



site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact, the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

## RELEVANT PLANNING HISTORY

### 1.8 Application site:

- 18/02495/FULM - Partial demolition of existing building and construction of 3 to 5 storey hotel to provide 158 bedrooms, with ancillary restaurant/cafe, gym, conference room, landscaping and retention of the Banana Warehouse façade - Withdrawn
- 13/02397/FULM - Demolition and partial demolition of existing buildings and erection of a mixed use development comprising 2no. ground floor retail units (use class A1/A2/A3/A4) and 37 residential units (use Class C3) with associated parking, access and landscaping - Finally Disposed Of
- 00/01297/FUL - Mixed use development - retail, restaurants, residential (27 flats), offices, leisure and car parking, alterations to Fenwick's and Preston's and associated highway works including changes to Tower Street/Piccadilly junction (Revised Scheme) - Refused

## 2.0 POLICY CONTEXT

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

CYSP3 Safeguarding the Historic Character and Setting of York

CYGP1 Design

CYGP3 Planning against crime

CYGP4A Sustainability

CYGP9 Landscaping

CGP15A Development and Flood Risk

CYNE1 Trees, woodlands, hedgerows

CYNE3 Water protection

CYNE6 Species protected by law

CYNE7 Habitat protection and creation

CYHE2 Development in historic locations

CYHE3 Conservation Areas

CYHE4 Listed Buildings

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CYHE9 Scheduled Ancient Monuments  
CYHE10 Archaeology  
CYHE11 Trees and landscape  
CYT13A Travel Plans and Contributions  
CYS7 Evening entertainment including A3/D2  
CYV3 Criteria for hotels and guest houses

## 2.2 The Publication Draft York Local Plan (2018)

DP4 Approach to Development Management  
SS3 York City Centre  
SS5 Castle Gateway  
EC2 Loss of Employment Land  
EC4 Tourism  
D1 Placemaking  
D2 Landscape and Setting  
D4 Conservation Areas  
D5 Listed Buildings  
D6 Archaeology  
D7 The Significance of Non-Designated Heritage Assets  
GI2 Biodiversity and Access to Nature  
GI4 Trees and Hedgerows  
CC1 Renewable and Low Carbon Energy Generation and Storage  
CC2 Sustainable Design and Construction of New Development  
ENV2 Managing Environmental Quality  
ENV3 Land Contamination  
ENV4 Flood Risk  
ENV5 Sustainable Drainage  
T5 Strategic Cycle and Pedestrian Network Links and Improvements

2.3 Please see the Appraisal Section (5.0) for national and local policy context.

## **3.0 CONSULTATIONS**

### INTERNAL CONSULTATIONS

#### HIGHWAY NETWORK MANAGEMENT

3.1 No objections, the drawing of the Proposed Carriageway Narrowing on Piccadilly should be indicative, as HNM are finalising the plans for Piccadilly and some changes are likely, for example with the location of loading bays, bus stops, pedestrian crossing facilities, etc. The principle of the narrowing is agreed but the details should be sought via condition for approval of detail under S278 of the Highways Act (HWAY39). Request a Travel Plan is sought via condition.

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

3.2 The proposed massing now more closely resembles the pattern of current subdivision of the whole site which dates from around 1930, created after the extension northwards of road Piccadilly shortly before this period. These form strips of built form that are articulated to run from street to water side. It helps articulate the massing in a way that more closely reflects its context, blending it more naturally into the city fabric from elevated views like those nearby from Clifford's Tower, and it also provides a more appropriately varied rhythm to townscape views up and down Piccadilly.

3.3 Set back from the boundary with 46 – 50 Piccadilly, this separation eases the previous wall like design tendencies of the two buildings combined.

3.4 Massing strips are varied in height - with forms appropriately rising to the southern side of the site to reflect the general height increases of buildings south of the street, but it avoids crudeness by setting this within a pleasant down-up-down rhythm making the highest point roughly in the centre of the plot. Highest point is now five floors and this occupies about 50-60% of floorplate below. The fifth floor now includes a successfully hidden plant zone in the middle of the footprint, away from views even at elevated points like Clifford's tower.

3.5 The removal of the fifth would be welcome, but is not considered as essential, given that it only occupies part of the footprint and given council support for adjacent bulkier/taller 46-50 Piccadilly whilst also acknowledging that one's less sensitive location

3.6 Proposed roof shapes are now rather jumbled, but the view for Clifford's Tower (Image 6) demonstrates its visual affect does help blend it into the city roof-scape backdrop behind so, on balance, changes are not recommended.

3.7 The Banana Warehouse facade and adjacent link block have a flat roof and this is an appropriate stylistic response to a deco-like banana warehouse facade.

3.8 Public access along the riverside is not provided, it would be an undesirable dead end route and desirable through routes are far more satisfactorily positioned on the other side of the water as part of the Castle Gateway masterplan. Open space is better here serving as private use amenity and as ecology improvement to the Foss corridor.

3.9 In general the design is supported: Within the brickwork areas, the wall is given a subtle grid like effect through recessing brick planes and further recess is added to the resulting infill wall plane around the window. This should imbue some extra visual texture. At ground floor, the Piccadilly elevation at ground floor has a good rhythm and further variation. Foss side the ground floor is raised compared to external ground and this can appear visually clunky but sensibly disguised by a rear terrace to the back of the Banana Warehouse and recessing the plinth elsewhere.

3.10 Less successful still is the dark zinc roof top parts. The 3D visuals probably do not help- it looks a bit bland. They are welcome as a splash of greyish colour at roof level to echo traditional slate roofs often seen around it, but done here in a contemporary material (coloured zinc). The metal appearance also slightly evokes the warehouse roofs of former/current on plot buildings. However, they need to be detailed very carefully to ensure they have sufficiently rich visual texture, pattern making and elegant crisp detailing- also to keep at bay design engineered simplification at some later point. This could be resolved through conditions, including control of colour.

3.11 The Banana Warehouse building - Control of what is retained, restored or replaced on the Banana Warehouse wall is crucial and should be controlled through a condition about investigative revealing- it is possible that the new window design here might need to adapt to reflect the outcome of this.

3.12 The scheme is supported for architectural design. Request conditions for following: for set-backs and ledges though later submission of detailed drawings to ensure the massing articulation is suitable chunky when constructed; flat roofs to be green/brown; hard and soft landscaping scheme including boundary treatment; 10/1:20 scale details for a typical bay in different wall materials; provision of construction mock ups for zinc wall including roof edge, window opening and transition to brick below, in selected areas; provision of an agreed scheme of investigation for proposed components of retention, restoration or replacement within the Banana Warehouse façade.

3.13 The main assets of these considered to be most sensitive are: Character Area 14 "Piccadilly" York Central Historic Core Conservation area Appraisal; Red Lion, Grade II Listed; Clifford's Tower, Grade I Listed, and Scheduled Monument. Banana Warehouse, 36 Piccadilly, considered here in accordance with draft local plan/draft SPD selection criteria as a *non-designated historic asset*, and identified in the appraisal, in part, as a *building of Merit*.

3.14 The one asset physically impacted is Banana Warehouse. Demolition of rear parts is considered to introduce some harm as the legibility of the overall form and plot layout is lost. However, retention of the façade is considered of importance for

aesthetic reasons as a contributor towards the early 20<sup>th</sup> century characteristic of the street (and conservation area)- a street undergoing rapid change and at risk of losing this characteristic. This is considered of importance, regardless of the individual minor architectural merits of the building taken in isolation. This secures this architectural remnant, which can otherwise be considered at risk of complete loss. This is considered a public benefit. Overall, the balance is in favour of *benefit*.

3.15 Concerning other assets, if the recommendations of the above design comments are adhered to, they are not considered here to be harmed by the proposal.

3.16 The Design & Sustainability Manager (DSM) sets out that the main point of difference between their assessment and Historic England concerns the impact the proposed fifth floor would have on views, particularly streetscape ones and views from Clifford's Tower. The DSM considers the proposed scheme has taken sufficient account of the impact it will have on the character, appearance and historic significance of its setting as experienced through views.

3.17 When viewed from Clifford's Tower, the proposed scheme will obscure some of the existing viewed roof scape backdrop of the city, but to a degree this would be so, even for a four storey building. This is evident in the "Image 6" of the Design and Access statement (numbered p32) when taking into account plot depth. The fifth floor would obscure more than a four storey building, but the DSM considers that it is sufficiently varied in design to read as an appropriately scaled/textured addition to the city roof scape and does not obscure key parts of the skyline.

3.18 The bulk of the building has been designed to consider the cumulative impact it would have on a street elevation- both viewed from street level at Piccadilly and from the river side rear- at either ground or elevated level. From the rear it is designed to provide adequate open space breaks between it and adjacent plots. From Piccadilly, it is designed to be more continuous with adjacent properties than the rear, but still provides sufficient variety of rhythm and openness and varied sky line profile.

3.19 The addition of the drawing "Typical Building Façade Details..." on 27<sup>th</sup> March 2020 gives sufficient confidence in the general approach to design quality and detailed façade modelling, for me to remain supportive of this aspect, but suggest this remains an item conditioned so we can control an adequate range of construction details.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.20 The trees on the application site provide a welcome natural edge to the bank of this canalised length of the River Foss, and complement the more natural environment of the river as a wildlife corridor. Trees shown to be removed to facilitate the development are – 4no. Weeping willows, 4no. Sycamore, and 1no. Silver birch. Two of the trees require removal are for arboricultural reasons. The others, with the exception of the Birch, are in generally poor health or structural condition, and are therefore placed within category C. Birch and Willow are fast-growing species so these could soon be replicated within an appropriate comprehensive planting scheme.

3.21 The layout of the illustrative landscaping plan is very broad brush but it illustrates the principles. The list of proposed tree species is fine but there is the potential to put some Birch and shrubby Willow back into the riverside tree planting. Would encourage the inclusion of tansy plants within the wildflower areas which is the main food source for the tansy beetle which is now found in Britain predominantly on the banks of the River Ouse.

3.22 Note that the proposed courtyard tree sits directly over the surface water attenuation - Tank 2, which should therefore be relocated to enable the planting of a tree, which will be an important defining element of the courtyard landscape. Similarly, there are a number of trees proposed over the outlet run from Tank 1. Thus there needs to be some revision to the locations of the trees and/or the outlet.

3.23 Understand that the locations of existing underground utilities would probably prevent part or all of the tree planting going in the ground on Piccadilly, therefore alternatives should be investigated and presented.

3.24 There is a significant area of flat roof on the proposed building, encourage the application of a living roof across these, which could be a simple 'brown roof' with a very thin growing substrate, which supports restricted plant growth, but is valuable for invertebrates and birds, with virtually no maintenance.

3.25 Request a landscaping scheme via condition.

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY OFFICER)

3.26 Two common pipistrelle bat roosts have been identified in Buildings 4 and 5 (separate two-storey brick buildings with a pitched tiled roof, located on Piccadilly at the south east corner of the site). A single bat was recorded emerging from Building 4 during the August 2018 evening bat emergence survey and during the dusk survey in June 2019 a single common pipistrelle bat was re-ordered emerging from Building 5 then re-entering Building 4. Small numbers of common pipistrelle bats are believed

to be roosting between the roof and wall plate of Building 4 and behind the fascia board on Building 5.

3.27 As these buildings will be demolished and the roost lost, a European Protected Species Licence will be required from Natural England in order to legally proceed with the works. Measures to mitigate impacts to bats will include soft stripping of Buildings 4 and 5, and provision of bat boxes.

3.28 The buildings also have potential to support nesting birds and site clearance works should be undertaken outside of the breeding season to avoid committing an offence under the Wildlife and Countryside Act 1981. It is proposed to include a house sparrow integrated box and swift bricks within the design of the final development.

3.29 The River Foss is important because of its wildlife interest and importance as a connecting green corridor. Otter and Kingfisher are known to regularly use the River Foss within the city centre. The scheme has been revised and includes a greater area of green space to include a planting scheme which will have some benefit to wildlife, however it will still result in additional shade, noise and artificial light in this area.

3.30 A sensitive lighting scheme should be secured through a planning condition to limit excessive light spill over the River Foss and a Construction Environmental Management Plan should be secured through planning condition to ensure measures are in place to prevent pollution entering the River Foss.

3.31 Notwithstanding the Natural England licensing regime, the LPA must also address its mind to these three derogation tests (Habitats Directive and Conservation of Habitats and Species Regulations 2017) when deciding whether to grant planning permission for a development which could harm an EPS. The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017. With regards to test 3, two buildings currently support a small number of roosting Common Pipistrelle bats in a day roost which are common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence will prevent any direct harm and the provision of two integral bat boxes into of the new buildings will maintain roosting opportunities on site. Therefore the third test for maintenance of favourable conservation status is met.

3.32 There are no ecological reasons for refusal if the following conditions are sought: Developer demonstrated that a European Protected Species License has been issued; biodiversity mitigation: accommodation for bats and birds; Construction and

Environmental Management Plan; Sensitive Lighting Scheme. Request an Informative advising of the Wildlife and Countryside Act (Section 1)

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGY)

3.33 The site lies in the city centre Area of Archaeological Importance and in an area where there are exceptionally important archaeological features and deposits (non-designated heritage assets of national importance). The deposits on this site were evaluated in 1992 by York Archaeological Trust. The 1992 evaluation demonstrated the presence of important, well-preserved waterlogged anoxic deposits on this site. Waterlogged archaeological materials on the site generally lie below 5.8m AOD. However, the mean water level is noted at 7-7.6m AOD (c.2m bgl).

3.34 A comparison of organic material present in the 1992 evaluation, the 2018 evaluation and an evaluation carried out in 2017 on the adjacent site suggests a loss of organic preservation in the last 30 years.

3.35 The evidence from evaluation in 1992, 2018 and 2019 suggests strongly that the conditions on this site are far from ideal for preservation in-situ of organic material. A c.16<sup>th</sup> century timber revetment identified in 1992 has been seen to be deteriorating and will continue to decay. It is appropriate therefore to consider the excavation of this feature prior to development commencing on this site. This feature is in an active process of decay. The proposed development will not arrest this decay in fact introducing piles into this environment is likely to accelerate decay. In-situ preservation of the timber revetment cannot be achieved. Harm to this archaeological feature is therefore unavoidable.

3.36 City of York Policy HE10 (D6 (iv) current draft Local Plan) states that where harm to archaeological deposits is unavoidable, detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive, deposition and community involvement. Historic England guidance on Preserving Archaeological Remains (2016) also suggests that where the 'state of preservation of material is poor, and further burial following development is likely to cause additional damage...excavation of the archaeological remains to recover their remaining significance and evidential value is the most appropriate strategy'. Recommend that this feature is recorded prior to development taking place.

3.37 The impacts of the proposed development on the archaeological deposits on this site are:

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- Foundations – piling, pile caps and ground beams
- Drainage and flood storage tanks
- Impact on groundwater movement/drying out of deposits through the use of piles through anoxic deposits
- Restriction of groundwater exchange between River Foss and the site

3.38 A revised foundation design has been submitted (SK-16-01 Rev H). It is commonly accepted in the City of York that piles can impact upon the more significant archaeological material as long as up to 95% of these deposits is preserved in-situ. The supplied foundation design complies with this policy. It is anticipated that ground beams and pile caps will largely remain above the areas of significant archaeological deposits. In the underfloor void compensation area the base of the void is at 8.65m AOD with the underside of pile caps for this structure at 7.75m AOD. This is likely to impinge into the post-medieval waterlogged deposits. This is deemed acceptable in this instance. The impact of the piling on the longer term preservation conditions on the site is unknown. A condition to secure further water monitoring will provide further data on this impact. The developer will not be expected to act upon the data provided at the end of the conditioned 5 year hydrological monitoring cycle.

3.39 The restriction of groundwater between River Foss and the rest of the site is limited to pile caps, ground beams and the piles themselves. Water flow will not be stopped completely but may be more restricted. The 5 year hydrological scheme mentioned above should ensure that this is monitored which will help inform a strategy for future development on this plot and for similar sites.

3.40 The site may require a program of remediation due to contamination issues known along this stretch of Piccadilly. Remediation works will require monitoring through an archaeological watching brief. Any material brought onto site to re-build and heighten ground levels should be porous to allow water to continue to flow through the site.

## LEAD LOCAL FLOOD AUTHORITY

3.41 No objections, subject to conditions for ensuring the proposed development is in accordance with the FRA and other submitted details; details of the proposed void and details of the river bank wall. Together with ensuring the proposed development complies with the Flood evacuation; details of the drainage systems to be submitted; separate systems of foul and surface water drainage; Plan. Request Informative advising of Foss navigation Board Permit and Environment Agency permit.

## PUBLIC PROTECTION

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3.42 This revised noise assessment was reviewed and the methodology was accepted as well as the mitigation measures proposed. Request mitigation measures are sought via condition.

3.43 There are commercial properties close to the proposed site the following controls would be recommended to minimise noise, vibration and dust during demolition and construction. When assessed in line with guidance on the assessment of dust from demolition and construction (Institute of Air Quality Management, 2014) the overall risk of the impacts is considered to be 'Medium'. Mitigation measures appropriate for this risk rating should be packaged into a Construction Environmental Management Plan (CEMP) and sought via condition.

3.44 Adequate facilities for odour from commercial kitchen can be sought via condition.

3.45 The proposed development will be provided with electricity, heat and hot water using gas-fired boilers and Combined Heat and Power (CHP). Not finalised the CHP and boiler design, a screening assessment has been undertaken. Whilst this screening assessment showed that the proposed equipment would be unlikely to give rise to any significant impact on local air quality, it is recommended that this assessment is redone once the exact combustion plant to be installed at the site is finalised and exact emission rates are known. Request this is sought via condition

3.46 The site has previously been used for a variety of uses; bleach works, saw mill, timber yards, coal yard etc. These past uses could have given rise to land contamination. A site investigation is required to find out whether contamination is present. If contamination is found the appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Request this is sought via condition.

## FORWARD PLANNING

3.47 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 SS3, SS5, EC4, D1, D4, D5, D7, CC1, CC2, CC3, ENV1 and ENV2 should be applied with moderate weight.

3.48 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. It is also noted that the proposals do not currently comply with Policy CC2 in relation to achieving BREEAM excellent standard.

## ECONOMIC GROWTH TEAM

3.49 No comments received.

## EMERGENCY PLANNING

3.50 No objections, under the proviso that all procedures are implemented according to the draft flood evacuation plan.

## EXTERNAL CONSULTATIONS/REPRESENTATIONS

### GUILDHALL PLANNING PANEL

3.51 Object, is a disappointing interpretation of the draft designs that were presented to residents originally during consultation.

3.52 There has been some reduction in height to mitigate the overbearing mass of the building, it remains too large and high on the southern side of the development and should be reduced in height by at least a storey.

3.53 Secure cycle parking for guests.

3.54 Understood there was to be provision for public access to the riverfront to enable a riverside walk to be developed and are disappointed not to see this reflected in the application.

### POLICE ARCHITECTURAL LIAISON OFFICER

3.55 In the year to Oct 2019 there was 66 reported crimes and 27 reported incidents of anti-social behaviour. The significant crime issues being violence and criminal damage, cycle theft was also an issue.

3.56 Request that controlled lift and stairwell access is considered. Access points should be covered by CCTV including the reception area. Entrance doors should be well illuminated. The secure cycle parking should allow door both wheels and the cross bar of the cycle to be secured and should be supervised by hotel staff. Doors and windows should meet minimum BS PAS 24-2006, ground floor windows should have opening restrictors. Hotel doors should have multi point locking, and each bedroom should have wall or floor safe.

3.57 The Design and Access Statement submitted in support of this application does not contain any detail to show how the applicant has considered crime prevention and how it has been incorporated into their proposal. This information should be a requirement in order to assist the local authority in determining whether this development will comply with paragraphs 91 and 127 of the National Planning Policy Framework.

3.58 The overall design and layout of the proposed scheme is considered acceptable.

## ENVIRONMENT AGENCY

3.59 No objection. The application is for the construction of a 3 to 5 storey hotel, as described above, which is considered to be a 'more vulnerable' land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change. It is therefore necessary for the application to pass the Sequential and Exception Tests and to be supported by a site-specific flood risk assessment (FRA), which can 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'.

3.60 EA advise that the development will only meet the NPPF requirements in relation to flood risk if a condition is applied requiring that the development is carried out in accordance with the FRA.

3.61 The planning practice guidance (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development. Request that comments are sought from Emergency Planners.

## YORKSHIRE WATER

3.62 Request there are separate systems of foul and surface water drainage and no piped discharge of surface water until the proposed works have taken place. It is noted from the submitted planning application that surface water is proposed to be drained to the watercourse to the south of the site. As surface water from the site is not proposed to discharge to the public sewer network, no assessment of the capacity of the public sewers to receive surface water has been undertaken. No objections to the foul drainage.

## HISTORIC ENGLAND

3.63 The removal of the fifth storey from the Piccadilly elevation will reduce to some degree the impact on the setting and significance of the heritage assets affected. We consider that the impact on the setting of the heritage assets affected would be reduced further by the removal of the fifth storey. The reduced scale of the development would help to both reduce its impact on the streetscape in terms of its scale and massing, as well as allowing views of the roofscape beyond from Clifford's Tower. The issues need to be addressed in order for the application to meet the requirements of paragraph 192 – 196 of the NPPF.

## RIVER FOSS SOCIETY

3.64 No comments received

## CONSERVATION AREAS ADVISORY PANEL

3.65 No objections

## YORK CIVIC TRUST

3.66 No comments received

## VISIT YORK

3.67 No comments received

## NATURAL ENGLAND

3.68 No comments

## COUNCIL FOR BRITISH ARCHAEOLOGY

3.69 The application is accompanied by an updated Heritage Statement and a Geoarchaeological and Hydrological Evaluation. The Heritage Statement fails to integrate the results of the Geoarchaeological and Hydrological Evaluation in its report. (Officer note – this information has subsequently been submitted) It particularly fails to integrate archaeology into its summary and conclusions which find puzzling, especially as the report on the archaeology is quite favourable to the development. Note that foundation design is to be based on ground beams rather than piling which will minimise impact on sub-surface archaeology.

3.70 Regarding the design, note that the current application has changed to meet previously expressed concerns.

## **4.0 REPRESENTATIONS**

### **PUBLICITY AND NEIGHBOUR NOTIFICATION**

4.1 Three representations of objections:

- Not in keeping with the architecture of the inner wall city and can be easily built outside the limits of the wall.
- The proposed site has great potential for use as new entertainment venues to enrich the nightlife and culture of the inner city, which is already at great risk from the closure of existing venues. Another hotel complex would do nothing to enhance to city's culture.
- This area has potential as a creative quarter of the city, introducing new local enterprise and attractions for tourists and residents. This would preserve the facade of the current buildings, the feel of the area and large chain hotels should be kept outside of the walls to maintain authenticity in this historic town.

## **5.0 APPRAISAL**

### **KEY ISSUES**

- Flood Risk
- Impact to heritage assets
- Visual amenity and character
- Impact to neighbouring uses
- Highways
- Ecology
- Drainage

### **ASSESSMENT**

### **PLANNING POLICY**

5.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The site is not considered to serve any greenbelt purposes and is not considered to be within the general extent of the greenbelt.

### **PUBLICATION DRAFT YORK LOCAL PLAN (2018)**

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5.2 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 as revised in February 2019, the relevant 2018 Draft Plan policies can be afforded weight according to:

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

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

#### DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

5.4 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF as revised in February 2019, although the weight that can be afforded to them is very limited.

#### NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.5 The revised National Planning Policy Framework was published February 2019 (NPPF) and its planning policies are a material consideration in the determination of planning applications. It is against the NPPF (as revised) that this proposal should principally be assessed.

5.6 The presumption in favour of sustainable development set out at paragraph 11 of the NPPF does not apply when the application of policies relating to impacts on the heritage assets, flood risk, and habitats sites indicates that there is a clear reason that permission should be refused.

#### FLOOD RISK

5.7 The site lies within Flood Zone 3 and has flooded on previous occasions.

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5.8 Policy ENV4 of the draft Local Plan (2018) 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

5.9 The LPA needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. The aim of the sequential test is to steer new development to areas at the lowest probability of flooding (Zone 1). The NPPG states that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken: *"the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives"*. In this case, the York City Council area has been used however the agent has further clarified that any sites on the edge of York were not considered appropriate for their proposal and they only considered sites in the urban area within a commercial setting.

5.10 The proposal as a whole would result in an increase in the vulnerability classification from 'Less Vulnerable' to 'More Vulnerable'. The site has historically been developed; the existing buildings cover the majority of the site. The area is identified for regeneration (the Draft Local Plan (2018) and in the Castle Gateway Masterplan). The site is in a prominent city centre location, being viewed in its riverside setting, and along a main route through the city centre. The hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would

also provide a number of people living/working in the city and revenue that it would bring to the city centre. The proposal is considered to pass the sequential test.

#### - EXCEPTION TEST

5.11 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)

5.12 The regeneration of this area is a long term aim of the Council; the redevelopment of this site for a hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would also provide employment opportunities for a number of people living/working in the city and the associated spend that it would bring to the city centre.

5.13 The proposed development is not considered to increase flood risk elsewhere. The proposed development has compensatory flood storage within a void underneath the proposed hotel building.

5.14 The site lies within Flood Zone 3. Flood risk is from the River Foss to the west and the River Ouse further west. There would be sleeping accommodation on the ground floor of the hotel. No additional flood resilient measures above the proposed ground floor level are proposed. The Flood Risk Management Team and the Environment Agency are satisfied that the proposed floor levels are appropriate in this location.

5.15 Safe access and egress cannot be provided during a design flood however the site benefits from the presence of the Foss Barrier, this regulates flood levels adjacent to the site, and although the Barrier was overwhelmed in December 2015 the storms experienced on this occasion were significantly in excess of the standard of protection of the barrier and record flows were experienced on the River Foss. The likelihood of this occurring again is low given the recent works by the Environment Agency to improve the resilience of the Foss Barrier, the barrier is currently able to manage the scenarios experienced in 2015 and further resilience will be in place when the project completes.

5.16 An effective evacuation plan is appropriate in this location due to the low residual flood risks, the presence of formal flood defence infrastructure and a mature flood warning service. If other means were deployed to provide temporary

emergency egress from the site it is likely that the site could be evacuated safely following the receipt of a flood warning.

5.17 Whilst the site is clearly in Flood Zone 3 the residual risk is relatively low - the NPPF guidance recognises that an understanding of residual risk is important behind flood defence infrastructure and it is considered that the applicant has addressed this in their approach.

5.18 The Environment Agency does not have an objection to the application, subject to the mitigation set out in the FRA taking place, part of this mitigation includes a Flood Evacuation Plan being in place. The Emergency Planning Team consider the Submitted Flood Evacuation plan is acceptable. In view of the above it is considered that the proposed development passes the exception test. There is adequate evidence that the sequential and exception tests can be passed. The measures within the FRA would be secured through a planning condition, as recommended by the Environment Agency.

## IMPACT ON HERITAGE ASSETS

5.19 The site is within the Central Historic Core Conservation Area and it is within an Area of Archaeological Importance. It also forms part of the wider setting of Clifford's Tower (Ancient Scheduled Monument) and Castle Museum: The Female Prison (Grade I Listed) and the debtors prison (Grade I listed), curtain wall (Grade I listed); Crown Court and Railings (Grade I listed) York Castle Car Park, and Clifford's Tower (Grade I listed). York Castle is an ancient scheduled monument, Church of St Denys (Grade I listed). The proposed development would be within the wider setting of the Grade II listed Red Lion Public House. There are a significant number of listed buildings in close proximity to the application site: including Merchant Adventurers Hall (Grade 1), 5 Walmgate (Grade II), Foss Bridge House (Grade II), , 11, 11a, 13, 15, 17, 19, 21, 23, 25, 35, and 37 Walmgate (all Grade II), and Church of St Denys (Grade I) . In addition the Banana Warehouse and the existing building on 46 - 50 Piccadilly are considered to be non-designated heritage assets.

5.20 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

the avoidance of such harm should be afforded considerable importance and weight.

5.21 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 16 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 192, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness.

5.22 The NPPF states at paragraph 190 that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. 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 (Para 193). Where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits that outweigh that harm or other specified factors apply (para 195); 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 (para 196). 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 enhance or better reveal their significance, (paragraph 200).

5.23 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.

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

5.25 Paragraph 200 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the

setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. The Draft Local Plan (2018) policies D4, D5, D6, D7 and Development Control Local Plan (2005) policies HE2, HE3, HE4 and HE10 reflect legislation and national planning guidance that development proposals should preserve or enhance the special character and appearance and contribution to the significance and setting of the heritage assets and respect important views.

5.26 Policy SS3 (York City Centre) of the 2018 Draft Plan states that developments shall enhance the quality of the city centre as a place and rediscover the outstanding heritage of the city with reanimated and revitalised streets, places and spaces and with improved settings to showcase important assets such as the Minster and Clifford's Tower. Policy EC4 (Tourism) of the 2018 Draft Plan advise of supporting proposals that relate the enhancement of the built environment and public realm, particularly around access to the river and showcasing York's built heritage.

## ARCHAEOLOGY

5.27 The NPPF sets out that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. The archaeological features and deposits on the application site are undesignated heritage assets that lie within the designated Area of Archaeological Importance. From previous assessment of the site prior it is considered that the site has the potential to preserve undesignated heritage assets of national importance with equivalent significance to scheduled monuments.

5.28 The current application proposes construction of a substantial building with piled foundations on this site. The deposits on this site were evaluated in 1992 by York Archaeological Trust. The 1992 evaluation demonstrated the presence of important, well-preserved waterlogged anoxic deposits on this site. The results of a period of evaluation in July 2018 and April 2019 consisting of a borehole evaluation and installation of dip-wells for a six-month programme of water-level monitoring have been submitted as part of this application. The representation from the Archaeology Officer (above) sets out the information provided by the pre-determination investigation in the repots

5.29 The evidence from evaluation in 1992, 2018, and 2019 suggests that the conditions on this site are far from ideal for preservation in-situ of organic material. The evidence from this site suggests that the condition of the 16th century timber revetment identified in 1992 has deteriorated and that this feature will continue to

decay. Policy D6 of the draft Local Plan (2018) states '*that where harm to archaeological deposits is unavoidable, detailed mitigation measures have been agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive, deposition and community involvement*'. The proposed development will not arrest this decay and in-situ preservation of this feature cannot be achieved. Harm to this archaeological feature is therefore unavoidable. The Archaeology team require that this feature is excavated and recorded prior to development taking place.

5.30 A revised foundation design has been submitted (SK-16-01 Rev H). The Archaeology Officer advises that it is commonly accepted in the City of York that piles can impact upon the more significant archaeological material as long as up to 95% of these deposits are preserved in-situ Supporting text of policy D6 and set out in Policy HE10 of the DCLP (2005). The supplied foundation design complies with this policy. It is anticipated that ground beams and pile caps will largely remain above the areas of significant archaeological deposits. In the underfloor void compensation area the base of the void is at 8.65m AOD with the underside of pile caps for this structure at 7.75m AOD. This is likely to impinge into the post-medieval waterlogged deposits. The Archaeology Officer considers that this is acceptable in this instance.

5.31 The harm is considered to be less than substantial, outweighed by the economic and social benefits of the development in terms of the provision of the provision of regeneration in the area with employment and tourism benefits, and can be mitigated by conditions. The impact of the piling on the longer term preservation conditions on the site is unknown. A condition to secure further water monitoring for 5 years will provide further data on this impact. The restriction of groundwater between River Foss and the rest of the site is limited to pile caps, ground beams and the piles themselves. Water flow will not be stopped completely but may be more restricted. The 5 year hydrological scheme should ensure that this is monitored.

#### ANCIENT SCHEDULED MONUMENT AND CENTRAL HISTORIC CORE CONSERVATION AREA

5.32 The application site is within the Central Historic Core Conservation Area. In the Central Historic Core Conservation Area Appraisal (2013) (CHCCAA) the site falls within Character Area 14: Piccadilly, and is directly adjacent and affecting Character Area 13: Castle.

5.33 Piccadilly was developed in the 1840s and in the early 20th century when it was linked to Parliament Street at the northern end. At the start of the 20th century it became a location for timber, builders' and coal merchants' premises as well as a

saw mill and brewery, followed in the inter-war period by car show rooms, small aeroplane factory, a fruit merchant's warehouse and garages. From the mid-20th century many of these buildings were demolished and new office blocks were constructed. The street is broad and characterised by its large building plots, which largely turn their backs on the River Foss.

5.34 From Piccadilly Bridge to St Denys Road there is a fairly consistent building and roofline line and long stretches of adjoined facades. From St Denys Road southwards, large stand alone buildings of 1-8 storeys are set back from the pavement or angled to the street resulting in a significant amount of left over space between the blocks. As a result the street lacks formality and has a poor sense of enclosure. Piccadilly is rather a barren street, lacking trees or visible greenery and dominated by large buildings. The River Foss is hidden behind buildings which back directly onto it. There is no public access to the river; the exception is the Travelodge by Castle Mills Bridge. The large buildings and their positioning also block views to the Castle.

5.35 The CHCCAA sets out important considerations for the area which must 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) is specified.

5.36 The CHCCAA sets out that the majority of the buildings along the bank of the River Foss are designated as detractors for a number of reasons. With the exception of the Banana Warehouse, the rest of the application site is designated as a detractor. The application site is designated as a detractor. The Appraisal comments on the deteriorated quality of the buildings along Piccadilly and the location is particularly sensitive since it is directly opposite the Castle precinct. The buildings along Piccadilly are currently of a variety of styles and scale. The proposals would result in the loss of the existing buildings on the site which appear to date from the early 20th century. With the exception of the Banana Warehouse the loss of these building (and if a suitable alternative was proposed) are not considered to result in harm to the visual amenity of the streetscene and the character and appearance of the conservation area. The buildings are in a poor state of repair.

5.37 The castle area is an Ancient Scheduled Monument. 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

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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. The appraisal advises that the view is protected and no new development should be permitted which would break the skyline of the historic core when viewed from this point. Any development of Piccadilly site should allow views through to the Foss, and have full regard for how it is viewed from Clifford's Tower, and should make a positive contribution to the quality of the panorama.

5.38 The setting of the castle complex has already been compromised by the car park, although it is a council aim to remove this car park and provide a public amenity space. The proposed development would be visible from across the castle area. Currently the buildings on the application site whilst dilapidated are small scale and modest, the proposed building would be 3- 5 storeys in height. The proposed development when viewed from across the Castle area would by virtue of its height and massing be more prominent than the previous buildings.

5.39 Historic England have expressed their concerns regarding the height of the proposed building and the impact on views from Cliffords Tower. The proposed hotel building is smaller in height than that allowed on the neighbouring site – 46 – 50 Piccadilly. The Design and Sustainability Manager advises that when the proposed development would be viewed from Clifford's Tower, the proposed scheme would obscure some of the existing viewed roof scape backdrop of the city, but to a degree this would be so, even for a four storey building, the Design and Sustainability manager sets out that the proposed building is sufficiently varied in design to read as an appropriately scaled/textured addition to the city roof scape and would not obscure key parts of the skyline.

5.40 The bulk of the building has been designed to consider the cumulative impact it would have on a street elevation- both viewed from street level at Piccadilly and from the river side - at either ground or elevated level. From the west it is designed to provide adequate open space breaks between it and adjacent plots. From Piccadilly, it is designed to be more continuous with adjacent properties than the rear, but still provides sufficient variety of rhythm and openness and varied sky line profile.

5.41 The proposed buildings would be taller than the existing and would have more presence in the street, river corridor, and the surrounding area. However it is considered that the views from Cliffords Tower have been retained and whilst altered from what exists at present is not materially harmed. Taken as a whole and on its own merits the development proposals would not harm the character and

appearance of the conservation area or the setting of Cliffords Tower and the Ancient Scheduled Monument. However it is considered that the proposed development would not result in harm to the character, appearance, or setting of the conservation area and the Ancient Scheduled Monument.

## LISTED BUILDINGS

5.42 The impact on the listed building across the River Foss, forming part of the ancient scheduled monument has previously been discussed. There are number of other listed buildings in the vicinity. The closest is the Red Lion Public House (Grade II); the timber framed building dates from the 15th century. The proposed development by virtue of the difference in land levels between the 2 sites together with the height of the proposed building would appear dominant when viewed from within the curtilage of the Red Lion. However the setting of the Red Lion Public House has been substantially altered and harmed by the previous surrounding development as such the harm from the proposed development is considered to be neutral.

5.43 The proposed development is considered to have no material impact on the listed buildings set further away.

## UNDESIGNATED HERITAGE ASSETS

5.44 The Banana Warehouse is considered a building of merit in the Conservation Areas Appraisal because of the historic interest of its original and former function and as the best representative of interwar architecture in the area. The Banana Warehouse was the business of FT Burley & Son, wholesale fruit merchants and "banana specialists". The painted/ rendered brick facade with large metal frame windows is a fairly plain interpretation of the Art Deco style but nevertheless clearly evokes the era.

5.45 Para 197 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

5.46 The proposed development would retain the facade facing onto Piccadilly, the rest of the building would be demolished. The building is currently in a poor state of repair. The retention of the façade is considered of importance for aesthetic reasons as a contributor towards the early 20<sup>th</sup> century characteristic of the street (and conservation area). There proposal is considered to result in harm to an undesignated heritage asset, however the proposal secures this architectural

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remnant, which can otherwise be considered at risk of complete loss. In addition the economic and social benefits from the regeneration of the site are considered to outweigh the harm.

## VISUAL AMENITY AND CHARACTER

5.47 Policy D1 of the Draft Local Plan (2018) and Chapter 12 of the NPPF gives advice on design, placing great importance to the design of the built environment. At paragraph 130, it 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.

5.48 The massing varies across the site, with the tallest part of the building at the centre of the plot. The variation in the height and massing provides visual interest. The roof top plant areas is centrally located and is unlikely to be visible from Cliffords Tower. The proposed roof scape by virtue of its variation is considered to be acceptable in views from Clifford's Tower it would be viewed in the context of the varied city roofscape behind and surrounding.

5.49 The proposed Piccadilly elevation with the variation in design and heights provides a varied rhythm to townscape views up and down Piccadilly. The proposed brickwork areas, give a grid like effect through recessing brick planes and further windows recesses providing visual texture.

5.50 From the River Foss the proposed development it is designed to provide open space breaks between it and adjacent plots, providing visual interest. The ground floor is raised compared to the surround ground levels, however this is mitigated by a rear terrace to the back of the Banana Warehouse and recessing the plinth elsewhere, however it is consider necessary to condition a landscaping scheme as this would assist in the relationship of the proposed development and the river.

5.51 The proposed development would be viewed in context of the recent development along Piccadilly and the proposal is not considered to result in harm to the visual amenity or character of the street. The conditions requested by the Sustainability and Design Manager (paragraph 3.12) are considered to be necessary to ensure sufficient quality in the design and construction.

## ECONOMIC AND CITY CENTRE IMPACTS

5.52 The Council's Executive approved the Castle Gateway Masterplan in April 2018 which sets out the aims for the regeneration of the area, it is not a supplementary planning document, and however it is a material consideration. The site is within a wider area allocated as the Castle Gateway Opportunity Area subject

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of Policy SS5 of the draft Local Plan (2018) where it is recognised that there is significant potential to revitalise the area, reinterpreting and reasserting the varied history of the site, and creating a better connection with the city centre.

5.53 The NPPF seeks to promote the vitality of town and city centres and requires Local Planning Authorities to set policies which are positive and promote competitive town centre environments. The NPPF is clear in that Planning should operate to encourage and not act as an impediment to sustainable growth.

5.54 The NPPF considers tourism related developments such as hotels to be a main town centre use. As a town centre use hotel development plays an important role in supporting the economic well being and vibrancy of York's city centre. By virtue of the city centre location a sequential test (Section 7 of the NPPF) is not required.

5.55 Policy EC4 'Tourism' of the 2018 Draft Plan advises that proposal will be supported if they maintain and improve the choice and quality of visitor accommodation to encourage overnight stays, particularly by higher spending visitors; and the enhances the built environment and public realm, particularly around access to the river and showcasing York's built heritage.

5.56 The site is in the city centre, within walking distance of the train station and tourist attractions. The site is suitable for a hotel. The area is commercial and there would be no loss of dwellings. The proposed hotel is considered to have a potentially positive impact to the vitality and viability of the area. The proposed use will provide more footfall in the area during later hours.

5.57 The visual impact of the development, servicing and amenity are assessed in the other sections of the report.

5.58 The York Tourism Accommodation Study (July 2014) has aims of increasing the number of 4\*/5\* standard accommodation however the star rating of the hotel can not be ensured. If the principle of a hotel is considered acceptable, it is therefore considered unreasonable to condition the hotel be 4\*/5\* quality.

5.59 The NPPF states that LPAs should promote competitive town centres that provide customer choice; and retain and enhance existing markets and, where appropriate, ensuring that markets remain attractive and competitive. LPAs should support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances. The applicant is confident that there is a market for this level hotel accommodation and this view is not challenged.

## SUSTAINABILITY

5.60 The site is in reasonable proximity to the train station, and regular bus routes. There are a number of public car parks in close proximity. The site is in close proximity to shops and other amenities. The site is considered to be in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within recognised walking distances of the site. The hotel would benefit from secure cycle parking.

5.61 Policy CC1 'Renewable and Low Carbon Energy Generation and Storage' states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. The submitted sustainability report sets out that this can 28.7% saving in Co2 emission can be achieved

Policy CC2 'Sustainable Design and Construction of New Development' states that Developments which demonstrate high standards of sustainable design and construction will be encouraged. Development proposals will be required to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency. All new non-residential buildings with a total internal floor area of 100m<sup>2</sup> or greater should achieve BREEAM 'Excellent' (or equivalent). The supporting information indicates that the proposed development can achieve BREEAM 'very good'. As set out above the proposed development would meet the required carbon dioxide savings. The agent has advised they are willing to accept a condition requiring the development to achieve a BREEAM 'Excellent' rating. The agent does states that if this rating is not possible they can demonstrate that the key headline credits, for example, energy and carbon, sustainable transport, water and waste can obtain high ('excellent') scores even if scoring in other credits cannot score as highly.

## IMPACT ON NEIGHBOURING USES

5.63 The adjacent site to the south east (48 to 50 Piccadilly) is currently being developed as a hotel and apartments. The proposed development is not considered to result in harm to the residential amenity of the occupants of the proposed flats on 48 - 50 Piccadilly or impact on the viability of the proposed hotel on the neighbouring site.

5.64 The proposed development is not considered to result in harm to the amenity of the occupants of the site to the north. There does not appear to be any windows in this elevation facing the proposed development.

5.65 Given the proximity of the hotel building to the proposed and existing nearby residential dwellings it is considered necessary that hours of delivery (lorries would be unloaded on Piccadilly) to the hotel are restricted to ensure that there would be no loss of amenity to the residents due to noise associated with any deliveries.

## NOISE

5.66 The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life, paragraph 180 and Policy GP1 of the Development Control Local Plan (2005) and Policy ENV2 of the 2018 Draft Plan require that there should be no undue adverse impact from noise disturbance. Paragraph 182 of the NPPF is pertinent: Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

5.67 A noise assessment has been submitted and Public Protection is satisfied that internal noise levels in the proposed hotel rooms. A noise report could be sought by condition to ensure that it has been built in compliance with the proposed noise insulation scheme.

5.68 No details are been provided of the plant or equipment, such as air conditioning units, kitchen extraction units etc, that will be provided within the proposed development. No external flues are shown on the plans, and external flue would require separate planning permission. It is considered that details of any machinery audible outside of the premises can be sought by condition together with mitigation measures.

## HIGHWAY IMPLICATIONS

5.69 The National Planning Policy Framework advises that developments should:

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

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5.70 No parking provision is proposed for the hotel. This is in line with other hotels that have been granted planning permission in the city centre. Policy SS5 (Castle Gateway) of the 2018 Draft Plan requires the reduction in the size of the vehicular carriageway on Piccadilly and improvement in the size and quality of the pedestrian foot streets, including tree planting. The proposed redevelopment of this site and adjacent sites will increase the footfall along Piccadilly and as such proportionate improvement to adjacent public realm related to the development scheme is being proposed. The works would be carried out to the cost of the applicant through Agreement under S278 of the Highways Act 1980. Such improvements to the highway along the site frontage would consist of a reduction in the carriageway width of Piccadilly to 6-7m with the footway on the development site side being widened.

5.71 The proposed cycle parking is in an overlooked location, further details of secure cycle parking could be sought via condition.

## DRAINAGE

5.72 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan 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. Information of the proposed methods of disposal were submitted with the application, further details can be sought via condition.

## ECOLOGY

5.73 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. An ecological assessment has been submitted to support this application. The site is dominated by buildings and hard standing and so this focused on the potential presence of bats. No evidence of otters had been recorded. 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. An ecology survey has been undertaken bat roosts were identified in Building 4 and the adjacent Building 5 (fronting onto Piccadilly). The Ecology report concludes that small numbers of Common Pipestrelle bats are believed to be roosting in these buildings. The intention is the building will be demolished therefore the roost will be lost. As such a licence to destroy the roosts will be required from Natural England. It is recommended in the ecology report that at least two integral bat boxes are included within the new buildings to mitigate for the loss of roosting habitat.

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5.74 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017, contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the LPA must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm an EPS:

5.75 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 are as follows:

- that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature;

5.76 The current site is in a significant state of dilapidation. The area is identified for regeneration (2018 Draft Plan the Draft Local Plan (2018) and the emerging Castle Gateway Masterplan). The site is in a prominent city centre location, being viewed in its riverside setting, and along a main route through the city centre. The hotel would provide additional accommodation and has the potential to bring additional number of tourists to the city. There would be additional spend from the tourists and would also provide a number of people living/working in the city and revenue that it would bring to the city centre.

- that there is no satisfactory alternative;

5.77 As set out above the site is in a state of disrepair. Without redevelopment, it is likely that the buildings would remain unused and fall into further disrepair, with potential loss of the bat roosts.

- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

5.78 The buildings currently support a small number of roosting Common Pipistrelle bats which are common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence will prevent any direct harm and the provision of two integral bat boxes into the western aspect of the new buildings will maintain roosting opportunities on site. Therefore the third test for maintenance of favourable

conservation status is met. The proposed development is not considered to result in harm to the health or longevity of the bat population.

5.79 The River Foss is important because of its wildlife interest and importance as a connecting green corridor. Otter and Kingfisher are known to regularly use the River Foss within the city centre. The proposed garden and building will result in additional shade, noise and artificial light in this area. Details of a sensitive lighting scheme (to prevent disturbance to ecology) can be conditioned. Integrated bricks/boxes are intended to be incorporated into the proposed building, this can be sought via condition.

## SAFE ENVIRONMENTS

5.80 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder". The Police have expressed concern that there is no evidence to show how the applicant has considered crime prevention and how it has been incorporated into the proposal. Paragraphs 91 and 127 of the NPPF require developments should create safe places and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. However The Police advise that the overall design and layout of the proposed scheme is considered acceptable. The requirements for CCTV, lighting, secure cycle parking can be achieved either by conditions or part of their premises license. The premises licence is outside of the Planning regime, any premises license granted may be subject requiring the installation of CCTV which may assist in addressing any issues immediately outside the building

## 6.0 CONCLUSION

6.1 The application site is within an area proposed for redevelopment and regeneration in the emerging draft Local Plan (2018). The site is in a sustainable location and brings forward regeneration benefits to the local area. The site is within Flood Zone 3 would not increase flood risk elsewhere. The proposal meets the requirements of the NPPF sequential and exception tests (as set out above) and is acceptable when considered against national planning policy on flood risk, the sequential and exceptions tests are passed.

6.2 The proposed development is not considered to result in harm the character and appearance of the conservation area or the setting of nearby listed buildings and the scheduled ancient monument and accords with planning law and national and local policy in this regard. The loss of the existing building affects a non-designated heritage asset, however the façade (the reason for it being considered

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an undesignated heritage asset) is being retained. Impacts on archaeology are considered to be acceptable and can be mitigated by planning condition.

6.3 The proposed development is not considered to result in harm to residential amenity or highway safety, nor would the proposal have an unacceptable impact on ecology on or adjacent to the site.

## 7.0 RECOMMENDATION:

1 TIME2 Development start within three years

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

Drawing Number (SK)012 revision P9 'Flood Compensation and attenuation tank and void sizes plan, including proposed ground levels' received 27 march 2020;

Drawing Number SK-013 Revision P6 'Site Section A-A' received 37 March 2020;

Drawing Number SK-014 Revision P5 'Site Section B-B' received 27 March 2020;

Drawing Number SK- 015 Revision P6 'Site Section C-C' received 27 March 2020;

Drawing Number BW-CDA-01-00-DR-A-PL-0004 Revision P8 'Proposed Ground Floor' received 30 April 2020;

Drawing Number BW-CDA-01-01-DR-A-PL-0005 Revision P5 'Proposed First Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-02-DR-A-PL-0006 Revision P5 'Proposed Second Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-03-DR-A-PL-0007 Revision P5 'Proposed Third Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-04-DR-A-PL-0008 Revision P5 'Proposed Fourth Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-05-DR-A-PL-0009 Revision P6 'Proposed Roof Floor Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0001 Revision P4 'Site Location Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0002 Revision P2 'Proposed Demolitions Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0015 Revision P2 'Proposed Block Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0016 Revision P2 'Proposed Site Plan' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0101 Revision P3 'Proposed Site Wide Elevations' received 28 October 2019;

Drawing Number BW-CDA-01-SW-DR-A-PL-0200 Revision P4 'Proposed Site Wide Section A-A' received 27 March 2020;

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Drawing Number BW-CDA-01-ZZ-DR-A-PL-0102 Revision P3 'Proposed North East Elevation' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0103 Revision P3 'Proposed South West Elevation' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0104 Revision P2 'Proposed North West Elevation' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0105 Revision P2 'Proposed South East Elevation' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0201 Revision P2 'Proposed Section AA' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0203 Revision P3 'Proposed Section CC' received 27 March 2020;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0204 Revision P3 'Proposed Section DD' received 27 March 2020;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0206 Revision P2 'Proposed Section FF' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0207 Revision P2 'Proposed Section GG' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0208 Revision P3 'Proposed Section HH' received 27 March 2020;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0300 Revision P3 'Proposed North East Elevation Details and Materials' received 28 October 2019;  
Drawing Number BW-CDA-01-ZZ-DR-A-PL-0301 Revision P3 'Proposed South West Elevation Details and Materials' received 28 October 2019;  
Drawing number BW-CDA-01-ZZ-DR-A-PL-0303 Revision P1 'Typical Building Façade Details Set back and recess dimensions' received 27 March 2020;  
Drawing Number SK-16-01 Revision H 'Outline Foundation and Floodplain Storage Tank general Arrangement' received 27 March 2020;  
Drawing Number BW-CDA-XX-XX-DR-A-PL-0017 Revision P1 'Bike Shelter Details' received 30 April 2020;

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

3 A programme of archaeological excavation of is required on this site for:

- the timber revetment and associated deposits
- any significant deposits or features identified during any periods of archaeological watching brief which are safe to excavate

The archaeological scheme comprises 4 stages of work .Each of the following stages shall be completed and submitted to and approved in writing by the Local Planning Authority.

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(i) No development or excavation shall take place until a written scheme of investigation (WSI) for excavation, post-exc 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 approved WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

(ii) 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 (i) 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.

(iii) A copy of a report 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.

(iv) The buildings shall not be brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced (or is in the process of being produced) in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

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

4 An archaeological programme of hydrological and water quality monitoring is required prior to the installation of piles and associated structures to assess continued in-situ preservation. Each of the following stages shall be completed and submitted to and approved in writing by the Local Planning Authority.

(i) 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 suitable intervals. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

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

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condition (i)

(iii) 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 to the Local Planning Authority on an annual basis.

(iv) 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.

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. 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.

5

The following stages of post-determination archaeological mitigation shall be completed and submitted to and approved in writing by the Local Planning Authority.

(i) No grubbing up of foundations, development or remediation works 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 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.

(ii) 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 (i) 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.

(iii) 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 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an Area of Archaeological Importance and the

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development may affect important archaeological deposits which must be recorded prior to destruction. This condition is imposed in accordance with Section 16 of NPPF.

6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of all the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the building envelope of the hotel. This includes vision and any non-vision glazing, flat or pitched roofs (note requirement for green/brown flat roof above banana warehouse). The development shall be carried out using the approved materials. Samples should be provided of sufficient size to be able to appropriately judge, and to be provided together where seen together.

Mock-up sample constructions of the hotel shall be provided for :

(i) Condensed construction mock ups for a part of the zinc wall to include the various interfaces such as roof edge, window opening and transition to brick below, in a selected area.

Brick sample panels:

(i) For each type of brick, in each type of bond, including selection of mortar and pointing 2x2m. Smaller panels for each might be agreed, if multiple combinations are proposed. The panel is to also be used as a construction quality baseline and is to be retained on site for the duration of the brick work package.

Note: Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument.

7 Large scale (1:10/1:20 ) details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority. The details shall be submitted following the demolition of the buildings but prior to the start of the commencement of the construction of the hotel. The works shall be carried out in accordance with the approved details.

(i) Façade Set backs and ledges

(ii) typical bay details where different wall materials (brick, retail façade, zinc, flood water openings). To include external ground floor and roof interface and window

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- (iii) Entrance including canopy
- (iv) Rear built raised terracing, balustrade, steps
- (v) External roof top plant room including zone for agreed plant maximum height
- (vi) Site boundary treatment (walls, balustrade, guarding etc...)
- (vii) Any permanent fixed equipment used to service/maintain the building, and any plant equipment including wall or roof grilles/protrusions (other than within the plant room).

Reason: The success of the design is significantly dependant on detailing and built quality so these are needed to avoid the proposed design intent from being watered down in execution. So that the Local Planning Authority may be satisfied with these details and the appearance of the development. In the interests of the character and appearance of the conservation area. The information is sought prior to commencement of construction work to ensure that it is initiated at an appropriate point in the development procedure.

8 Prior to the first use of the hotel building a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs of the landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are approved in writing by the Local Planning Authority.

## INFORMATIVE

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site. The River Foss/South West elevation is prominent within the Central Historic Core Conservation Area and in key views from Cliffords Tower (ancient Scheduled monument), therefore details are required to ensure the planting is visually acceptable. Trees are required to provide a visual break of the proposed hotel building

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

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties. To ensure the boundary treatment is appropriate to the area.

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The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

10 Prior to the first use of the hotel details of the gate into service courtyard shall be submitted to and approved in writing by the Local Planning Authority. The gate shall be constructed in accordance with these approved details.

Reason: as to achieve a visually cohesive appearance. To ensure that the gate is not a solid barrier and allows views into and through the site

11 No work (demolition, alteration, removal of fabric) shall take place until a scheme for investigation for the proposed components of the retention and restoration of the Banana Warehouse facade is agreed. Subsequent to this agreement, detail (1:10/1:20) drawings for proposed construction works to be approved, prior to commencement of renovation of this façade.

Reason: The Banana Warehouse facade is an undesignated heritage asset and must be recorded prior to demolition/ alteration/ removal of fabric.

12 Demolition works to 40-42 Piccadilly and 44 Piccadilly shall not in any circumstances commence unless the local planning authority has been provided with either:

- (i) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead;
- (ii) Confirmation that the site is registered on a Low Impact Class Licence; or
- (iii) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To avoid harm to, and maintain the favourable conservation status of, a European Protected Species.

13 Prior to first use of the development hereby approved two integrated features providing a roosting crevice for bats (e.g. bat box) must be constructed within the fabric of the new buildings, and two swift boxes and one house sparrow terrace to be provided as shown on Drawing Number BW-CDA-01-SW-DR-A-PL-0003 Revision P7.

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

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14 Prior to the first use of the hotel details of any external lighting 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. 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. The development shall be carried out in accordance with the approved lighting scheme.

Reason: So as to achieve a visually cohesive appearance. 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 conservation area and wider views of the city. On ecology grounds - to limit excessive light spill over the River Foss

15 Upon completion of the insulation scheme works (as stated within NSL Noise Assessment project number 87759 dated 22/10/19), no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

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

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

16 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the building is first used or occupied.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 46dB(A) LA90 1 hour during the hours of

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07:00 to 23:00 or 38dB(A) 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.

17 Upon completion of the development, delivery vehicles to the hotel shall be confined to the following hours:

Monday to Saturday 07:00 to 18:00 hours  
Sundays and Bank Holidays 09:00 to 17:00 hours

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

18 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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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

19 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	0800 to 1800 hours
Saturday	0900 to 1300 hours
Not at all on Sundays and Bank Holidays	

20 Details of the extraction plant or machinery and any filtration system required for the treatment and extraction of cooking odours 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 EMAQ 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/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.

21 Prior to installation of **the gas-fired boilers and Combined Heat and Power**, an air quality screening assessment should be carried out to consider emissions from all combustion plant proposed for the site. Where necessary, this should be supplemented with a detailed air quality assessment to assess likely air quality impacts at nearby sensitive receptors. The scope of the screening and/or detailed air quality assessment shall be agreed in writing with City of York Council's Public Protection Unit.

Reason: To protect local air quality and human health

22 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).

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.

23 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 be 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.

The scheme shall contain a site specific chapter on archaeology as stated in Historic England Land Contamination and Archaeology guidance. The strategy should set out a methodology for groundwater monitoring during remediation works and a safe methodology to record any structures revealed.

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 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 be 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.

25 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

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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.

26 The development shall be carried out in accordance with the submitted flood risk assessment Re: 42344/4001 revision A dated October 2019 by Peter Brett Associates and the subsequent Technical Note - Re: 42344 TN001 dated March 2020 by Stantec and the following mitigation measures it details:

- (i) Finished floor levels shall be set no lower than 11.00 metres above Ordnance Datum (AOD),
- (ii) Compensatory storage shall be provided in accordance with the details submitted within the Technical Note - Re: 42344 TN001 dated March 2020 and the Flood Storage Analysis Plan - Re: 42344/4001/001 revision H dated 18th March 2020 with a total of 1,864.5 cubic metres of storage to be provided, and
- (iii) Provision of a floodable void as shown on the Flood Flow Routes Plan - Re: 42344/4001/004 dated 18th March 2020

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

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

27 Prior to the construction of the hotel building the following details regarding eh floodable void beneath the building shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be constructed and maintained in accordance with these details

- (i) Details of the removable grills
- (ii) Details of the proposed low level river bank wall which according to the Technical Note will have gaps/slots in it to ensure the free access and egress of flood water

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- (iii) Details of the cleaning and maintenance arrangements to ensure the void is kept clear of any debris before and immediately after a flood event to ensure the flood compensation volume is available at all times

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

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

Reason: In the interest of satisfactory and sustainable drainage

29 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in full accordance of the approved details. The information shall include site specific details of:

- (i) the means by which foul water will be disposed,
- (ii) the two flow control devise manholes the means by which the surface water discharge rate shall be restricted to a maximum cumulative rate between the two tanks of 18.8 litres per second,
- (iii) the attenuation tanks 1 and 2 the means by which the surface water attenuation up to the 1 in 100 year event with a 40% climate change allowance shall be achieved,
- (iv) the two outfall structures in consultation with the Environment Agency and Foss Navigation Authority, and
- (v) the future management and maintenance of the proposed drainage systems and in particular tank 1 beneath the covered terrace area.

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

30 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

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

31 The hotel hereby approved shall not be occupied until a Full Travel Plan has

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been submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines. The hotel shall thereafter be occupied in accordance with the aims, measures and outcomes of approved Travel Plan.

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

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

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

Reason: In the interests of highway safety.

33 Details of the highway works for the narrowing of the Piccadilly carriageway to 6m, widening of footway along site frontage as shown in indicative drawing BW-CDA-ZZ-SW-DR-A-PL-0011 Revision P6 (received 30 April 2020) (which 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 the first occupation. 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.

Informative: drawing is indicative only as the Council are finalising the plans for Piccadilly and some changes are likely, for example with the location of loading bays, bus stops, pedestrian crossing facilities, etc.

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.

34 The refuse storage areas for the hotel (as detailed in Drawing Number BW-CDA-01-00-DR-A-PL-0004 Revision P8 'Proposed Ground Floor' received 30 April 2020;) shall be retained for refuse storage use only.

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Reason: To ensure there is suitable refuse storage areas of the life of the development. So as to achieve a visually cohesive appearance. The site is within a conservation area and within the setting of a listed buildings and ancient scheduled monument. To protect the amenity of local residents and businesses.

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

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

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

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

36 The hotel building shall be constructed to a BREEAM standard of 'Excellent'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 12 months of first use (unless otherwise agreed). Should the development fail to achieve a 'Excellent' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Excellent' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Draft Local Plan 2018 and the NPPF.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

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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:

- Requested additional information
- Requested revised plans
- Use of conditions

## 2. ENVIRONMENT AGENCY INFORMATIVE

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)
- on or within 16 metres of a sea defence
- 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 (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and the EA advise them to consult the EA as at the earliest opportunity.

## 3. YORKSHIRE WATER INFORMATIVE

Notes for the developer:

(i) foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network;

(ii) under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to

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pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies, bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence.

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

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

#### 5. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

#### 6. DISPOSAL OF COMMERCIAL WASTE

Section 34 of the Environmental Protection Act 1990 places a duty of care on all producers of controlled waste, i.e. businesses that produce, store and dispose of rubbish. As part of this duty, waste must be kept under proper control and prevented from escaping. Collection must be arranged through a registered waste carrier. It is unlawful to disposal of commercial waste via the domestic waste collection service.

Adequate arrangements are required for proper management and storage between collections.

#### Section 47 of the Environmental Protection Act 1990

The storage of commercial waste must not cause a nuisance or be detrimental to the local area. Adequate storage and collections must be in place. Where the City of York Council Waste Authority considers that storage and/or disposal are not reasonable, formal notices can be served (Section 47 of the Environmental Protection Act 1990). Storage containers cannot be stored on the highway without prior consent

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of the Highway Authority of City of York Council.

**Contact details:**

**Case Officer:** Victoria Bell

**Tel No:** 01904 551347