate vicinity or for use at the Cemetery Road play area. It has been identified that the Outdoor Sport Provision Payment could be used for outdoor gym equipment on the riverside path close to the development, or potential beneficiaries of Rowntree Park, York Railway Institute, York Rowing Club etc.

## SUSTAINABLE DESIGN AND CONSTRUCTION

5.94 A planning condition will require the buildings to be compliant with Emerging Local Plan policies CC1 and CC2 which require exceedance of Building Regulations with regards to energy efficiency and carbon emissions (through the use of low/zero carbon technology or building efficiency). Building Regulations require that the Dwelling Emission Rate (DER) does not exceed the Target Emission Rate (TER). Local policy requires a 28% reduction. The application is supported with a strategy as to how these local requirements would be met, these demonstrate building efficiency which would exceed Building Regulations and would build naturally ventilated residences served by a low carbon heat network.

5.95 In relation to Policy CC3, CHP has not been proposed as it has become more carbon intensive than other forms of heat and power. The proposals are compliant with Policy CC3 by proposing that a block heating network is utilised, making the most of low carbon electricity.

## EDUCATION

5.96 NPPF paragraph 94 states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications". Local draft supplementary planning guidance explains how the need for extra education spaces are determined and the relevant planning obligations.

5.97 The need arising from the development (based on local guidance and the mix) would be for 7 No. primary places, 3 No. secondary places and 9 No. early years places. The primary deficit contains Fishergate, St George's and St Oswald's. There is no scope for expansion at catchment Fishergate, but expansion at St Oswald's is feasible and therefore a full contribution is sought. For secondary and early years, the contribution would fund expansion at Fulford School and for early years for expansion of existing provision within the catchment (1.5km).

## CONCLUSION

6.1 The application site is within an area proposed for redevelopment and regeneration as outlined in the draft 2005 and 2018 Draft Plan, forming a key component of the York Castle Gateway masterplan development proposals. The site is within Flood Zone 3 and lies in a sensitive location within the Central Historic Core Conservation and in the Area of Archaeological Importance. In accordance with paragraph 11 of the NPPF, the more restrictive heritage asset and flood risk policies in the NPPF apply. The proposal, by virtue of its scale and massing, would result in harm to the setting of a number of designated and non-designated (archaeology) heritage assets.

6.2 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The harm to result is considered to be less than substantial and is outweighed by the environmental and social benefits associated with the closure of the Castle car park, the provision of new housing, including 20 affordable units, the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside and improvements to pedestrian and cycle connectivity within the

wider neighbourhood. Whilst the harm is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.

6.3 As set out in section 5, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

6.4 Approval is recommended subject to conditions and to the undertaking of a legal agreement to secure the following;

- (i) Affordable Housing - 20 affordable homes to be provided on site by the HRA. A commuted sum of £368,712 to be provided in lieu of onsite provision of the remaining 1.2 apartments.
- (ii) Open Space - Off-site contributions totalling £99,104 (Recreational open space £26,274, Play space £35,768 and Sports pitch provision £37,062)
- (iii) Education - Financial contribution of £366,753 towards 19 school places
- (iv) Highways - £400/unit for first residents to get bus pass or cycle offer, £200 per unit for car club and £300/unit Travel plan contribution (to cover implementation and monitoring by CYC for a 5 year period).

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

CM-BDP-ZZ-RL-DR-A-PL-1001 Rev PO3 (Site Location Plan with red and blue line boundary)

CM-BDP-ZZ-RL-DR-A-PL-1004 Rev PO3 (Proposed Site Plan)

CM-BDP-ZZ-RL-DR-A-PL-1005 Rev P04 (Ground Floor Site Plan)

CM-BDP-ZZ-RL-DR-A-PL-1006 Rev P01 (Site Layout with Topo Survey and Sewer)

ZZ-00-DR-A-PL-1110 (Refuse Ground Floor)  
CM-BDP-SK024 Rev P03 (Cycle Storage Layout)  
CM-BDP-SK027 Rev P01 (Cycle Storage Layout, 27.10.20)

M-BDP-ZZ-00-DR-A-PL-1210 Rev P09 (Proposed Plan - Level 00)  
CM-BDP-ZZ-02-DR-A-PL-1211 Rev P06 (Proposed Plan Level 01)  
CM-BDP-ZZ-02-DR-A-PL-1212 Rev P06 (Proposed Plan Level 02)  
CM-BDP-ZZ-02-DR-A-PL-1213 Rev P06 (Proposed Plan Level 03)  
CM-BDP-ZZ-02-DR-A-PL-1214 Rev P06 (Proposed Plan Level 04)  
CM-BDP-ZZ-02-DR-A-PL-1215 Rev P06 (Proposed Plan Level 05)  
CM-BDP-ZZ-02-DR-A-PL-1216 Rev P06 (Proposed Plan Level 06)  
CM-BDP-ZZ-02-DR-A-PL-1217 Rev P06 (Proposed Plan Level 07)  
CM-BDP-ZZ-02-DR-A-PL-1218 Rev P05 (Proposed Plan Level 08 Roof)  
CM-BDP-ZZ-00-DR-A-PL-1110 Rev P09 (Proposed Plan - Level 00)  
CM-BDP-ZZ-03-DR-A-PL-1111 Rev P06 (Proposed Plan Level 01)  
CM-BDP-ZZ-03-DR-A-PL-1112 Rev P06 (Proposed Plan Level 02)  
CM-BDP-ZZ-03-DR-A-PL-1113 Rev P06 (Proposed Plan Level 03)  
CM-BDP-ZZ-03-DR-A-PL-1114 Rev P06 (Proposed Plan Level 04)  
CM-BDP-ZZ-03-DR-A-PL-1115 Rev P06 (Proposed Plan Level 05)  
CM-BDP-ZZ-03-DR-A-PL-1116 Rev P06 (Proposed Plan Level 06)  
CM-BDP-ZZ-03-DR-A-PL-1117 Rev P06 (Proposed Plan Level 07)  
CM-BDP-ZZ-03-DR-A-PL-1118 Rev P06 (Proposed Plan Level 08 Roof)

CM-BDP-ZZ-ELE-DR-A-PL-1170 Rev P06 (Proposed Elevation - West Riverside)  
CM-BDP-ZZ-ELE-DR-A-PL-1171 Rev P06 (Proposed Elevation - South Public Plaza)  
CM-BDP-ZZ-ELE-DR-A-PL-1172 Rev P06 (Proposed Elevation - East Piccadilly)  
CM-BDP-ZZ-ELE-DR-A-PL-1173 Rev P06 (Proposed Elevation - North Block C)  
CM-BDP-ZZ-ELE-DR-A-PL-1270 Rev P06 (Proposed Elevation - West Riverside)  
CM-BDP-ZZ-ELE-DR-A-PL-1271 Rev P06 (Proposed Elevation - South Public Plaza)  
CM-BDP-ZZ-ELE-DR-A-PL-1272 Rev P06 (Proposed Elevation - East Piccadilly)  
CM-BDP-ZZ-ELE-DR-A-PL-1273 Rev P06 (Proposed Elevation - North Block C)  
CM-BDP-ZZ-ELE-DR-A-PL-1274 Rev P06 (Proposed Elevation - South Block C along Travelodge)  
CM-BDP-ZZ-ELE-DR-A-PL-1275 Rev P06 (Proposed Elevation - North along Ryedale House)  
CM-BDP-ZZ-ELE-DR-A-PL-1276 Rev P06 (Proposed Elevation - North Courtyard)  
CM-BDP-ZZ-ELE-DR-A-PL-1277 Rev P06 (Proposed Elevation - West Courtyard)  
CM-BDP-ZZ-ELE-DR-A-PL-1278 Rev P06 (Proposed Elevation - South Courtyard)  
CM-BDP-ZZ-ELE-DR-A-PL-1279 Rev P06 (Proposed Elevation - East Courtyard)

CM-BDP-ZZ-ELE-DR-A-PL-1370 Rev P04 (Bay Study 01 Riverside)  
CM-BDP-ZZ-ELE-DR-A-PL-1371 Rev P04 (Bay Study 02 Piccadilly)  
CM-BDP-ZZ-ELE-DR-A-PL-1372 Rev P04 (Bay Study 03 Piccadilly)

CM-BDP-ZZ-ELE-DR-A-PL-1373 Rev P04 (Bay Study 04 Block C)  
CM-BDP-ZZ-ELE-DR-A-PL-1374 Rev P04 (Bay Study 05 Block C)  
CM-BDP-ZZ-ELE-DR-A-PL-1375 Rev P04 (Bay Study 06 Block B Courtyard)  
CM-BDP-ZZ-ELE-DR-A-PL-1376 Rev P04 (Bay Study 07 Core Blocks A, B)

CM-BDP-ZZ-ZZ-DR-A-PL-1410 Rev P03 (Apartment Types (1 Bedroom))  
CM-BDP-ZZ-ZZ-DR-A-PL-1411 Rev P03 (Apartment Types (1 Bedroom))  
CM-BDP-ZZ-ZZ-DR-A-PL-1412 Rev P03 (Apartment Types (1 Bedroom))  
CM-BDP-ZZ-ZZ-DR-A-PL-1413 Rev P03 (Apartment Types (2 Bedroom))  
CM-BDP-ZZ-ZZ-DR-A-PL-1414 Rev P03 (Apartment Types (2 Bedroom))  
CM-BDP-ZZ-ZZ-DR-A-PL-1415 Rev P03 (Apartment Types (Duplex))  
CM-BDP-ZZ-ZZ-DR-A-PL-1416 Rev P03 (Apartment Types (Duplex))  
CM-BDP-ZZ-ZZ-DR-A-PL-1417 Rev P03 (Apartment Types (Duplex))  
CM-BDP-ZZ-ZZ-DR-A-PL-1418 Rev P03 (Apartment Types (Duplex))  
CM-BDP-ZZ-ZZ-DR-A-PL-1419 Rev P03 (Apartment Types (Studio))

CM-BDP-ZZ-00-DR-L-PL-0401 Rev P03 (Planting Strategy)  
CM-BDP-ZZ-00-DR-L-PL-0301 Rev P05 (Landscape Sections Sheet 1 of 2)  
CM-BDP-ZZ-00-DR-L-PL-0302 Rev P05 (Landscape Sections Sheet 2 of 2)  
CM-BDP-ZZ-00-DR-L-PL-0303 Rev P01 (Landscape Elevations)  
CM-BDP-ZZ-00-DR-L-PL-0201 Rev P07 (Proposed Levels Strategy 1 of 2)  
CM-BDP-ZZ-00-DR-L-PL-0202 Rev P05 (Proposed Levels Strategy 2 of 2)  
CM-BDP-ZZ-00-DR-L-PL-0001 Rev P06 (Landscape Masterplan)  
CM-BDP-ZZ-00-DR-L-PL-0002 Rev P01 (Tree Removal/Retention Plan)  
CM-BDP-ZZ-00-DR-L-PL-101 Rev P06 (Landscape General Arrangement 1 of 2)  
CM-BDP-ZZ-00-DR-L-PL-102 Rev P05 (Landscape General Arrangement 2 of 2)

CM-BDP-ZZ-ZZ-DR-A-PL-1710 Rev PO6 (Bridge Proposed Plan)  
CM-BDP-ZZ-ZZ-DR-A-PL-1711 Rev PO4 (Bridge Proposed Elevations)  
CM-BDP-ZZ-ZZ-DR-A-PL-1712 Rev PO6 (Bridge Proposed Sections)

CM-BDP-SK009 Rev P02 (Sewer Easement on Ground Floor and Bridge Proposal)  
CM-BDP-SK010 Rev P02 (Ground Floor Encroachment on Sewer Easement)  
CM-BDP-SK011 Rev P02 (First Floor Encroachment on Sewer Easement)

Energy Strategy (Jan 2020) (CM-BDP-XX-XX-RP-MEP-22-PL-0001)  
Drainage Strategy (70034291-DSR-002 Rev 002)  
Design and Access Statement - Rev PO5 (Revisions to bridge design)  
Flood Evacuation Plan (August 2020) Version 4 Draft  
Statement of Heritage Significance Rev C (July 2020)  
Flood Risk Sequential Test Rev A (August 2020)  
Cycling Storage Design V6

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

3. Prior to the commencement of above ground development, 1:20 annotated and dimensioned drawings in plan, section, elevation and possible 3D (as necessary to describe complexity) for the following detail types, are to be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details;

- (i) (block A, B & C) Typical bay drawings for each wall type, where varying in design, and/or wall material. To include interfaces at ground level and upper parapet or roof level.
- (ii) All types of parapet, guarding and balconies.
- (iii) Any exposed soffits and their transitions.
- (iv) All external boundary treatment including treatment to riverside boundary.
- (v) Sample parts of the proposed bridge

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

4. Brick window reveals are to be set back a minimum 200mm (approx. one full brick deep) before the plane of a window. Brick feature recessed wall planes are to be set back a minimum 100mm (approx. ½ brick deep) from the main wall plane.

Reason: To impart an overall high quality and robustness of construction systems and to provide visual relief on a façade.

5. On-site sample panels of bricks, in each type of brick, in each type of bond, including chosen mortar and pointing, and including any special brick features shall be erected on the site, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. The sample panel shall be 2x1.2m minimum overall. If multiple combinations of brick and/or bond are proposed each type to be 1x1.2m. The agreed panel is also to represent a minimum standard for the quality of workmanship that the development should achieve, and the panel shall remain on site for the duration of the brickwork package.

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.

6. Notwithstanding any proposed materials specified on the approved drawings or other documents submitted with the application, samples of all proposed external building 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 building envelope. For clarity, this includes vision and any non-vision glazing, flat or pitched roofs. 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. Samples should be provided of sufficiently large size to be able to appropriately judge the material (including joints/fixings where an important part of the visual quality of the material), and to be provided together where materials are seen together.

Reason: So as to achieve a visually cohesive appearance.

7. On-site mock-up sample constructions for the following building parts shall be constructed, and subsequently approved in writing by the Local Planning Authority prior to their full construction. The mock up should be 1:1 scale but shortened overall sizes of elements can be included. The contents and size of the mock-ups shall be agreed by the Local Planning Authority in advance of their construction.

- (i) Riverside façade of block A in an area around a balcony.
- (ii) Piccadilly façade of block B in an area around a balcony.

Reason: To explain the construction interfaces in three dimensions and impart an overall impression of quality of the proposed construction systems at important locations and/or for highly repeated features, in order to ensure the achievement of an overall satisfactory standard of construction quality.

8. Prior to the commencement of above ground development, 1:20 drawings in plan and elevation for any external plant room enclosures shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details. This shall include a maximum height of any plant equipment within the enclosure.

Note:

For flat roofs, in situations without a solid roof parapet (1m or higher, as shown on permitted drawings): Service protrusions are not allowed within 2m of any building edge. Any service protrusions lower than 1m above roof finish level elsewhere are allowed. Any proposals for service protrusions higher than 1m above flat roof level elsewhere are to be submitted to and approved by the Local Planning Authority, but should generally be expected not to be permitted.

For flat roofs in situations with a solid roof parapet (1m or higher, as shown on permitted drawings): service penetrations should not be higher than top of parapet. Any such proposals above parapet level are to be submitted to, and approved in

writing by, the Local Planning Authority.

For pitched roofs: service penetrations are not permissible, unless subsequently agreed by the Local Planning Authority through submission of drawings.

Permanent external wall fixed equipment used to service the building are not permissible, unless subsequently agreed by the Local Planning Authority through submission of drawings.

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

9 Before any landscape works proceed on site, a detailed hard and soft landscape scheme which shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; seeding mix, sowing rate and mowing regimes where applicable, shall be submitted and approved in writing by the Local Planning Authority. It will also include details of paving, surface finishes, street furniture, and raised planters. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Note: As part of the landscape proposals the following water safety measures should be addressed;

- measures to reduce the likelihood people of being in the water e.g. fence or hedge. Where no barrier is present, there should be a strong demarcation of the water's edge,
- people in the river shall have the means to self-rescue, through the provision of ladder(s) or chains,
- people on the river banks shall have access to the necessary safety equipment to attempt a rescue e.g. life buoy(s). These such be located under street lighting,
- adequate safety signage advising of the dangers of the River.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, and the hard landscape details, since the landscape scheme is integral to the amenity of the development, to ensure features that provide ecological improvements are accommodated and to incorporate water safety measures.

10 Prior to the commencement of development, a complete and detailed Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement

shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, parking arrangements for site vehicles, locations for stored materials and means of moving materials around the site, locations and means of installing utilities, location of site compound and marketing suite. A copy of the document will be available for reference and inspection on site at all times.

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

11 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority all tree planting details, to include: means of support, and irrigation; maintenance regime, and responsibilities; soil volumes and structural soil cell systems where applicable, and the corresponding paving detail, and locations of underground utilities. Where trees are to be located within paved areas, the surface area of soil cell systems, soil volumes, and tree species, and any utilities shall also be shown on a tree planting plan. The development shall be undertaken in accordance with the approved details.

Reason: Suitable detailing and maintenance will encourage the proposed trees to survive and thrive since they are a critical element of the approved landscape and setting of the development.

12 Prior to the development being occupied, a scheme for external lighting (building and open spaces) shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, angle, design and lux of all external lighting and shall include plans and elevations as necessary and technical and non-technical documentation, in order to explain the quality of the lighting proposal and to demonstrate non-intrusive impact of the proposal to both expert and non-expert. The development shall be carried out in accordance with the approved lighting scheme. Any subsequent revisions or alterations to the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

Note: The lighting scheme shall be informed and accompanied by a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for the appropriate Environmental Zone contained within the table taken from the Institute of Light

Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

Reason: So as to achieve a visually cohesive appearance. To ensure that the development is well lit, providing natural surveillance and make it safe for users. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. Night time illumination may potentially impact on the night time ambience of the conservation area. To ensure that the proposed development is not unduly prominent within the conservation area and wider views of the city. On ecology grounds - to limit excessive light spill over the River Foss.

13 The lighting illuminance levels for any external fascia signs or totem signs shall conform to the appropriate levels as prescribed in the Institute of Lighting Professionals in their Professional Lighting Guide 05:2014, "The Brightness of Illuminated Advertisements."

Reason: To protect the amenity of the nearby residents and the surrounding area.

14 All external lighting, other than that required for emergency or security purposes, shall be turned off by 23:00 on any day.

Reason: To protect the amenity of the nearby residents and the surrounding area.

15 Prior to the commencement of the use hereby approved, a servicing strategy to include measures to ensure no access on site by delivery / service vehicles shall be submitted to and approved in writing by the Local Planning Authority, and carried out as approved.

Note: The applicant will be required to fund the implementation of any Traffic Regulation Order / physical measures (such as bollards) required to implement the approved servicing strategy.

Reason: In the interests of highway safety.

16 Details of the highway works for the access layout and off-site improvements (layout and detailed design) to Piccadilly (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) and a timescale for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved. The approved highway works shall be carried out in accordance with the approved timescale and in accordance with the approved details, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users and to secure regeneration improvements to Piccadilly proportionate to the development

proposed in accordance with policy SS5.

17 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved management plan.

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

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

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

For lighting details should be provided on artificial lighting to be provided on site,

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

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

Reason: To protect the amenity of the locality

18 No part of Block's A and B shall be occupied until a pedestrian and cycle crossing across Tower Street has been provided in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users. In addition, the construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the improvement of pedestrian and cycle routes. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

19 Prior to the construction of any works above the ground floor slab, details of the secure cycle parking areas, including means of enclosure, position, design, materials and finishes, shall be approved in writing by the Local Planning Authority. The development shall not be occupied until the cycle parking areas and means of enclosure have been provided in accordance with the approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To ensure adequate space for such storage, and to promote sustainable modes of transport in accordance with policies GP4a and T4 of the City of York Draft Local Plan and the National Planning Policy Framework.

20 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the

findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

21 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

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

24 Details of all machinery, plant and equipment to be installed in or located on any of the commercial premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use of the relevant commercial premises first opens and shall be maintained thereafter.

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

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

25 Premises put to Class A3 use that have a residential unit above, shall be noise insulated in accordance with a scheme to be approved in writing by the local planning authority. Upon completion of the insulation scheme works, the A3 use shall not commence until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To protect the amenity of people above the proposed use from internally generated noise and in accordance with the National Planning Policy Framework.

26 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required for any premises put to Class A3 use shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the updated Guidance produced by EMAQ in September 2018 titled "Control of Odour and Noise from Commercial Kitchen Exhaust Systems (September 2018)" for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with APPENDIX 3 of the EMAQ guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

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

27 Prior to the construction of any works above the ground floor slab, a detailed scheme of noise insulation measures for protecting the approved residential units from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works, no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed

45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

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

28 A plan showing the areas to be used for external seating in association with the commercial uses hereby approved, to include numbers of tables and chairs and ancillary equipment, shall be submitted to and approved in writing by the Local Planning Authority prior to their use. The external seating areas shall thereafter accord with the approved details.

Reason: To protect the amenity of nearby residents

29 The external seating areas associated with the commercial uses hereby approved shall only be used between 09:00hrs and 18:00hrs on any day and at no other times.

Reason: To protect the amenity of nearby residents

30 All equipment associated with the outdoor seating areas shall be removed from the pavement and the pavement left clear and free of obstruction between the hours of 18:00 and 09:00.

Reason: To protect the amenity of nearby residents.

31 Upon completion of the development, delivery vehicles and waste removal vehicles to the development shall be confined to the following hours:

Monday to Friday 08:00 to 18:00 hours

Saturday 09:00 to 13:00 hours and not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of occupants of the nearby properties from noise.

32 A programme of archaeological excavation of is required on this site for:

- the construction of the bridge abutment on Castle Riverside (to include community engagement)
- any significant deposits or features identified during any periods of archaeological watching brief which are safe to excavate

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

A) No development or excavation shall take place until a written scheme of investigation (WSI) for excavation, post-excavation analysis, publication, archive deposition and community involvement, has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

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

C) A copy of a report (and copy of publication prior to submission to an approved journal if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

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

33 A foundation design for the proposed building and bridge and a statement of working methods, which preserve 95% of the most significant archaeological deposits on the site is required.

A) No development shall commence until a foundation design for the building and bridge including a statement of working methods (and a methodology for identifying and dealing with obstructions to piles and specification of a level in mAOD below which no destruction or disturbance shall be made to archaeological deposits except for that caused by the boring or auguring of piles for the building foundation) which preserve 95% of the archaeological deposits on the site has been approved in writing by the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and City of York Historic Environment Policy HE10.

Reason: The site lies within an Area of Archaeological Importance which contains significant archaeological deposits. The development must be designed to preserve 95% of the archaeological deposits within the footprint of the building.

34 Watching brief:

A programme of post-determination archaeological mitigation, specifically an archaeological watching brief on any ground investigation work, remediation work generally deeper than 1.5m bgl, construction of foundations or drainage is required on this site.

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

A) No ground investigation, remediation work other than any associated with the initial site clearance or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no grubbing up of foundations, ground investigation, remediation work or development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

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

C) A copy of a report (and preparations for publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

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

35 Wet, organic archaeological deposits survive on this site which merit preservation in-situ. An archaeological programme of hydrological and water quality monitoring (2 monitoring points on Piccadilly) is required on this site prior to the installation of piles and associated structures to assess continued in-situ preservation. The archaeological programme comprises 4 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No development shall commence until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority

which sets out how appropriate hydrological and water quality monitoring will be re-introduced on the site prior to the installation of piles/foundations and how it will be assessed and reported at yearly intervals. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) Installation of hydrological and water quality monitoring devices shall be completed in accordance with the programme set out in the WSI approved under condition (A)

C) Evidence of provision for monitoring of and analysis and annual reporting on data from the hydrological and water quality monitoring devices for a period of 5 years shall be submitted to and approved by the Local Planning Authority on an annual basis.

D) A final copy of a report on the archaeological programme detailed in the WSI will be deposited with City of York Historic Environment Record within six months of the completion of the 5 year monitoring period or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF and the latest guidance from Historic England on in-situ preservation of organic deposits and subsequent monitoring.

Reason: The site lies within an Area of Archaeological Importance which contains nationally significant undesignated heritage asset (waterlogged organic archaeological deposits) which will be affected by development. The effect on these deposits must be monitored.

36 The following pieces of further post-excavation work shall be completed during the mitigation phase of archaeological works. This shall be included in the final archaeological report, to be submitted to the HER which will cover watching briefs and excavation.

- Clay pipe analysis and recording (followed by discard) of the animal bone assemblage excavated during the archaeological evaluation.

This condition is imposed in accordance with Section 16 of NPPF.

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

37 Sustainable construction

The development hereby permitted shall achieve a reduction in carbon emissions of

at least 28% compared to the target emission rate as required under Part L of the Building Regulations.

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

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

38 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority .

Reason: To ensure that the site is properly drained and in order to prevent overloading; surface water is no to be discharged to the public sewer network.

39 No construction works on the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the protection measures are to be achieved via a formal building over agreement, the developer shall submit evidence to the Local Planning Authority that the building over of the sewer has been agreed with the relevant statutory undertaker.

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

40 No part of Block's A and B shall be occupied until Castle Car Park, identified on drawing number CM-BDP-ZZ-RL-DR-A-PL-1001 Rev PO3 (Site Location Plan with red and blue line boundary), has permanently closed with all ticket machines, and associated car park signs removed.

Reason: The construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the closure of the Castle Car Park and associated environmental improvements. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

41 No part of Block's A and B shall be occupied until the pedestrian and cycle bridge shown on drawings CM-BDP-ZZ-ZZ-DR-A-PL-1710 Rev PO6 / CM-BDP-ZZ-ZZ-DR-A-PL-1711 Rev PO4 and the associated cycle/pedestrian route detailed on drawing CM-BDP-ZZ-00-DR-L-PL-0001 Rev P06, have been completed in accordance with the approved details and brought into use.

Reason: The construction of the apartment building development is considered to result in less than substantial harm to designated heritage assets, the identified harm is only justified where outweighed by public benefits including the improvement of pedestrian and cycle routes in the area through the erection of the proposed bridge. This is in accordance with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Section 12 of the NPPF and Emerging Local Plan Policy.

## **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:

- pre-application advice
- the use of conditions

### **2. Scheduled Monument Consent**

Scheduled Monument Consent from Historic England will be required for any works for the bridge on the Castle Riverside and for landscaping proposals as this may impact on the setting of York Castle (Scheduled Listing No. 1011799). Consent will also be required for further ground investigation work and flood storage areas within the Scheduled boundary.

### **3. Bridge Technical Approval**

All structural design and assessment is subject to Technical Approval (TA) in accordance with CG300 (previously BD2) Technical Approval of Highway Structures. All proposed structures must satisfy the Technical Approval Authority in terms of agreeing the principles on which a structural design is to be carried out.

### **4. Food Informative**

Application Reference Number: 19/02415/FULM

Item No: 3c

As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should contact by email at [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc."

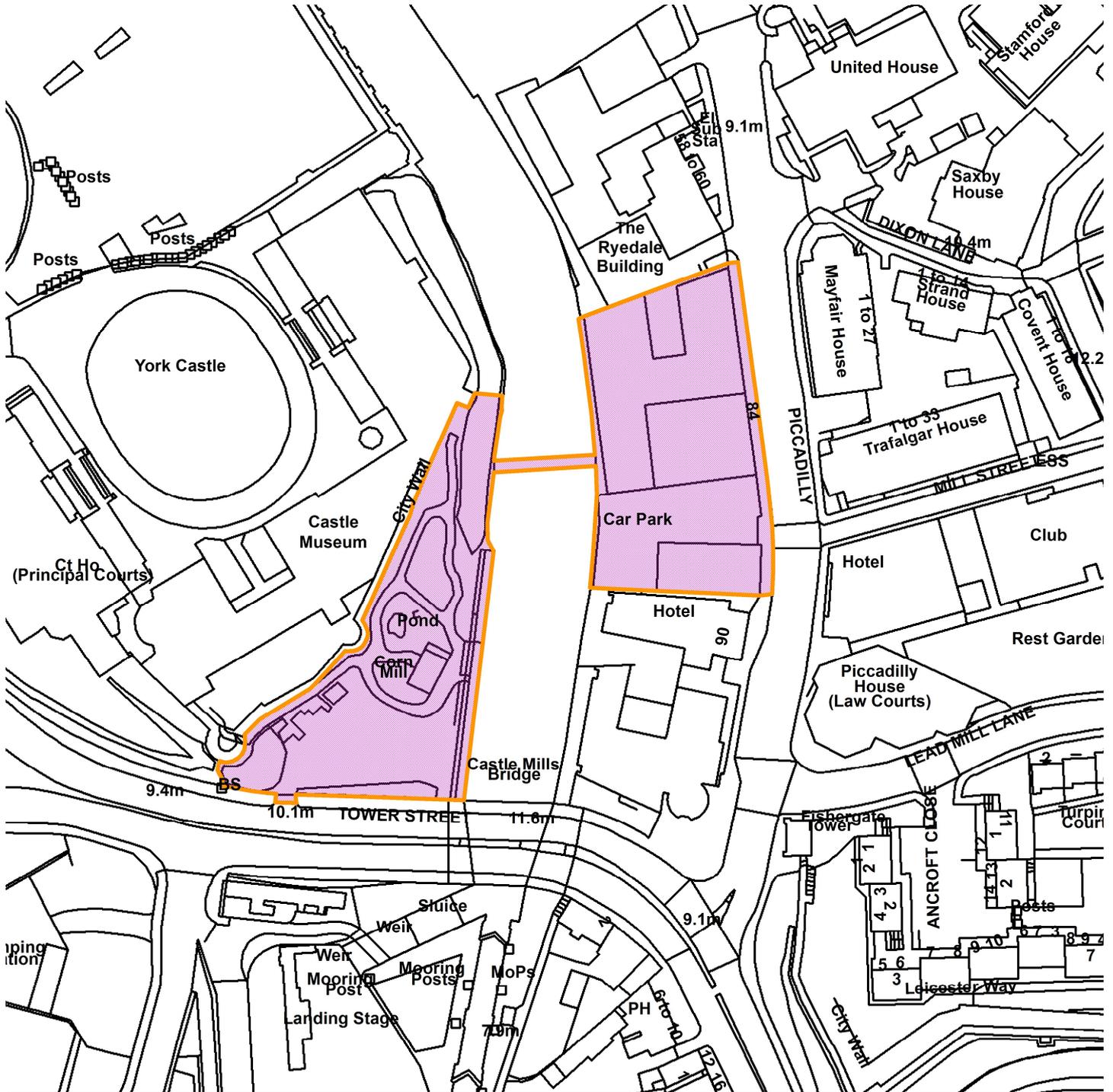
**Contact details:**

**Case Officer:** Rachel Tyas

**Tel No:** 01904 551610

# Castle Mills Car Park, Piccadilly, York

19/02415/FULM



Scale : 1:1368

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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>	06 November 2020
<b>SLA Number</b>	

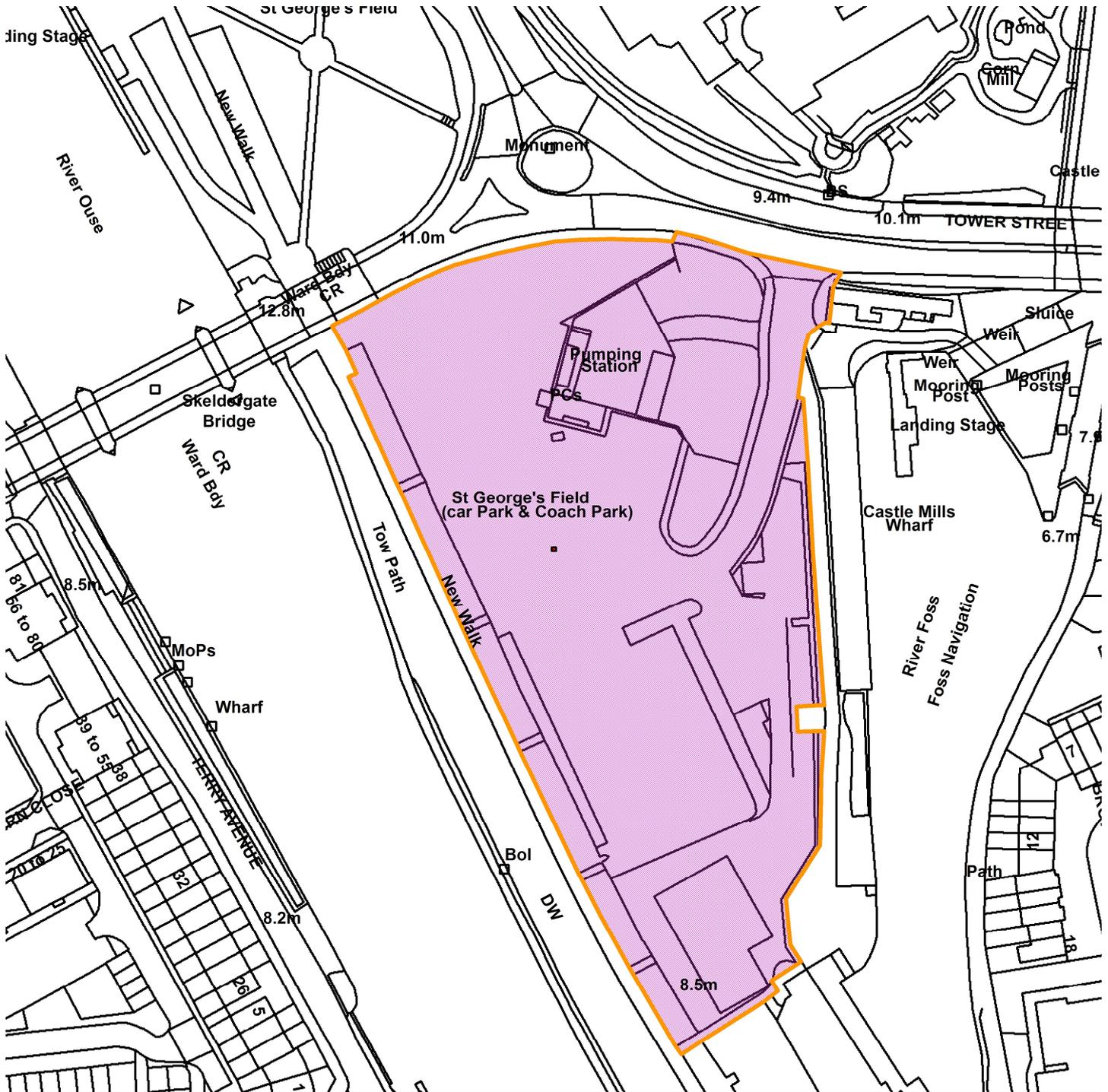
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# St Georges Field Car Park, York

19/02063/FULM



GIS by ESRI (UK)



Scale : 1:1368

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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>	06 November 2020
<b>SLA Number</b>	

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