

## COMMITTEE REPORT

**Date:** 05/09/19  
**Team:** West Area  
**Ward:** Micklegate  
**Parish:** Micklegate Planning Panel

**Reference:** 19/00836/FULM  
**Application at:** Club Salvation George Hudson Street York YO1 6JL  
**For:** Conversion of first, second floor and third floors and roof level extension to create 17no. serviced apartments (C1 use), change of use of 23 and 25 Tanner Row ground floor and basement to restaurant (class A3) with ancillary accommodation along with ground floor and basement to 31 George Hudson Street to amenity space for serviced apartments above (c1 use) (revised scheme)  
**By:** Mr Brown  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 9 September 2019  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### Application Site

1.1 The application site comprises a series of existing multi storey buildings located adjacent to the junction of George Hudson Street and Tanner Row; the site is occupied by a number of land uses including a night club, retail premises and residential units. Club Salvation (No 23/25 Tanner Row) comprises a Night Club dating to the early 1980s situated within a three storey brick built Victorian terrace at the junction of George Hudson Street and Tanner Row which was partially lowered in the 1950s. Adjoining the building to the south west in George Hudson Street is a development of three storey brick built shops with flats above comprising Nos 27, 29 and 31 which are Grade II Listed.

1.2 To the rear of the application site is a multi storey car park.

#### Proposals

1.3 Planning permission, together with a parallel application for Listed Building Consent (19/00837/LBC) is sought for the conversion of the first, second and third floors and a roof level extension to create 17.no serviced apartments (C1 Use), the change of use of No.23 and 25 Tanner Row at ground floor and basement levels to form a restaurant (Class A3) with ancillary accommodation along with the change of use ground floor and basement to 31 George Hudson Street to form amenity space for the serviced apartments.

1.4 This current application is a resubmission of a previously withdrawn scheme (18/01866/FULM). The earlier scheme was withdrawn by the applicant as a result of Officer concerns with regard to the scale, mass and design of the proposed roof extension which utilised a mansard roof form and associated dormers. Concerns also existed with regard to the proposed design of the shop front to No.25 Tanner Row.

1.5 In seeking to address the concerns raised in the earlier application this current proposal has amended the design of the proposed roof which has resulted in a reduction in to number of proposed apartments (previously 19.no) and a reduction in the number of proposed dormer windows (previously 7.no).

## **2.0 POLICY CONTEXT**

2.1 Publication Draft City of York Local Plan (2018)

SS3 York City Centre

D1 Place Making

D4 Conservation Areas

D5 Listed Buildings

EC4 Tourism

2.3 National

National Planning Policy Framework (NPPF) (2019)

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

## **3.0 CONSULTATIONS**

3.1 The application has been advertised via Site Notice, Local Press Notice and by neighbour letter. The advertisement period expired on 3rd July 2019.

3.2 INTERNAL:

Public Protection: No objections subject to conditions.

Housing Services: Policy H10 of the submitted Local Plan sets out the affordable housing provision which is required in respect of this application. 19 use class C3 apartments are proposed and the site is brownfield.

20% of the total should be provided as affordable (Table 5.4) the equivalent of 3.8 units.

80% of the affordable housing should be social rent and 20% for Discount Sale (paragraph 5.64).

If there is a use restriction which would cause affordable housing provision on the site to be unfeasible, a commuted payment may be made. The sum "will be calculated as the difference between the transfer price and the market value of the specific home(s) on that site." Which are identified for affordable housing on a pro rata, representative basis (paragraph 5.70).

Design, Conservation and Sustainable Design (Conservation): No objections subject to conditions.

### 3.3 EXTERNAL:

Micklegate Planning Panel: No comments or representations have been received.

York Civic Trust: The trust welcomes any sensitive redevelopment of the site that helps restore the balance of the building's facade and improve the streetscape of the Conservation Area.

The Trust continues to consider that the initial scheme of the 18/01867/LBC application successfully remodelled the building to the previous height of the Great Northern Hotel, and that this is preferable to the later revised designs. However, and whilst the Trust is unable to support this application in its current form, we acknowledge that the treatment of a reduced number of dormer windows in the latest scheme is more sympathetic than the mansard roof and modern dormers of its predecessors.

No representations, comments or objections have been received from neighbours, members of the public or interested third parties.

## 4.0 APPRAISAL

### Legislative context

4.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of conservation areas. Sections 16 (2) and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

4.2 The revised National Planning Policy Framework was updated and republished in February 2019 (NPPF) and its planning policies are material to the determination of

planning applications. It is against the NPPF (as revised) that this proposal should principally be assessed.

4.3 The NPPF sets out the Government's overarching planning policies. Paragraphs 7-11 explain that the purpose of planning is to contribute to achieving sustainable development through three overarching objectives; economic, social and environmental. Development proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies or where they are out of date, planning permission should be granted unless policies in this framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Permission should not be granted where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

4.4 Section 16 states that the significance of heritage assets should be sustained and enhanced. New development should make a positive contribution to local character and distinctiveness. 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. New development should make a positive contribution to local character and distinctiveness.

4.5 Section 12 underlines how the creation of high quality buildings and places is fundamental to planning and key to sustainable development. Developments should function well and add to the overall quality of the area, be visually attractive, sympathetic to local character and history whilst not preventing or discouraging appropriate innovation and change. A strong sense of place should be maintained or supported, using the arrangement of streets, spaces, building types and materials to create attractive and distinctive places, optimising the potential of the site to accommodate an appropriate amount and mix of development, and creating places that are safe, with a high standard of amenity for existing and future users (paragraph 127). Permission should be refused for development of poor design that fails to improve the character and quality of an area. Where the design accords with clear expectations in plan policies, design should not be a valid reason to object to development (paragraph 130). In determining applications, great weight should be given to outstanding or innovative designs which promote sustainability or help raise the standard of design, providing they fit with the overall form and layout of their surroundings (paragraph 131).

#### York Local Plan Publication Draft (February 2018)

4.6 The Publication Draft Local Plan 2018 was submitted for examination on 25th May 2018. The emerging Draft Local Plan policies can be afforded limited weight at this stage of preparation, and subject to their conformity with the NPPF. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.7 Policy D4 explains that development proposals within or affecting the setting of conservation areas will be supported where they are designed to conserve and enhance the special character and appearance of the conservation area, leave qualities intrinsic to the wider context unchanged, and respect important views. Policy D5 states that proposals affecting the setting of a listed building will be supported where they protect its setting, including key views, approaches and aspects of the immediate and wider environment that are intrinsic to its value and significance.

4.8 Policy DP3 'Sustainable communities' sets development principles including respecting and enhancing the historic character of York, delivering high quality design, layout and scale, ensuring appropriate building materials are used. Development should create a high quality, locally distinctive place which relates well to the surrounding area and its historic character, promoting sustainable modes of travel and for development not to contribute to flooding.

4.8 Policy D1 'Placemaking' (read with May 2018 minor modifications) requires development to enhance, respect and complement the historic arrangement of street blocks, plots and buildings, demonstrate that it is of an appropriate density and does not dominate other buildings particular those of historic interest. Development should not be a pale imitation of past architectural styles, use appropriate materials and demonstrate best practice in contemporary urban design and placemaking, creating active frontages to streets. Design should consider residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

#### Other material considerations

#### Central Historic Core Conservation Area Appraisal (2011)

4.9 The Conservation Area Appraisal (adopted by Planning Committee 2011) identifies the site as being located within character area 21 (Micklegate). Activity within the area is diverse with uses ranging from vibrant independent shops in Micklegate to small-scale industrial and office use to the north of the area.

#### KEY ISSUES:

The key issues for consideration are:

- The principle of development;
- The visual impact of development, including impact upon heritage assets;
- Amenity of surrounding occupants and land uses;
- Highways and servicing of the premises;

#### PRINCIPLE OF DEVELOPMENT

4.10 The application site is located within the defined City Centre as designated in the emerging plan. Policy SS3 of the Draft Local Plan (2018) states that York City Centre is the economic, social and cultural heart of York and that it is vital to the character and future economic success of the wider city.

4.11 York City Centre is identified as a priority area for a range of employment uses and is fundamental to delivering the plans economic vision. Policy SS3 goes on to state that Hotels (C1) are, amongst others, an acceptable development type within the City Centre. Other acceptable uses include Retail (A1) and Food and Drink (A3,A4,A5).

4.12 Policy EC4 seeks to support and promote tourism within the city noting the contribution it makes the economy of the city. Paragraph 4.13 states that 'Hotels are defined as town centre use and they play an important role in supporting the economic well being and vibrancy of York's city centre. Appropriately located accommodation is important. Further, the city centre is a sustainable location which is accessible by a range of transport modes. This policy supports the roles of the city centre as the primary location for hotels'.

4.13 The applicant has indicated that they envisage the proposed C1 use would likely require 5-6 full time employees covering functions such as reception staff, housekeeping and back office/administrative functions. Further employment will be generated by periodic maintenance. This would make a modest contribution towards economic development. The proposed A3 use will also generate employment opportunities.

4.14 Comments have been received from the Councils Housing section with regard to the provision of affordable housing. However in this particular case affordable housing provision is not considered to be required as the proposed development proposes a use that would fall within Class C1. Affordable housing provision and/contributions would only be required instances where a C3 use (Residential Dwellings) was proposed. Any future change to a C3 use would require further assessment by the LPA as other material considerations, such as affordable housing would become pertinent. Given these circumstances it is considered appropriate, in the event of granting planning permission, to condition that the use of the habitable accommodation is restricted to a use falling within Class C1.

4.15 The proposals would result in the provision of 17.no C1 units, a new Restaurant (A3) unit and retention of 2.no Retail (A1) Units; all of which are considered to be acceptable uses within the City Centre. It is therefore considered that the proposals are acceptable, in principle, subject to all other material considerations being satisfied.

## VISUAL IMPACT, INCLUDING IMPACT ON HERTIAGE ASSETS

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4.16 The application site is located within the Central Historic Core Conservation Area whilst part of the application site (No.27, 29 and 31 George Hudson Street) is designated as a Grade II Listed Building.

4.17 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

4.18 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, special regard shall be paid to the desirability of preserving or enhancing the character or appearance of the area.

4.19 There is a presumption against development which would fail to accord with these objectives or which would lead to significant harm or loss being caused.

4.20 Policy D4 (Conservation Areas) states that proposals will be supported where they:

- i. are designed to preserve or enhance the special character and appearance of the Conservation Area and would enhance the special character and appearance of the Conservation Area and would enhance or better reveal its significance;
- ii. respect important views; and
- iii. are accompanied by an appropriate evidence based assessment of the Conservation Area's special qualities, proportionate to the size and impact of the development and sufficient to ensure that impacts of the proposals are clearly understood.

4.21 The Central Historic Core Conservation Area in the vicinity of the proposal is characterised by a mix of shop units with living accommodation above with larger grander formally residential properties dating from the late 18th Century onwards stretching back from the property frontages at a high density. The application site is situated adjacent to a main vehicle and pedestrian route with a mix of small scale retail, food and drink and leisure uses. Directly to the north the pattern, density and scale of buildings increases with a number of office developments and a hotel dating from the 20th Century.

4.22 The proposed development will result in the introduction of a third and fourth floor to No.23 Tanner Row. The accommodation at fourth floor level will be provided within the roof structure of the building.

4.23 The provision of these additional floors will reinstate floor levels which were previously removed (believed to be in the 1960s). This would restore the proportions of the building to a level similar to those when the building was in use a hotel.

4.24 The proposals utilise a more sympathetic roof form in comparison to the mansard roof which was proposed in the previously withdrawn scheme. The proposals also detail the provision of 3.no flat roof dormers to the roof. The result of this is a simpler less congested roof plane.

4.25 In the previously withdrawn scheme changes were proposed to the ground floor shop front of No.25 Tanner Row. At the time Officers held concerns that that this element of the proposals would create harm by virtue of the jarring appearance the upper floors. In this current scheme the ground floor frontage to No.25 would remain as it is at present. As a result the existing clear distinction between the ground floor commercial premises and more traditional upper floors will be retained.

4.26 The Council's Conservation Officer has reviewed the proposals and notes:

*'The principle of the construction of additional floors to No. 23 and the change of use to No.'s 23 and 25 has been supported by the planning authority at officer level. The revised dormer details are a little crude, both the frame design and the casements appearing visually too heavy. The version shown on the elevation drawings has a somewhat lighter appearance. Revised details could be agreed by attaching an appropriate "notwithstanding" condition. At the same time, the large scale dormer drawing could be amended to remove the reference to sash windows. There are no substantive alterations to the basement floor of the listed buildings. On the ground floor of 31, a modern opening in the rear wall would be in-filled and at the same time the rear portion of this floor would be partitioned off to form a refuse area. This floor has been gutted and consequently introducing the partition does not harm the significance of the building, and closing off the modern opening in effect reinstates the original form. On the first and second floors, only minor changes to some kitchen and bathroom layouts are indicated. On the third floor of No's 27 and 31, partitions would be inserted to form a lobby for fire separation and to provide bathrooms.'*

*'Bearing in mind the low status of these spaces, the alterations would not result in any harm to the significance of the assets, providing the routing of services and ventilation can be handled sensitively (precluding venting through the front elevation or roof slope). The proposed alterations insofar as they are indicated on the application drawings result in no harm to the significance of the listed buildings, preserving their character and their setting.'*

4.27 Paragraph 193 of the NPPF requires that in considering the impact of a development on the significance of a designated heritage asset then great weight

should be given to the asset's conservation. This applies irrespective of whether substantial harm, total loss or less than substantial harm occurs. Paragraph 196 indicates that in the case of less than substantial harm to the significance of a designated heritage asset than any harm should be weighed against the public benefit that would be generated by the proposal. Policy D4 of the Publication Draft City of York Local Plan (2018) requires that within Conservation areas development would be supported where the proposals preserve and/or enhance the character and significance of the Conservation Area.

4.28 As is outlined above the provision of the third and fourth floors would reintroduce a historic feature to the building along with it returning to a C1 use. The proposed roof form is also considered to be more sympathetic and in keeping with the area in comparison to the previously withdrawn scheme. The proposed internal works required to facilitate the development will result in the removal of non-historic features whilst new internal partitions can be suitably accommodated within the building without harming the historic fabric. The ground floor A3 use is not considered to give rise to harm to the Conservation Area or the setting of the Listed Building, particularly given the existing nightclub use at the site.

4.29 Overall it is considered that the proposals would not give rise to significant adverse harm to the character, setting and appearance of the Conservation Area. Nor will it result in the substantial harm or loss of designated heritage assets. The proposals would preserve the existing character and setting of the Conservation Area.

4.30 However to ensure that this remains the case it would, in the event granting planning permission, be appropriate to secure the following by condition:

- Samples of all external materials to be submitted and agreed in writing by the LPA prior to the commencement of the development of the additional floors.
- Sample 1m x 1m panels of the exterior brickwork to be constructed on site prior to the commencement of the development of the additional floors.
- Cross sections (at 1:5) be submitted showing the wall heads (indicated as brick corbelling on proposed plans) and stone string course in situ.
- Large details (1:5 scale) showing elevation and cross sections of the new windows.
- New window heads to match exactly the existing details on the front elevation.
- Notwithstanding the proposed dormer details shown on drawing 17073-300 P00, elevation and section drawings to be submitted and 1:5 and agreed in writing by the local planning authority.
- Full details of the location, scale, materials and design of all external vents and flues.
- Details, elevations and cross sections at a scale of 1:5 of any proposed secondary glazing.

4.31 The application site is located within a designated area of Archaeological Importance. Therefore is therefore the possibility that beneath ground features and artefacts of archaeological interest may be present at the site. The proposed works do

not proposed significant new ground works, such as new foundations or subsurface parking. However the proposals do include works and alterations to the basement level, including the installation of a service lift. No formal consultation comments have been received from the Councils Archaeologist in respect of the proposals. However it is noted that on the earlier withdrawn application comments had been received which sought to include a condition for a watching brief to be placed on the development and a written scheme of investigation. This would allow the works to proceed however still provide a mechanism by which in the event of the works uncovering archaeological features of interest suitable measures can be taken to deal with these with regard to recording and/or preserving. In assessing this current application it would be justified to adopt a similar stance and condition that a watching brief be placed on any future development.

#### AMENITY OF OCCUPANTS, SURROUNDING OCCUPANTS AND LAND USES

4.32 The application site is located within the city centre adjacent to a busy vehicular and pedestrian route; including a bus interchange area.

4.33 Policy D1 (Placemaking) states that development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

4.34 At present the existing neighbouring buildings consist of commercial premises at ground floor level with varying residential type accommodation at upper floors. The proposals will continue this theme by retaining the existing ground floor retail and introducing a new A3 use.

4.35 The proposals will result in the overall height of the building increasing. However given the nature of the proposed works the existing separation distances to neighbouring properties will be maintained. The submitted plans also demonstrate that the proposals would, in terms of overall height, be in keeping that of the surrounding buildings and maintain the general hierarchy which presently exists.

4.36 Overall given the design, scale and nature of the proposals relative to neighbouring properties it is not considered that the proposals would give rise to significant levels of overlooking or overshadowing which would be detrimental to the amenity of the area.

4.37 It should also be noted that the proposals would remove the existing night club premises and introduce a ground floor restaurant use. The nature of the proposed restaurant use in comparison to the existing night club would likely be a slight

improvement in amenity terms as it would not operate to the late hours of the morning. However the extent of this benefit could be limited the proximity of other licensed premises within vicinity.

4.38 As part of the assessment of the proposals input has been sought from the Councils Public Protection team. The Public Protection team have commented on the following areas.

### **Noise and Odour**

*The proposed site is a conversion to residential accommodation within a commercial area of the centre of York. As such there are various noise sources that need to be taken into account to ensure that the existing noise levels do not adversely impact on the future occupants of the dwellings.*

*Noise from traffic, deliveries, commercial use, plant and machinery will need to be considered within a noise assessment to ensure that the recommended noise levels from BS8233:2014 can be achieved within the dwellings. In addition the site will have commercial uses (A3) on the ground floor and basement therefore there needs to be adequate sound insulation installed between the ground floor and first floor to minimise sound transmission from the commercial use to the residential use.*

*The proposed A3 use will need to be designed to ensure that noise and odour from the odour extraction system does not cause any adverse impact to the future residents of the dwellings.*

*The development will also involve some demolition works on each floor and construction works therefore controls should be put in place at the demolition and construction phases to minimise noise, vibration and dust emissions.*

4.39 As a result of the risks associated to noise an odour issues Public Protection recommend the use of conditions which would require:

- The submission of a detailed scheme of noise insulation measures for protecting the approved C1 use from externally generated noise.
- The submission of a detailed scheme of noise insulation measures to protect the approved C1 use from the approved A3 use and a restriction that prevents the A3 use from commencing until such time compliance with the approve noise insulation scheme has been achieved.
- Facilities will be provided for the treatment and extraction of cooking odours, details of which will be required to be submitted to and approved in writing by the LPA; along with the provision of a ongoing maintenance schedule.
- Construction works, including demolition shall not take place at any time other than between the hours of 08:00-18:00 Monday to Friday and 09:00-13:00 on Saturdays.

## Air Quality

*All aspects of the development are located within the boundary of City of York Council's Air Quality Management Area (AQMA), based on exceedences of the health based annual mean nitrogen dioxide objective. Public Protection undertake monitoring of nitrogen dioxide directly outside the proposed development on George Hudson Street and this has indicated that levels of nitrogen dioxide in this area are currently well above the health based annual mean objective of 40ug/m<sup>3</sup>.*

*Diffusion tube reference '110' (located on the signpost in between 23 Tanner Row and 31 George Hudson Street) monitored levels of nitrogen dioxide of 47ug/m<sup>3</sup>, 46ug/m<sup>3</sup>, 46ug/m<sup>3</sup> and 44 ug/m<sup>3</sup> in 2015, 2016, 2017 and 2018 respectively. Concentrations of nitrogen dioxide have therefore been above the health based annual mean objective levels at this location for a number of years. This long-term monitoring site is located close to the facade of the proposed development and results from this site would be directly applicable to the rooms to the George Hudson Street elevation. It is also considered that the results would be applicable the corner of George Hudson Street and Tanner Row (directly above the entrance to Club Salvation). Regarding the facades of 23 and 25 Tanner Row, whilst concentrations of nitrogen dioxide are likely to fall off slightly compared with the George Hudson Street elevation, in the absence of site specific monitoring, Public Protection would recommend a precautionary approach with respect to mitigation.*

*City of York Council's existing monitoring is undertaken at approximately 3m above ground floor level. Whilst it is generally acknowledged that pollutant concentrations may fall off with height, it is considered that there is still the possibility of the annual mean nitrogen dioxide objective being breached at the first and second floor levels at the proposed development. As there are no official DEFRA guidelines on how nitrogen dioxide concentrations fall off with height, unless the applicant can demonstrate through site-specific monitoring that annual mean levels of nitrogen dioxide are below health based standards (40ug/m<sup>3</sup>), a precautionary approach is recommended with respect to mitigation. Public Protection recommends that measures to reduce exposure of future residents of the apartments are implemented for all habitable rooms (living areas and bedrooms) up to and including second floor level to both the George Hudson Street and Tanner Row Facades.*

4.40 It is therefore considered necessary to condition the submission of a ventilation strategy for all habitable rooms facing onto George Hudson Street/Tanner Row up to an including second floor level; with clean air being drawn from a location to be agreed with the LPA. It will also be necessary for a full maintenance schedule to be provided.

4.41 In the interests of public health it is also considered necessary to condition that the window openings to all habitable rooms facing George Hudson Street and Tanner Row at first and second floors be non-opening unless it can be demonstrated through

site specific air quality monitoring that concentrations of nitrogen dioxide at the building facades are below health based objective levels. The scope and duration of any monitoring will need to be agreed with Public Protection prior to their implementation.

4.42 Overall it is considered that given the city centre location of the proposed development and the nature of the proposed development it is considered that risks do exist in relation noise and odour from the existing environment and the proposed A3 use. The proposed C1 use also presents concerned in respect of exposing future occupants to air which is know to exceed acceptable levels. However it is considered that these risks can be suitably mitigated through the use of conditions which will secure measures to address possible noise disturbance and the risks associated to exposure to poor air quality. These should allow for a suitable level of residential amenity to be achieved which will safeguard future occupants of the building. Nor is it considered that the proposals would give rise to significant adverse impacts which would be detrimental to the amenity of existing neighbouring properties and land uses.

Highways and Servicing of the Premises.

4.43 The NPPF advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic, cyclists and pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Allow for the efficient delivery of goods and access by service and emergency vehicles.

4.44 The NPPF also states 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.

4.45 The application site lies within the inner Urban Area and has no on site parking; and this would remain the case under the current proposals. However there are public parking facilities within the immediate vicinity of the site. In addition to this the application site is within walking distance of both the Central Bus interchange on Rougier Street and York Railway Station. As such the application site would be considered to be in a highly sustainable location with various opportunities to easily access public transport. As such it is not considered that the lack of parking provision for both motor vehicles and pedal cycles would provide a substantive reason to refuse planning permission.

4.46 Access to and from the site would remain unchanged from the existing situation.

4.47 The applicant has provided additional information in respect of how the proposed development is to be serviced. The existing nightclub is serviced via Tanner Row. It is expected that the proposed A3 use would also be serviced in this manner. The proposed C1 use is intended to be serviced from George Hudson Street.

4.48 The servicing of the premises from the main road is, given the location of the site, unavoidable. The proposed servicing of the A3 use from Tanner Row would also likely be very similar in terms of frequency, amount and nature as the existing Nightclub use. The applicant has advised that the servicing of the C1 use is envisaged to take place from George Hudson Street.

4.49 However it is noted that in practice this may not be feasible given existing highway features such as the pedestrian crossing and railings and the presence of double yellow lines. In practice it is more likely that the premises would also be serviced from Tanner Row. In these circumstances it would be appropriate to condition the submission of a servicing strategy prior to the development being brought into first use. In any event the existing nightclub premises will already have servicing needs which may not be too dissimilar from those of associated to the use that is being proposed.

4.50 Overall it is considered that the proposed development would not give rise to significant or severe highway safety issues; to a greater degree than currently exist at the site. Nor is it considered that proposals would unduly impact the safe and efficient flow of traffic on the surrounding highway network.

## **5.0 CONCLUSION**

5.1 The proposed development will result in the provision of 17 no C1 serviced apartments and the provision of a A3 Restaurant use. The principle of the proposed development is considered to be acceptable given the city centre location.

5.2 The proposed development would not give rise to significant harm being caused to the residential amenity of the area by way of overlooking or overshadowing. As is outlined above risks do exist in respect of the potential for adverse impacts to the residential amenity of the development by virtue of noise and odour from the associated A3 and other nearby commercial premises and the potential exposure to poor air quality. However it is considered that these risks can be suitably mitigated against via conditions to ensure that appropriate living conditions can be achieved.

5.3 The proposals would not result in significant harm being caused to the character, setting and amenity of the designated Conservation Area or the Listed Building. Nor would the proposals result in the irreplaceable loss of historic fabric. It is also considered that the proposals would not give rise to any highway safety concerns nor

would the proposals significantly impede the safe and efficient flow of traffic on the surrounding highway network.

5.4 It is therefore recommended that planning permission be granted subject to the conditions discussed above.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 TIME2 Development start within three years

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

Existing and Proposed Ground Floor Plans - Drawing No. 210 Rev P00  
Existing and Proposed First Floor Plans - Drawing No. 211 Rev P00  
Existing and Proposed Second Floor Plans - Drawing No. 212 Rev P00  
Existing and Proposed Third Floor Plans - Drawing No. 213 Rev P00  
Proposed Section - Drawing No. 141 Rev P00

Proposed Section - Drawing No. 140 Rev P00  
Proposed Elevations - Drawing No. 131 Rev P00  
Proposed Elevations - Drawing No. 130 Rev P00  
Proposed Roof Plan - Drawing No.120 Rev P00  
Proposed Basement Floor Plan - Drawing No.109 Rev P00  
Proposed Ground Floor Plan - Drawing No. 110 Rev P00  
Proposed First Floor Plan - Drawing No. 111 Rev P00  
Proposed Second Floor Plan - Drawing No. 112 Rev P00  
Proposed Third Floor Plan - Drawing No.113 Rev P00  
Proposed Fourth Floor Floor Plan 25 Tanner Row accessed from third floor 23 Tanner Row - Drawing No. 113.5 Rev P00  
Proposed Fourth Floor Plan - Drawing No. 114 Rev P00  
Proposed Demolition Basement Floor Plan - Drawing No. 049 Rev P00  
Proposed Demolition Ground Floor Plan - Drawing No. 050 Rev P00  
Proposed Demolition First Floor Plan - Drawing No. 051 Rev P00  
Proposed Demolition Second Floor Plan - Drawing No. 052 Rev P00  
Proposed Demolition Third Floor Plan - Drawing No. 053 Rev P00  
Proposed Demolition Fourth Floor Plan - Drawing No. 054 Rev P00

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

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3 No development shall take place on the C1 element of the scheme until a detailed scheme of noise insulation measures for protecting the approved C1 use from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: A pre-commencement condition is necessary to ensure that the amenity of occupants of the proposed use is suitably protected from externally generated noise and to accord with the National Planning Policy Framework.

4 No development shall take place until a detailed scheme of noise insulation measures for protecting the residential accommodation above this proposed development from noise internally generated by the proposed A3 use has been submitted to and 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.

Reason: A pre-commencement condition is necessary to ensure that the amenity of occupants above the proposed A3 use is suitably protected from internally generated noise and to accord with the National Planning Policy Framework.

5 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief on all groundworks and archaeological excavation of the lift pit 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 discharged.

A) No demolition/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 demolition/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 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.

6 A programme of archaeological building recording, specifically a written description and photographic recording of the standing building to Historic England Level of Recording 2 is required for this application. The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

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

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

C) A copy of a report and archive images 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 buildings on this site are of archaeological interest and must be recorded prior to demolition, alteration or removal of fabric.

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

Sample panels (1m x 1m) of the brickwork to be used shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the construction of the envelope of the pertinent building. The panel(s) shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

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

a) Cross Section through the wall head (indicated as 'brick corbelling' on the proposal plan) and stone string course in situ (scale 1:5).

b) Elevation and cross section drawings of new windows at 1:5 through window head, windows and sill including cross sections of joinery details at 1:1.

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

9 The A3 use approved by this permission shall not commence until details of the extraction plant or machinery and any filtration system required has been 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 appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems 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 Annex C of the DEFRA 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/ozon 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.

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10 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason. To protect the amenity of local residents

11 All windows to habitable rooms (bedrooms / living areas) facing George Hudson Street and Tanner Row (up to and including second floor level) shall be non-opening, with ventilation provided through continuous mechanical supply and extract to the rear of the building. The continuous mechanical supply and extract ventilation system should incorporate heat recovery (MVHR), and should be designed to meet current Building Regulations with respect to the provision of fresh air and the extraction of stale air. Prior to the development being brought into use a scheme of maintenance shall be submitted to and approved in writing by the LPA. The proposals shall be carried out in accordance with the approved scheme.

Reason: To reduce exposure of future occupants of the apartments to pollution levels currently exceeding health based standards

12 Notwithstanding the proposed dormer details illustrated on drawing 17073-300 P00 prior to their construction elevation and cross section drawings at 1:5 scale shall be submitted to and approved in writing by the Local Planning Authority and the dormers will then be constructed in accordance with the approved details.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the details approved by the Local Planning Authority and in the interests of the character and setting of the Conservation Area.

13 The 17.no apartment premises shall be used as serviced apartments (Class C1) and for no other purpose, including any other purpose in Class C; in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: So that the Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried on without planning permission by virtue of Article 3 of the Town and Country Planning (Use Classes) Order 1987.

14 All new window heads shall match the existing details on the front elevation in all respects including shape, colour, texture, finish and materials.

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

15 Prior to the development being brought into first use a management plan shall be submitted to and agreed in writing by the Local Planning Authority and shall be implemented as agreed unless otherwise agreed in writing by the Local Planning Authority. The Management plan shall relate to the following areas:

- a) Information relating to the management of deliveries and collections (such as waste and laundry) from the premises including the frequency and timing of such movements.
- b) Refuse and recycling facilities
- c) Maintenance

Reason: In the interests of the proper management of the premises and of highway safety to ensure that the development can be suitably serviced without significant risk to highway safety or the safe and efficient flow of the highway network.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

1. The developer's attention should also be drawn to the following

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link.

[https://www.york.gov.uk/downloads/download/304/developers\\_guide\\_for\\_controlling\\_pollution\\_and\\_noise\\_from\\_construction\\_sites](https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites)

All plant and machinery to be operated, sited and maintained in order to minimise

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disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

There shall be no bonfires on the site.

In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken and where remediation (clean-up) 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. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part 2A of the Environmental Protection Act 1990.

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 and standards, health & safety, odour extraction etc.

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

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

### **Contact details:**

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