

COMMITTEE REPORT

Date: 30 January 2025 **Ward:** Holgate
Team: West Area **Parish:** Holgate Planning Panel
Reference: 23/02148/FUL
Application at: The Jubilee Balfour Street York YO26 4YU
For: Conversion of former public house to form 6no. apartments with associated access, parking and bike stores and external alterations including dormer and the insertion of rooflights following demolition of outbuildings, canopy and external staircase
By: Mr Dominic Woodward
Application Type: Full Application
Target Date: 7 February 2025
Recommendation: Approve

1.0 PROPOSAL

The Site

1.1 The application site is a vacant public house located in the Leeman Road area of the city. The property is a substantial detached building of traditional construction with accommodation located over three floors as well as a large cellar. It sits within a relatively prominent position on the corner of Jubilee Terrace and Balfour Street. To the side (east) of the building is a grassed former beer garden. To the rear (north) is a hard-surfaced delivery yard which has a gated access onto Balfour Street.

1.2 Surrounding the site are flats at St Stephenson's Court to the north (rear), a passage along the eastern (side) leading to the rear of properties at 1-8 Jubilee Terrace, with a barber at No. 1 Jubilee Terrace. Balfour Street is positioned on the western (side) elevation with a residential property adjacent (No. 200 Salisbury Terrace). Further along Balfour Street there is a play area.

1.3 The existing internal arrangement features a bar/lounge area on the ground floor with a large function room with bar on the first floor. A managers/landlords flat (two/three bedrooms) is located in part of the first floor and in the roof space.

1.4 Works are being undertaken to implement permission for the conversion of part of the first floor and all of the roofspace to 3no. self contained apartments, which was allowed at appeal (APP/C2741/W/21/328500). The pre-commencement conditions relating to that permission have been discharged.

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The Proposal

1.5 Planning permission is sought for the conversion of the former public house to form 6no. apartments with associated access, parking and bike stores and external alterations. The external alterations include the installation of three dormers on the southern elevation and the insertion of rooflights, along with changes to windows and openings. The existing outbuildings, canopy and external staircase will be demolished.

1.6 Overall, the accommodation provided within the building would comprise of 4 x 2 bed and 2 x 1 bed flats. The four 2 bedroom flats are designed as duplexes with accommodation arranged over the ground and first floors and the two 1 bedroom flats occupying the second floor/roofspace. The basement/cellar area will be closed off and be inaccessible.

1.7 The proposals have been amended following negotiation and in summary the proposed revised external alterations comprise of:

- Western (Balfour Street) elevation – 3no. rooflights, main door blocked off (with opening retained) and removal of signage.
- Southern (Salisbury Terrace) elevation– 1no. new dormer with balcony. 1no. existing dormer altered to provide balcony arrangement. It is noted that the details of the new dormer window and changes to the existing dormer window have been submitted and discharged under application AOD/22/00379.
- Eastern elevation – 2no. rooflights, removal of fire escape stair and blocking up of door at first floor level.
- Northern elevation – will be retained as existing. A bin store shall be positioned on this elevation partly replacing an outbuilding.
- 12 solar photovoltaic (PV) panels (2 per flat) will be installed on the flat roof part of the roof.

1.8 5no. parking spaces would be provided, with areas reserved for vehicle turning. 6no. bike pods, arranged in two pairs of three are positioned within the forecourt, along with a bin store with access from within the site and also onto Balfour Street. A grassed lawn will be retained, although this is reduced from the current arrangement due to providing vehicle and cycle parking.

1.9 The existing boundary treatment comprising of railings and hedge (at approximately 1m high) will be retained along the Jubilee Terrace Street frontage and the return along the eastern site boundary adjacent to the passage serving properties 1-8 Jubilee Terrace.

1.10 The building has been successfully nominated as an Asset of Community Value, originally listed in July 2016 and renewed 14 June 2021.

Planning Committee Call-in

1.11 The application has been brought to committee at the request of Cllr Steels-Walshaw due to concerns regarding the negative impact the proposal will have on the availability of community facilities in the local area.

Planning History

1.12 The relevant planning history relating to this site includes:

16/00862/FUL Conversion of first and second floor of public house building to 4no. self-contained apartments and retention of reduced size public house on part of the ground floor; Application Refused 29.05.2018 citing “an unnecessary loss of valued and important social, recreational and cultural facilities. Furthermore the loss of such space would not be a modernisation that is considered necessary or beneficial to sustain the public house use for the local community.”

Appeal dismissed (Ref: APP/C2741/W/18/3213654) dated 30.10.2019

17/02670/CPU Certificate of lawfulness for proposed use of first and second floors as ancillary guest accommodation; Certificate Granted 20.12.2017

20/01498/FUL Alterations and conversion of part of first floor and all of the roofspace of the public house building to 3no. self-contained apartments and retention of public house on ground floor and altered function room on first floor (resubmission); Application refused 19.04.2021

Appeal Allowed APP/C2741/W/21/3285000 dated 22.02.2022

AOD/22/00379 Discharge of conditions 3 (flood risk measures), 4 (noise insulation measures), 5 (photographic record), 6 (reduction in carbon emissions for residential sections), 7 (provision of electric vehicle recharging point), 10 (elevations of new structures in parking and servicing areas), 13 (external surfacing including details of drainage) & 16 (details of works/alterations including dormer windows, roof lights, external doors, boundary treatment and gates, windows) of 20/01498/FUL; Details approved 09.05.2023

2.0 POLICY & LEGISLATIVE CONTEXT

Planning and Compulsory Purchase Act 2004

2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that an application is made in accordance with the development plan unless material

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considerations indicated otherwise. The Council does not have a formally adopted local plan. There is no made Neighbourhood Plan relevant to this application site.

National Planning Policy Framework 2024 (NPPF)

2.2 The NPPF sets out the government's planning policies for England and how these are expected to be applied. Its planning policies are material to the determination of planning applications. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways (paragraph 8).

2.3 The sections of the NPPF that are considered to be of relevance to this planning application include: 5) Delivering a sufficient supply of homes, 8) Promoting healthy and safe communities, 11) Making effective use of land, 12) Achieving well-designed places, 14) Meeting the challenge of climate change, flooding and coastal change, 15) Conserving and enhancing the natural environment and 16) Conserving and enhancing the historic environment.

Draft Local Plan 2018 (DLP)

2.4 The DLP was submitted for examination on 25 May 2018. The plan has been subject to examination. The DLP policies can be afforded weight in accordance with paragraph 48 of the NPPF. Draft policies relevant to the determination of this application are:

H3	Balancing the Housing Market
HW1	Protecting Existing Facilities
D7	Non-designated heritage assets
D11	Extensions and Alterations to Existing Buildings
CC2	Sustainable Design and Construction of New Development
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV4	Flood Risk
ENV5	Sustainable Drainage
T1	Sustainable Access

Other Guidance

- Department for Transport – Local Transport Note (LTN1/20) Cycle Infrastructure Design (July 2020)

- Communities and Local Government – Assets of Community Value – Policy Statement (September 2011)

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3.0 CONSULTATIONS

INTERNAL

Strategic Planning Policy

3.1 DLP Policy HW1 aims to protect existing community facilities (including facilities last used for community purposes, as is the case here, as it is vacant since 2016) by allowing development for alternative uses in exceptional circumstances.

Explanatory text to the policy confirms that public houses are considered a community facility in this context.

3.2 In the Appeal decision (relating to 20/01498/FUL), the Inspector concluded that there was no compelling evidence to prove that a smaller pub could not operate viably.

3.3 The Applicant's make a case that following that grant of planning permission, they have marketed the pub for over 17 months (at the time of the consultation response), including marketing by a national estate agent with extensive experience in marketing public houses, in line with criterion iv of Policy HW1. On the basis of the information submitted and having considered the planning history of the site, it would appear that there is evidence that demonstrates part iv of policy HW1 is satisfied.

3.4 Only limited weight should be applied to DLP policy HW1 on the basis of unresolved objections to the policy and modifications. However, the policy is consistent with para. 97(a) of the NPPF and its general promotion of positive planning for facilities such as public houses.

Design and Conservation

3.5 The current proposals for the conversion of the entire building to residential use would have a more significant impact on the heritage significance of the non-designated heritage asset than the previous scheme, as a result of the proposed loss of the original use of the building as a public house; the intensive subdivision of its interior, particularly of its purpose-designed function room to the first floor; the removal of public access to the building and further alterations to the fabric and design of the building than those previously approved.

3.6 Amendments are recommended to reduce the extent of alteration and impact on the architectural significance of the building. Should the application be recommended for approval it is essential that the architectural quality of the building is protected, and matters can be dealt with via conditions.

Lead Local Flood Authority (LLFA)

3.7 In line with the NPPF, the vulnerability of the proposed development for residential uses are considered to be “more vulnerable”. This is the same for the existing public house use. As this will not change, we do not raise any objection. The site and surrounding residential area benefits from improved flood defences up to the 1 in 200-year (0.5% AEP) event.

3.8 Further there will be no bedrooms/sleeping on the ground floor. An Emergency Flood Evacuation Plan providing flood warning and safe evacuation of people (where the emphasis should be to evacuate the building on receipt of a ‘severe flood warning’ and not take refuge in the upper floors) can be agreed via condition.

3.9 A suitable foul and surface water drainage strategy which includes sustainable drainage can be sought via condition.

Highway Network Management

3.10 No objections in principle but would like to see some amendments to ameliorate concerns regarding the external areas.

- turning should be provided by vehicular swept path
- car parking spaces should be marked as 4no. spaces plus visitor space and should be increased in size
- doors to cycle storage and bin store have doors opening out into the access way for vehicles
- cycle parking – 2 bed should have storage for 2 bikes (minimum of 2m x 1.1m wide) /1 bed storage for 1bike

3.11 It is likely that the local area will be subject to a residents parking scheme in the near future and this site may be excluded from any future residents parking area (subject to confirmation) and this may preclude the ability to park on-street.

Public Protection Unit (PPU)

3.12 Noise - the submitted noise assessment demonstrates that the building can be acoustically treated to ensure that noise from external sources will not impact prospective residents.

3.13 Land Contamination – Our historic maps show that previous land uses of the areas close to the site have the potential to cause contamination. An unexpected contamination condition in case contamination is detected during the development works is recommended.

3.14 Construction management – due to the close proximity of residential properties, we recommend informative to ensure that noise and dust is controlled during construction.

3.15 Air Quality – Recommend compliance with current Building Regulations for electric vehicle (EV) charge point provision (active and passive).

Emergency Planning

3.16 Any response will be reported at the meeting.

EXTERNAL

Holgate Planning Panel

3.17 Objection: rather than accept the compromise of previous planning application, the applicant appears to have allowed the building to fall further derelict and seems to have made no apparent attempt to implement the permission granted. The state of the property makes it an unappealing proposition.

3.18 This application appears to circumvent the Asset of Community Value status. A six-apartment development has been the Applicant's original and only intention for the property from the start.

3.19 We feel that the Jubilee is not it itself fundamentally incapable being a viable public house, but the Applicant appears to be reluctant to support this.

Environment Agency

3.20 Objection: the submitted Flood Risk Assessment (FRA) does not comply with the requirements for a site-specific flood risk assessment and does not adequately assess the flood risks posed by the development. In particular the FRA fails to consider how people will be kept safe from the identified flood hazards.

York Campaign for Real Ale (CAMRA)

3.21 Objection: far from wanting to work within the local community to provide what is best for local residents (NPPF para. 41), the Applicants have sought to impose a housing scheme that best provides them with financial return on investment and have thus constantly adapted their plans. Only the total conversion of the building to residential accommodation is their acceptable outcome and they have done everything possible to ensure this eventuality.

3.22 In the Appeal decision (relating to 20/01498/FUL, para. 23), the Inspector considers that there is a very clear understanding that the building has been left in a

'relatively poor state' and so there is the clear instruction that the Appellant would carry out repairs to the ground floor to make it into something that would be marketable to potential pub operators on the ground floor of the building. No such work has been undertaken and the ground floor has been left to deteriorate. It could be reasonably contended that this has been a deliberate decision to make the ground floor space undesirable as possible to potential investors.

3.23 Offers for the Jubilee - we have been approached by a local potential investor who told us that a viewing was refused because it was a pre-condition that there needed to be proof of funds; this is an unacceptable way of doing business as there is no requirement to provide proof of funds before putting an offer in. This practice is not indicative of a genuine desire to find a suitable pub operator for the ground floor.

3.24 We would also contend that evidence has not been supplied that the Jubilee has been appropriately marketed for a minimum of 2 years from the last appeal decision and has not met the requirements set out in the modified version of DLP policy HW1.

Yorkshire Water

3.25 In respect to water, no observation comments are required from Yorkshire Water.

4.0 REPRESENTATIONS

Cllr Steels-Walshaw

4.1 Objection and conditional call in should the case officer be minded to approve the application.

4.2 The building is an asset of community value which was approved in June 2021 and lasts 5 years. The residents in the community are clear that they want this building to be an asset and provide much-needed space for people in the area.

4.3 Since it was closed in 2016 it has been allowed to go to ruin and there has been little, if any maintenance and it has been deliberately neglected to try and put off interested parties and increase the burden on the leaseholder. There is significant evidence of the owner not working with other interested parties regarding viewing of the property, with these interested parties also keen on including community projects within the property.

4.4 It was predicated that the planning application would be submitted following little to no effort to try and retain the building that is greatly wanted and needed in the community; the remaining tools we have to change the owner's behaviour is the

planning system through the appeals process. Or hope the owner acts more reasonably.

Cllr Taylor

4.5 Objection; fully support the points raised by my Ward colleague, Cllr Steels-Walshaw and that of York Campaign for Real Ale (CAMRA).

4.6 Whilst the tactics of the Applicant in this case have been both troubling, transparent and tiring, it should not result in wearing down the LPA in securing the guaranteed loss of an Asset of Community Value, which still, despite the site's history, has the potential, and active commercial interest to be a beneficial community amenity, in an area that suffers without it currently. As York central builds out, will have an even stronger case for having it.

4.7 The only thing preventing this building's potential to serve the community once more from being realised is the approach from the applicant themselves.

Cllr Kent

4.8 Objection; fully support the points raised by my Ward colleagues, Cllr Steels-Walshaw and Cllr Taylor and that of York CAMRA.

4.9 The Jubilee, placed on the list of York Heritage sites at risk register by York Civic Trust, has been left to deteriorate, with no genuine attempt to fulfil the community planning conditions. It is hard not to conclude that the applicant is doing this deliberately in order to get the community condition discharged and simply build residential. Leeman Road community needs this site to be restored and the community use provided, as a matter of urgency.

Neighbour Notification and Publicity

4.10 One letter from a local resident has been received citing the following concerns:

- construction traffic and its management; construction parking on the pavement near the junction of Balfour Street and Salisbury Terrace reduces the visibility of the junction. Residents of Balfour Street with larger vehicles have been unable to access their properties.

4.11 One letter of comment has been received who seeks to open up a discussion for a better use of the building that supports the community citing the change of use of The Jubilee from a pub to a retail unit for the following reasons:

- there are other existing local pub nearby that serves the community needs at the moment
- access for residents at more reasonable prices; reducing the need to travel; minimising car journeys and carbon emissions
- proximity to the school enabling parents to combine shopping and daily routines
- employment opportunities
- could serve as a community hub
- reduced noise and disturbance from that associated with a pub and more conducive to the surrounding residential area

5.0 APPRAISAL

5.1 Key Issues:

- Loss of community facilities
- Proposed Residential Use
- Heritage Impacts
- Highways and Parking
- Flood Risk and Drainage
- Residential Amenity
- Climate Change
- Ecology
- Public Sector Equalities Duty

ASSESSMENT

Loss of community facilities

5.2 Paragraph 96 of the NPPF sets out that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction. Continuing, para. 98 sets out, amongst other considerations, that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

5.3 DLP Policy HW1 requires proposals which involve the loss of community facilities or facilities last used for community purposes to meet certain criteria. These include whether there are (i.) alternatives available elsewhere on site or (ii.) provided elsewhere, (iii.) that the facility no longer serves a community function or are surplus to requirements and (iv.) in the case of commercial facilities, evidence is provided that demonstrates they are no longer financially viable with no market interest. Draft policy HW1 is subject to modification and is subject to unresolved objections and therefore can only be given limited weight.

5.4 The explanatory text to Policy HW1 confirms that public houses are considered a community facility and a commercial facility in respect to sub section iv. of Policy HW1. Furthermore, the explanatory text clarifies that evidence that the facilities have been appropriately marketed for a minimum of two years without success will be required to demonstrate they are unviable. This should consist of (as a minimum) a marketing report explaining the marketing process, and its outcomes, including the terms offered, any interest received and why it was not successful. In addition, an open book-based viability appraisal must be submitted to demonstrate that the facility is not viable and could not reasonably be made viable.

5.5 The loss of a community facility can have a significant effect on a community, as a meeting/socialising place, often forming a social hub for a community. The loss of local facilities that residents depend upon has the potential to erode community cohesion and exacerbate social isolation. Public houses fall into this category, particularly in close-knit residential areas, like the Leeman Road area of the city.

5.6 The Leeman Road area of the city is a well-defined area, being bounded to the north, east and west by the River Ouse and Water End (A1176), and a railway line to the south. The previous appeal inspector (appeal dated 25 February 2022 Ref: APP/C2741/W/21/3285000) noted that the local area has limited community spaces and the spaces provided by the Jubilee would represent an important social, recreational and community facility for the existing local community and for future residents of new developments in the area. Officers note however that the function room and beer garden secured under the previous consent (to which the above planning appeal relates) have been reduced in size.

5.7 Officers have reviewed the other community facilities in the area, that have been highlighted by previous Planning Inspectors, and there appears to be no change in the community facilities provided in the local area since the latest planning appeal in February 2022. In reasonable walking distance of the site is the Leeman Rose Public House, which has a very small outdoor area and no specific function room, but it does serve food. St Barnabus Church hosts a number of local groups as well as a community café. The Barnabus Centre also hosts some community events. The venues would provide services for some of the local community. It was also noted by the Planning Inspector for that appeal, that York centre is within a reasonable walking distance and has a much greater range of services and facilities.

5.8 The Jubilee was re-designated an Asset of Community Value (ACV) in June 2021 (originally listed in July 2016). This enables a right for local communities to bid for land and facilities deemed to be of local value. Along with the Ward Member objections to the application, this nomination indicates that the use of the building as a pub was valued by the local community. The ACV policy statement set out that it is open to the Local Planning Authority to decide if the listing as an asset of community value is a material consideration, considering all the circumstances of the case.

5.9 The pub has been closed since 2016. The Applicant states that following the granting of the scheme at appeal in February 2022 (Ref: 20/01498/FUL Appeal Ref: APP/C2741/W/21/3285000) they have undertaken extensive marketing to identify an occupier for the retained pub and function room at ground and first floor level. Marketing has been undertaken by Christie & Co, acting as Agent on behalf of the owner, who are an international business sale agency and specialises in the hospitality business sales. The property has been listed on Christie & Co's website, as well as Rightmove, which are the two most appropriate means for marketing and advertising an opportunity such as this.

5.10 The Agent listed the property for letting in April 2022 meaning that up until the date of submission of this planning application (November 2023), there has been 19 months of marketing. Whilst this is a shortfall of 5 months for a full 24 month period, the property has continued to be marketed whilst the assessment of the planning application has been on-going, resulting in over 2.5 years of marketing, well over and above the requirements of DCLP 2018 policy HW1. The asking rent was £18,000 per annum and offered on a ten-year lease on an internal repairing and insuring basis (meaning the lease will only need to pay for the maintenance and repair costs of the internal parts of the properties, while the landlord will look after the exterior parts of the building).

5.11 The application is supported by a marketing report from Christie & Co, which state that they have had several direct enquiries, from eight individuals and not conducted any viewings on the property. Of these interested parties, six were interested in acquiring the property to develop it for residential use. Of the other two, one would not provide them with any proof that they had sufficient capital and finance in place to undertake a scheme of conversion and refurbishment with the other party not appearing to have responded to the Christie & Co request for proof of funds. The marketing report indicates disappointment with the quality of applications, despite extensive marketing and that it isn't viable in the current market. Substantial investment is highly unlikely to be worthwhile and would not make commercial sense to invest the sort of money required on non-proven operators.

5.12 A further update dated 9 May 2024 has been provided from Christie & Co to the Applicant giving an update; there had been two viewings of the property, both of whom had provided proof of funds sufficient to enable a refurbishment to be carried out. One was a long- and well-established licensed premises owner, although following the viewing they declined to proceed. The Agent's conclusion is that the use of the property as a Public House is not a commercially viable business proposition.

5.13 The LPA commissioned an independent assessment by Barry Crux & Co, to review the viability of the proposal within the approved planning application and to provide analysis as to the marketing exercise which has been undertaken.

5.14 In terms of the facilities provided by the appeal scheme, the proposal effectively replicates the facilities which the Jubilee PH previously had, but with the exception of the third trading room area (games/pool room/lounge) and the catering kitchen facility removed. The justification is that the business had hitherto operated mostly as a wet led business; the removal of the catering facility and the third trading room area are assessed to be reasonable and would not be detrimental to the proposed licensed premises.

5.15 In respect of the first floor function room, the report outlines that the space is good and adaptable, being easily put to a wide range of uses. However typical uses would include music events, 'dances', and functions such as wedding receptions, christenings and private parties, although these types of uses have highest demand on Friday evening, Saturday daytime and evening, and Sunday daytime and they tend to be very spasmodically during the week. That is not to say that some use could be made of it, but that would very much be dependant upon demand from within the community for other uses. Barry Crux's report also outlines that social habits has changed dramatically over the course of the last fifteen years or so, citing that today, a function room 'over a pub' is not a particularly attractive proposition, with a trend for purpose developed function places or large restaurants, particularly where there is plenty of car parking available on site.

5.16 The report highlights the past performance of the pub, citing that despite the fact that The Jubilee is situated in a heavily populated area, and the relative lack of much competition, it has not performed well for many years.

5.17 Barry Crux's reports concludes that:

"It is clear that marketing has been carried out in a proper and effective manner by the agents. Unfortunately, this has not resulted in any meaningful interest in a party taking the premises for use as licensed premises. This in itself is not really surprising, given the past history of the Jubilee. However, more importantly, the capital cost of creating such a licensed premises in this building is likely to be prohibitively high, in relation to the likelihood of a business proposition being viable and successful. In other words the risks involved in carrying out the refurbishment which is necessary to create licensed premises, outweighs the prospects of success of a trading opportunity.

We should also comment in respect of the marketing of the premises in terms of the asking rent. We do consider that the Agents quoted rent of £18,000 is too high, given the circumstances which we have embraced and noted above.

In our view it would be more realistic to have made it very clear that any asking rent is a “headline rent” and indicating that there would be substantial rental concessions shown to any incoming tenant if the latter was to take the premises as a “shell”. Even with a switch of emphasis in this context however we are not confident that there would be any success in attracting an appropriate tenant.

Thereby, in conclusion, we consider that the proposed creation of licensed premises comprising a two roomed operation, with a function room at first floor level is not a realistic and viable proposition.”

5.18 The matter of the Agent requesting funds prior to viewing has been raised by a number of objectors. As part of the marketing exercise, Christie & Co have been asking interested parties to provide them with evidence proving that they had sufficient financial ability and capital resource to be in a position to undertake the opening and operating of such Licensed Premises, citing that this is standard practice. Barry Crux’s report outlines that this is clearly because a significant amount of capital expenditure is required in order to bring the standard of the building up to a high specification for use as licensed premises.

5.19 It has already been outlined above that of the direct enquiries, six were interested in acquiring the property to develop it for residential use. There has been no interest from any pub operator, multiple or independent or community pubs, nor any other community use. One commentor on the application has sought that a retail use should be considered, citing that this would provide community and employment benefits. A retail use would be subject to a different planning assessment and there is no guarantee that a community use would be retained, and that the first-floor function room or garden would continue to be available. Either way, it does not form part of the proposals by the applicant and is therefore not under consideration.

5.20 As noted by objectors, and Barry Crux’s report, internally the building is in a poor state of repair having been severely vandalised and damaged over a number of years. Permission was granted subject to conditions 8 and 9 which required all repair, adaptation and improvement works to be identified and documented along with a verification report demonstrating that those works have been completed, prior to the occupation of the building for residential. In coming to a recommendation, in line with paragraph 209 of the NPPF, the deteriorated state of the heritage asset has not been given any weight in the planning balance.

Proposed Residential Use

5.21 Section 11 of the Framework focuses on promoting an effective use of land in meeting the need for homes and other uses. Paragraph 125 (c) of the NPPF sets out that substantial weight should be given to the value of using suitable brownfield

land within settlements for homes as well as (d) which promotes and supports the development of under-utilised land and buildings which would help to meet identified need for housing where supply is constrained, and available sites could be used more effectively. This is in addition to section 5 of the NPPF that supports the Government's objection of significantly boosting the supply of homes. Paragraph 73 of the Framework highlights the important contribution that small and medium sized sites can make to meeting housing requirements of an area and are often built out very quickly.

5.22 The proposed development seeks 6no. self-contained flats overall, with an uplift of 3 flats from the approved consent (2 x 1 bed and 1 x 2 bed). The uplift in accommodation will provide an additional 3 x 2 bed flats.

5.23 The provision of housing on previously developed land has substantial weight in the planning balance.

Design

5.24 Paragraph 131 of the NPPF sets out that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Para. 135 (sub section a) and b)) of the NPPF sets out a number of factors planning decisions should ensure that developments achieve, including that they function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. DLP policy D11 will support proposals where the design responds positively to its immediate architectural context and local character, in terms of the use of materials and detailing, scale and proportion.

5.25 The external alterations as outlined in para. 1.7 are generally in line with those permitted previously (under the approved application 20/01498/FUL); this includes an additional dormer on the southern (Jubilee Terrace elevation) alongside 2no. existing dormers. Additionally, the new dormer and the existing end dormer will be altered to provide a balcony set within the roof. Large scale drawings of the new dormer window and changes to the existing dormer window were secured by planning condition (No. 16), and these details have been subsequently discharged (AOD/22/00379). The Applicant has indicated that the details of this alteration would be as per the details previously submitted.

5.26 Of particular note, due to the building being proposed solely in one use (residential) works previously permitted to provide separate entrances, for examples are now not required. This has allowed the retention of the ground floor windows on the Jubilee Terrace elevation. A window in the eastern elevation will also be retained, rather than enlarged to create a doorway to provide access to the beer garden.

5.27 Given the internal arrangement for duplex's (accommodation arranged over ground and first floors) to address issues of flood risk by avoiding sleeping accommodation on the ground floor, access will be taken from the existing rear entrance, from within the courtyard. The existing entrance from Balfour Street will be redundant. The Conservation Officer has sought to retain the front door, citing that an entrance lobby could be provided to serve Units 1 and 3. Whilst this alteration has been suggested, it has not been incorporated into the proposals. Officers consider that it is unfortunate not to utilise the existing main entrance, particularly given that this provides access directly to the street and sustainable transport infrastructure (pedestrian and cycle networks and local bus stops). Alternative provision however is provided to access these facilities (details provided below in the report), and this would serve only 2 of the 6 proposed flats, access to the surrounding area would still need to be provided for the remaining flats, and given that the creation of an alternative access (via Jubilee Terrace) would require further alterations, on balance the arrangement proposed is satisfactory and would cause least harm to its exterior and retain a number of the architectural features .

5.28 The Conservation Officer has also suggested the retention of the original outbuilding range to preserve the original building. It is unclear whether these are original to the building, noting that the Officer's Report (for 20/01498/FUL) stated that the demolition of the outbuildings and off-shoot in the yard is not considered to have a significant impact on its architectural interest. Officers are content that the loss of the outbuildings and ranges would not have a significant impact on the architectural interest of the building and assists in opening up the rear yard to enable the provision of ancillary requirements to benefit the intended residents.

5.29 The addition of photovoltaic solar panels to the flat area of the roof, are considered to be appropriate. The plans submitted indicate that they would have limited visibility from street level. They would minimise energy consumption supporting the Applicant's intention to improve resilience, supporting the Government's transition to renewable and low carbon energy.

5.30 The hedge and railings that form the boundary to the communal garden along the street frontage to Jubilee Terrace and adjacent to the passage between the site and No. 1 Jubilee Terrace will be retained. Whilst at a minimal height of approximately 1m or so, the boundary treatment would offer a degree of privacy and makes a positive contribution to the character of the street. A pedestrian gate will be provided to provide pedestrian and cycle access to Jubilee Terrace.

5.31 On the Balfour Street elevation, there is currently an existing 2.4m high brick wall and gates (a mix of metal and wooden) to the rear yard/courtyard. An existing outbuilding is attached to the main building. The development seeks a reduction in the length of the brick wall along with a 1.8m high metal sliding gate with a bin store to replace the outbuilding. It is acknowledged that there has always been some

form of enclosure along the Balfour Street elevation, between the building and the utility-type building of St Stephenson's Court. The proposed arrangement is to provide appropriate security and privacy for the prospective occupants and would be appropriate in its visual appearance in this location.

Heritage Impacts

Significance and designation as a non-designated heritage asset

5.32 The building is not listed or located in a Conservation Area; however, it is a well-proportioned substantial corner building important to the historic form of the inner-city residential area. The previous planning application relating to this building identified the building as a non-designated heritage asset (NDHA).

5.33 The Planning Practice Guidance (PPG) describes non-designated heritage assets as buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions which do not meet criteria for designated heritage assets.

5.34 Paragraph 216 of the NPPF states that the effect of the proposals on the significance of the NDHA 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.

5.35 Policy D7 of the DLP 2018 sets out that the Council have worked with a local community group, York Open Planning Forum to establish local criteria to appraise and help establish a Local Heritage List for York, which forms the basis for the policy criteria. York Open Planning Forum has created a register of buildings and structures that are of importance and interest to local communities because of their historic or architectural interest. The Jubilee is on this list.

5.36 Draft policy D7 continues to state that development which would remove, harm or undermine the significance of such assets, or their contribution to the character of a place, will only be permitted where the benefits of the development outweigh the harm having regard to the scale of the harm and significance of the heritage asset.

5.37 The building was opened in 1897 to the designs of nationally renowned York based architect, Walter Brierley for the Tadcaster Tower Brewery. It was purpose built to serve travelling railway operatives and the local Leeman Road community of mostly railway workers. The building offers a designated and attractive 'function room' on the first floor.

5.38 The significance of the building therefore derives from its architectural, communal and historical values associated with its connection with the railway, and merits identification as a non-designated heritage asset, in line with the criteria provided in Policy D7 of the DLP 2018.

Impact of the proposed works

5.39 The proposed development involves the conversion of the entire building to residential use and would result in the loss of the original use of the building as a public house and subsequent public access to the building.

5.40 There would be some subdivision, particularly of its purpose-designed function room, however the building is not statutorily listed, and internal works could be undertaken without the need for listed building consent. Any conditions would also reflect this.

5.41 The Applicant has however considered some of the internal impacts raised by the Council's Conservation Officer and has off-set the partition wall at the top of the staircases (Flats 1 and 3) so as to retain the first-floor window above the Jubilee entrance.

5.42 The interior of the building has previously been altered with many original features lost and the impact of the interior changes on its historic significance is limited.

5.43 The main intact element of architectural significance is its exterior. Subject to appropriate conditions on the quality of external alterations and additions to the building the changes would have a low impact on the attractiveness of its exterior appearance. It will remain a well-proportioned, well detailed and substantial building.

5.44 This building plays an important part in telling the story of York's railway heritage particularly in the Leeman Road area. Whilst there are communal and historical values attributed to the building's connection to the railway, a pub operation has been assessed to be unviable and that a community use can no longer be sustained from the building. Other alternative uses could be considered for the building, however there is no guarantee that a community use would be retained, and that the first-floor function room would continue to be available. Therefore, the scale and harm upon the special architectural and historic interest of the building is considered to be moderate.

5.45 A number of consultation response have raised concerns that the applicant has left the building, or part of the building (namely the ground floor) to deteriorate. The NPPF sets out in para. 209 that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

5.46 DLP 2018 policy D7 states that prior to the demolition, alteration, extension or restoration of heritage assets appropriate building recording relevant to the asset's significance and the scope of works will be undertaken. Previously, the appeal scheme was subject to a condition requiring a building recording, and a similarly worded condition shall be applied, to ensure that internal and external areas which may not have been impacted by the appeal scheme. It is noted however that works to implement the appeal scheme have started to be implemented.

Highways and Parking

5.47 Section 9 of the NPPF focuses on promoting sustainable transport and outlined in para. 117 specifically consider that applications for development should:

a) give priority first to pedestrian and cycle movement, both within the site and within neighbouring areas, and secondly, as far as possible, to facilitate access to high quality public transport; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport and c) create places that are safe secure and attractive, d) allow for the efficient delivery of goods, and access by service and emergency vehicles and e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.48 There will be a single entrance point positioned in the rear elevation, from the rear yard for all prospective residents. The rear yard will provide cycle and car parking. A pedestrian footpath will lead residents around the building to Jubilee Terrace, allowing access to pedestrian and cycle route networks and local bus stops. Whilst a direct access could be achieved through the building onto Jubilee Terrace, the works would involve further unnecessary alterations to the fabric and design of the building, particularly where the building will be wholly in one use (these alterations were previously accepted due to the requirement for separate accesses, one for the public house use and one for the residential use).

5.49 The bike pods are designed to be a minimum of 2m x 1.1m wide and therefore will provide storage for 2no. bikes, which will meet with the LTN1/20 Cycle Infrastructure Design requirements of 1 cycle space per bedroom.

5.50 The site is served by a number of bus routes providing access to the city centre. Salisbury Terrace/Jubilee Terrace also provides an on-road cycle route.

5.51 Vehicle access will be retained off Balfour Street with 5no. parking spaces provided within the site, which is considered acceptable in this location.

5.52 There is a separate bin store, which has two accesses, one directly onto Balfour Street, and one from within the site. The Council's Waste Services require bin storage to accommodate 1,080 litres for refuse and 990 litres of recycling materials, which can be adequately accommodated within the refuse store.

Flood Risk and Drainage

5.53 The NPPF sets out (para. 170) that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Continuing, para. 173 sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding, by following the steps set out in the NPPF.

5.54 The site is located within Flood Zone 3(a), which is the highest risk of flooding. The extant use as a public house and buildings used for residential accommodation are within the same 'more vulnerable' flood risk classification (Annex 3: Flood Risk Vulnerability Classification). As the proposal is for a change of use and does not propose caravans, camping etc, in line with footnote 62 and paragraph 176 of the NPPF, the development is not required to be subject to the sequential or exception tests but should meet the requirements for site-specific flood risk assessment.

5.55 An updated flood risk assessment (FRA) has been submitted and accompanies the application. The Environment Agency has objected to the proposed development citing that the FRA does not adequately assess the flood risk posed by the development, namely it fails to consider how people will be kept safe from the identified flood hazards. They further state that for a room to have a habitable use there must be no more than 300mm internal flooding or it is not deemed to have safe internal access/egress. They continue to state that if the developer cannot demonstrate that internal spaces are dry (or at a very minimum safe by keeping internal flood depths low), then they should be looking at excluding more vulnerable uses (habitable uses) from the ground floor.

5.56 In contrast however, the Lead Local Flood Authority (LLFA) do not object to the application, citing that there will be no change to the vulnerability classification, with the proposed use within the same 'more vulnerable' classification and that the property and surrounding residential area benefits from improved flood defences at Water End which provided flood defences up to the 1 in 200-year (0.5% AEP) event. Additionally, given the internal arrangement, four flats comprise of duplex apartments with living accommodation split over ground and first floors, meaning there are no bedrooms/sleeping on the ground floor. Further, safe access and escape routes can be included as part of an agreed emergency plan, where the emphasis should be to evacuate the building on receipt of a 'severe flood warning' and not to take refuge in the upper floors. These can be sought via conditions along with a suitable foul and surface water drainage strategy. Details of the additional external hard surfacing can be conditioned to avoid increasing surface water run-off from the site.

5.57 On balance, and with the specific conditions as outlined above, the application satisfies the requirements of the NPPF in regard to flood risk and drainage. It is noted that whilst the EA have objected to the application, there is no requirement to refer the application to the Secretary of State prior to issuing the decision notice.

Residential Amenity

5.58 Both local (policy ENV2 of the DLP 2018) and national (set out in para. 135 and 198 of the NPPF) planning policies seek to create places with a high standard of amenity for existing and future users and protecting them from significant environmental impacts, such as noise, light or glare and air quality (from odour, fumes, smoke, dust and other sources).

5.59 The proposed flats are of an adequate size to meet the occupants needs. There will be a shared external garden allowing for communal use. The flats would have adequate outlook and daylight within them, particularly the duplex's arranged over the ground and first floors.

5.60 The 2no. 1 bed flats contained within the second floor/roofspace will have outlook via dormer windows and rooflights for additional daylight. The bedroom of flat no. 5 within the second floor will only be served by rooflights (the bedroom to flat No. 6 is served by an existing dormer). This arrangement at second floor level is the same arrangement as per the approved appeal scheme.

5.61 In terms of the building's relationship with surrounding properties, there is already a close relationship between the residential block to the north (1-14 Stephenson's Court), residential property at No. 200 Salisbury Terrace to the west and the ground floor commercial with flats above at No. 1 Jubilee Terrace to the east, which is typical of urban environments. The external alterations involving additional openings and windows are limited as set out in Section 1, para 1.7 of this report. Additional rooflights are proposed, which by virtue of their nature does not give rise to additional overlooking. The additional dormer positioned in the Jubilee Terrace (southern) elevation would have an outlook over the amenity area/junction of Jubilee Terrace and Kingsland Terrace and would not give rise to any harmful overlooking to the detriment of neighbouring occupiers. Whilst there may be an increased level of overlooking to adjacent properties, this would on balance, not be significantly harmful to the amenities of neighbouring occupiers, and substantial weight is given in the assessment of the application to the re-use of the building for housing.

Sustainability

5.62 Paragraph 161 of the NPPF states that the planning system should support the transition to net zero by 2050. It should help to encourage the reuse of existing resources, including the conversion of existing buildings, and support renewable and

low carbon energy and associated infrastructure. NPPF para. 167 outlines that local authorities should give significant weight to the need to support energy efficiency and local carbon heating improvements to existing buildings, both domestic and non-domestic.

5.63 It is outlined in an Energy Statement and Water Consumption Assessment, to accompany the application, that the proposed development will achieve a reduction in carbon emissions using renewables through the re-use of the existing building, incorporate photovoltaic panels onto the building's roof along with an air-source heat pump to support renewable and low carbon energy.

5.64 Part C of policy CC2 requires the conversion to residential use to achieve BREEAM domestic refurbishment 'very good' as a minimum. The Applicant has outlined that following an initial BREEAM assessment, the development will pass the 'very good' requirement. It is noted that policy CC2 is subject to substantial modification and therefore can only be given limited weight.

5.65 The requirements for electric vehicle (EV) charging is now dealt through Part S of the Building Regulations, which requires all new dwellings with a parking space to have an electric charger.

Ecology

5.66 The application was submitted prior to 2 April 2024 and therefore compliance with the statutory framework for Biodiversity Net Gain (BNG) is not required.

Biodiversity enhancement

5.67 Section 15 of the NPPF seeks to conserve and enhance the natural environment. It is outlined in paragraph 187 d) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The site has been assessed via the Wildlife Assessment Check which outlines that the site does not lie within or close to any international/European or nationally designated sites. There are a number of local Nature Reserves within 5km, with Hob Moor being the closest although it is 1.6km away. The results of the Wildlife Assessment Check indicate the suitability of the site for birds (protected and priority species) only.

5.68 The application seeks to provide biodiversity enhancements through retention of the native hedge which borders the site along the southern and eastern site boundary, which will offer sites for potential nesting birds. Precautionary measures are required to ensure that active nests are not destroyed during the works; this shall be the subject of an informative. Part of the amenity lawn will be maintained but reduced to facilitate vehicle and cycle parking. The remainder of the site comprises of hardstanding, which will have little ecological/biodiversity value. Given

that the site comprises of brownfield land which currently offers existing low-level biodiversity/ecological habitats, the proposals are acceptable.

Public Sector Equalities Duty

5.69 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.70 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic.
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.71 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.72 Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

6.0 CONCLUSION

6.1 The application site is a well-proportioned, well detailed and substantial public house, although it has been vacant since 2016. Substantial weight is given to the value of using brownfield land and the re-use of an existing building, for 6no. apartments, an uplift of 3 apartments from the permitted scheme. Significant weight is also given to the measures, including photovoltaic panels onto the building’s roof along with an air-source heat pump to support energy efficiency and local carbon

heating improvements, along with an expectation of achieving BREEAM domestic refurbishment 'very good' as a minimum.

6.2 The site provides car parking and cycle parking which is in line with LTN1/20 guidance, as well as being in a sustainable location where there is direct access to pedestrian and cycle routes and bus stops and routes. The site is close to local services and facilities, with York city centre within a reasonable walking distance and has a much greater range of services and facilities. The apartments would offer good outlook and a high standard of amenity including a useable communal area.

6.3 The application site is located within Flood Zone 3, though the property and surrounding residential area benefits from improved flood defences. There would be no change to the vulnerability classification, with the proposed residential use within the same 'more vulnerable' classification. The internal arrangement with four flats comprising of duplex apartments with living accommodation split over ground and first floors will mean there will be no bedrooms/sleeping on the ground floor. Conditions requiring an emergency evacuation plan on receipt of a 'severe flood warning' can be sought along with a suitable foul and surface water drainage strategy and details of the additional external hard surfacing to avoid increasing surface water run-off from the site.

6.4 The building is a non-designated heritage asset. The interior of the building has been altered and many original features have been lost; the impact of the interior changes on its historic significance is limited. The main intact element of architectural significance is its exterior, and the alterations are considered satisfactory causing least harm to its exterior; offering an improvement against the approved scheme which sought additional openings to provide 2 separate entrances, one for the retained pub and one for the residential use. The building however plays an important part in telling the story of York's railway heritage, particularly in the Leeman Road area and therefore has communal and historical values, which contribute moderate significance.

6.5 An independent review of the viability of the approved scheme relating to the retained pub and first floor function room at ground floor level with 3no. residential apartments in the remainder of the building, along with analysis of the marketing exercise has been undertaken. The report concludes that the marketing has been carried out in a proper and effective manner by the marketing agents, though this has not resulted in any meaningful interest in a party taking the premises for use as licensed premises.

6.6 Officers therefore consider that there is adequate justification to conclude that a pub operation from the building would be unviable and that a community use can no longer be sustained from the building.

6.7 Taking a balanced judgement, having regard to the heritage significance of the building, and the substantial weight of using suitable brownfield land within settlements and the development of under-utilised land and buildings for homes, in a sustainable location, providing 6no. new apartments (4 x 2 bedroom and 2 x 1 bedroom) with an uplift of 3 apartments from the approved scheme, the proposals are found to be in accordance with the NPPF, particularly Section 5 (particularly paras. 61 and 72), Section 8 (particularly para. 98 c), Section 11 (particularly para 125 c) and d)), Section 12 (particularly para. 135), Section 14 and 15 and Section 16 (particularly para. 216) and the draft local plan 2018, including policies HW1, D7, D11, ENV 4 and 5 and CC2.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

- 2470-1F Proposed Plans, elevations
- 2470-C Proposed site plan

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

3 Prior to the demolition of outbuildings and internal alterations to the public house, a photographic record and description of the element of the building to be changed or removed shall be submitted to the Local Planning Authority in accordance with recording methods that have been agreed in writing with the Local Planning Authority.

Reason: In order to record and advance understanding of the significance of the non-designated heritage asset in accordance with para. 211 of the NPPF and policy D7 of the DLP 2018.

4 A detailed flood warning and evacuation/emergency plan shall be approved in writing by the Local Planning Authority prior to occupation of any part of the building for residential use and shall be adhered to as so approved at all times. This plan shall include details regarding the evacuation of the building on receipt of a severe flood warning rather than occupants taking refuge in the upper floors of the building.

Reason: The site lies within Flood Zone 3 and development is supported where an agreed emergency plan is in operation, in accordance with para. 173 e) of the NPPF.

5 Notwithstanding the plans hereby approved, and prior to them being installed,

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details of the following shall be submitted to and approved in writing by the Local Planning Authority.

- i. new dormer window and changes to existing dormer windows
- ii. new roof lights that shall be a top hung 'conservation design' including vertical glazing bar
- iii. Alterations to/and or replacement of existing windows that shall where practical retain the existing sash openings with the provision of secondary glazing.

Development shall be carried out in accordance with the details as so approved.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

6 Notwithstanding what is shown on the approved plans, and prior to them being installed, details of any external fixtures to be installed on the building, including but not limited to signage, lighting, utilities metering, internet and any terrestrial or satellite receiver equipment and boiler and mechanical extraction vents, shall be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the details as so approved.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

7 Prior to the repair or replacement of any external joinery fixtures consisting of windows, doors and bracketed eaves cornice a schedule of repairs or large scale drawings including sections for any proposed replacement fixtures shall be submitted to and approved in writing by the Local Planning Authority.
Development shall be carried out in accordance with the approved details.

Reason: To protect the appearance and architectural features of this non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

8 The infill brickwork shall match the existing brickwork in all respects including bonding, size, colour and texture of bricks and the colour and finished treatment of mortar joints.

Reason: To ensure that the finished appearance is acceptable and protects the non-designated heritage asset, in accordance with para's. 135 and 209 of the NPPF and policies D11 and D7 of the DLP 2018.

9 Details of new and replacement external surfacing, including details of foul and

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surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the related works. The surfacing shall be provided in accordance with the approved details and retained thereafter.

Reason: To avoid any increase in surface water flood risk, ensuring that the site has adequate foul and surface water drainage and that the materials are an appropriate quality in accordance with para. 173 c) of the NPPF and policies ENV4 and ENV5 of the DLP 2018.

10 A detailed landscaping scheme, including boundary treatment and retention of the native hedge which borders the site along the southern and eastern site boundary, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the flats within the building. The landscaping scheme shall be provided in accordance with the approved details and retained thereafter,

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

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site, in the interests of visual amenity and the setting of heritage assets.

11 Notwithstanding what is shown on the approved plans, prior to the residential occupation of the building hereby permitted, details including scaled elevations and materials and finished appearance of the cycle stores shall be submitted to and approved in writing by the Local Planning Authority. The cycle stores shall be installed as shown on the approved scheme and maintained in the approved form for the lifetime of the development and shall be solely used for this and no other purpose.

Reason: To ensure that there are adequate facilities onsite for cycle parking and the visual appearance of those facilities is acceptable and to comply with para. 114 of the NPPF and Policies D11, D7 and T1 of the DLP 2018.

12 There shall be no sleeping accommodation / bedrooms permitted on the ground floor of Units 1, 2, 3 and 4 at any time the building is in residential use.

Reason: To protect prospective residents from flood risk in accordance with para. 173 c) of the NPPF and policies ENV4 of the DLP 2018.

13 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such

areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

14 The 6no. apartments created through the conversion of the non-designated heritage building hereby permitted shall achieve a BREEAM Domestic refurbishment fit out and rating of 'very good' or higher. A Post Construction Assessment and certificate by a licensed BREEAM assessor, demonstrating 'very good' or higher, shall be carried out and a copy of the report submitted to the Local Planning Authority for its written approval within 12 months of first occupation (unless otherwise first agreed by the Local Planning Authority).

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Policy CC2 of the Draft Local Plan.

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

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

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 39) 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:

- instruction of an independent viability report, negotiation on design and heritage, flood risk, sustainability and car and cycle parking.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as

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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 and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub 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.

3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

Contact details:

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Tel No: 01904 554575

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