

COMMITTEE REPORT

Date: 15 December 2011 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
Commercial Team

Reference: 11/02210/FULM
Application at: Site Adjacent To Frog Hall Public House Layerthorpe York
For: Erection of 5 storey building comprising hotel with ground floor pub/restaurant, retail and drive-through restaurant uses with associated parking, landscaping and extension to James Street/Heworth Green Link Road
By: Tiger Developments
Application Type: Major Full Application (13 weeks)
Target Date: 18 November 2011
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is presently vacant. It was once part of the former gasworks site, bound by Layerthorpe to the south, Heworth Green to the north, the River Foss to the west and the former Derwent Valley railway line, which now forms part of the national cycle route network, to the east.

1.2 Within the former gasworks site the land in the northeast corner has planning permission for 119 dwellings and office space (application 09/02081/FULM). The land to the immediate north of the application site has been redeveloped for residential and office uses; there is a 4-storey block of apartments north of the application site. The remaining derelict/vacant parcel of land between the aforementioned development and Layerthorpe is in the ownership of the applicants. The land would be split as it is a council aspiration to continue Eboracum Way so it connects Heworth Green with Layerthorpe (known as the James Street Link road, required to relieve traffic on Foss Islands Road and Foss Bank). To the south/southeast of the application site is a supermarket car park and the rear of the former Frog Hall pub (now a vacant shop with a flat above).

1.3 This proposal includes delivery of the proposed link road, to the west of the road would be a 5-storey building which would accommodate a 124 bed hotel with 741 sq m floorspace at ground floor level which could be used for either convenience retail, a pub/restaurant or a drive-through restaurant/takeaway.

1.4 The building would have a row of 20 car parking spaces to the front and a further 71 spaces between the building and the river. It is proposed to continue the river walkway which has already been installed at the development to the north. There

would be a single storey building at the north corner of the site, by the vehicle access, which would accommodate a sub-station and a secure cycle store.

1.5 An application was made in 2004 for 158 residential apartments at the site (with basement parking). The scheme was approved by members, subject to a legal agreement to deliver affordable housing, offsite open space provision, a bond for remediation of contaminated land, a contribution toward a car club and access arrangements to a riverside walkway. The legal agreement was not signed and the application withdrawn due to the financial viability of the scheme.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Central Historic Core CONF

Floodzone GMS Constraints: Flood zones 2 and 3

Hazardous Premises GMS Constraints: Transco PLC COMPLE

2.2 Policies:

CYE1A	Premier Employment Sites
CYV4	Allocation of hotel sites
CYGP1	Design
CYGP4A	Sustainability
CYGP6	Contaminated land
CYGP15	Protection from flooding
CYT2B	Proposed Pedestrian/Cycle Networks
CYT4	Cycle parking standards
CYNE7	Habitat protection and creation
CYNE8	Green corridors

3.0 CONSULTATIONS

CITY DEVELOPMENT

3.1 The site has been assessed as part of the Strategic Housing Land Availability Assessment (SHLAA, 2011), which supports the emerging Local Development Framework (LDF). The SHLAA assesses the site as suitable and available for residential development. Specifically it is identified as a potential site for student/young people's accommodation, with capacity identified for 130 cluster units in 3-4 storey blocks. Other uses have been considered potentially appropriate in the past, the site been allocated for retail, leisure and hotel as part of a mixed use scheme in the Local Plan.

3.2 Officers consider the application lacks adequate impact assessments, which are required by national policy in PPS4: Planning for Sustainable Economic Growth, to justify the proposed uses as the site is outside the city centre. Officers have asked for the following information;

- Hotel - information on the supply of hotels within the city centre and evidence to support the findings that the hotel will predominantly impact on existing facilities outside the centre.
- Restaurant - further information to demonstrate need, likely catchment area and impact on the city centre.
- Retail - limited information supplied to support the identified need for convenience shopping in the area, noting that since York's 2007 Retail Study, the need for convenience shopping up to 2017 has been met due to recent developments. It is not clear what the impact of the retail premises would be i.e. where it would draw trade from, and how much. It is asked that if it is deemed retail is appropriate to the site, it should be a condition that goods sold are convenience goods only, as the supplied assessment of retail impact makes this assumption.

DESIGN AND CONSERVATION

LANDSCAPE OFFICERS

3.3 Officers were unhappy with the scheme originally proposed as it was deemed the relationship between the site and the river would be unacceptable. The proposals would be contrary to aspirations in the forthcoming LDF and the York New City Beautiful document which seek to increase biodiversity along river corridors, enhance their landscape value and improve access. The applicants were advised there needs to be a meaningful width of vegetation along the river side to provide a suitable apron of trees between the building and Foss Bank and to provide a suitably semi-natural environment for the River Foss. Officers are satisfied this has been addressed in the revised proposals which have a 3m wide walkway with at least 5m of soft landscaping to each side. The approach to gradually replacing the existing trees at the riverbank is accepted also.

COUNTRYSIDE OFFICERS

3.4 The River Foss is an important wildlife corridor for a range of wildlife species, and also contributes to a regionally important green corridor (as included within the York LDF). The treatment of the boundary as part of any redevelopment here is therefore particularly important, and should involve the enhancement and strengthening of this wildlife corridor.

3.5 Individually the existing trees along the river are not of particularly high quality, but as a group they contribute to the Foss corridor. Whilst they are all fairly young and have no bat roosting potential, the trees will provide good foraging and commuting habitat, as well as important bird nesting habitat, and their retention would therefore be beneficial. It is proposed to thin the existing trees, where necessary, and supplement with additional tree planting. This is deemed acceptable in that it would ensure a group of trees is retained and strengthened through new planting. Officers recommend any replacements are large trees in order to minimise any length of time for the habitat quality/value to 'recover' (i.e. in terms of foraging value/insect levels and quality of nesting habitat). The riverbank can also be enhanced through additional shrub planting, and some wildflowering of the top bank can also be carried out through either plug planting or seeding.

3.6 It is asked that new roosting opportunities and habitat features are integrated into the proposed building, to benefit bats as well as other wildlife species known to use buildings. Bat bricks and bird nesting boxes to accommodate species such as swifts are recommended. As the proposed building would have a large flat roof, there is scope for incorporating a green roof. A green or bio-diverse roof incorporating wildflower meadow grassland or a mix of wildflowers and sedum would be particularly beneficial, providing good habitat (particularly for invertebrates) and further improving the ecological value of the development.

DRAINAGE ENGINEERS

3.7 Comment that the site is in flood zones 2 and 3a. The hotel use is classed as more vulnerable and therefore the development, in order to be acceptable, must pass the exceptions test. With regards drainage officers have requested -

- Existing and proposed surface water drainage details of the site, including levels, to assess the impact on the downstream watercourse and ensure surrounding areas will not be affected by surface water run-off.

- Demonstrate peak surface water run-off will be reduced, to 70% of the existing rate.

ENVIRONMENTAL PROTECTION UNIT

3.8 Noise - officers advise there may be noise disturbance caused as a consequence of the drive-through restaurant and any external plant/equipment and cooking extraction. It is asked that the operating hours of the restaurant be controlled through a condition along with details of all plant etc and restriction of deliveries to daytime hours. Preference is for the drive-through to close at 23:00, as PPG24: Planning and Noise classes after 23:00 as night-time. Plant should be no more than 10 db above background levels and adequate to deal with cooking smells/odours. A construction management plan, to protect residential amenity during such a time, is requested.

3.9 Contamination - The site's previous use as part of the city gasworks has given rise to land contamination. The applicants report identifies elevated levels of cyanide, polycyclic aromatic hydrocarbons (PAHs) and petroleum hydrocarbons in the soil. Elevated concentrations of a number of contaminants (including benzene, phenol and cyanide) have also been identified in the groundwater. Remedial work is required to clean-up the site and make it suitable for use. A remedial scheme outlining the proposed remedial works should be submitted and agreed by EPU and the Environment Agency. This can be dealt with through a suitably worded condition.

3.10 Air quality - A revised air quality statement has been prepared to support the application which describes how the proposed development complies with City of York Council's emerging Low Emission Strategy. The statement states that consideration will be given to the provision of reserved parking spaces, nearest to the units, for low emissions vehicles. EPU request that two of these spaces are fitted with electric vehicle recharging facilities.

HIGHWAY NETWORK MANAGEMENT

3.11 Officers do not object, but ask for conditions to cover details of the highway construction, and that it is installed before occupation, a safety audit for the internal layout within the site, delivery of an acceptable travel plan and details of construction.

3.12 The site falls within the Foss Basin development area and has an existing unimplemented permission for residential development. Although the development is not making a direct financial contribution to the Foss Basin Masterplan through the member approved S106 funding framework, the proposals will provide the remaining section of the James Street Link Phase 2 from its junction with Layerthorpe to the northern point of the site where phase 1 of the road presently terminates.

3.13 The level of traffic that was to be generated by the existing permission had been assessed as part of the Foss Basin Masterplan. The proposals will generate less traffic than that previously considered in the aforementioned Masterplan. The level of traffic generated by the site has therefore already been assessed and it's impact considered. It is worth noting that the application being considered and thus the highway implications do not include the land to the east, which was part of the housing site and will be the subject of a separate application in the future.

3.14 Car parking has been provided in accordance with CYC maximum standards. The site is considered to be highly accessible by a range of modes of travel and is within a short distance of a range of local facilities. The site is well served by public transport from bus stops located on Heworth Green within 400m of the site. Further bus services are available from the city centre, which is approximately a 15 minute walk. To further encourage sustainable travel the site is to be subject to a Travel Plan.

EXTERNAL

ENVIRONMENT AGENCY

3.15 Advise that there is historic soil and groundwater contamination associated with the site. As such a condition requiring a risk assessment, site investigation, remediation strategy and a verification plan (to demonstrate remediation is complete) is recommended. In addition long term monitoring of the site will be necessary. The EA also ask for details of any piling to be submitted for approval (in the interests of managing ground contamination) and that the development is carried out in accordance with the submitted flood risk assessment.

POLICE ARCHITECTURAL LIASON OFFICER

3.16 No objection.

3.17 The site is within an area of high risk in terms of crime and disorder, due to vehicle crime, theft of bicycles and anti-social behaviour. Officers consider the proposed security plan, included in the application, which includes CCTV site coverage and a 1.8m high fence surrounding the car park, take adequate steps in terms of Secure by Design.

YORK NATURAL ENVIRONMENT PANEL

3.18 The City of York Council has signed up to several visions - the Foss Walkway Strategy, York Central Historic Core Conservation Area Appraisal, and York City Beautiful, all of which support the enhancement of urban riverside paths. The scheme represents a golden opportunity to realise the general ethos of these visions, particularly the green corridor ambitions of the Foss Walkway Strategy and Green Infrastructure core strategy.

3.19 Although the group of trees running along the river bank is not high quality vegetation, the belt (predominantly sycamore) should be retained and gradually replaced with more appropriate species. The group of trees' greatest asset is that it is there and adds to the setting of the site.

3.20 The Panel ask for a meaningful amount of greenery in terms of wildlife and aesthetics. The panel consider that the wall adjacent to the river could support vegetation in the long term so there wouldn't be a conflict between the presence of planting, the wall's function and use of a pathway.

BRITISH WATERWAYS

3.21 No objection

YORKSHIRE WATER

3.22 Ask for the following

- No development within 4 m of the sewer that passes through the site.
- Site to have separate drainage for foul and surface water.
- Surface water run-off from the car park must pass through an oil interceptor before discharge into the sewer network.

HEALTH AND SAFETY EXECUTIVE (HSE)

3.23 The site lies within the consultation zone of a major hazard site - York Holder Station at Heworth Green (gasholder site) therefore the HSE is a statutory consultee. Planning permission has been given for housing on the gasholder site, subject to the condition that the gasholder be decommissioned and removed prior to development commencing. When the gasholder is decommissioned HSE would withdraw their objection.

3.24 At this time the application site partially falls within what is regarded as the middle zone. HSE recommendation is to advise against hotels with over 100 bedrooms within the middle zone, on safety grounds, as there remains the possibility there could be an accident at the existing hazard site. HSE would not be against recommending approval of the application if it were subject to the requirement that the scheme were not occupied until the gasholder were de-commissioned.

HEWORTH PLANNING PANEL

3.25 No objection. Advise that the planning panel were consulted at pre application stage by the applicants, and any concerns they had have been addressed.

PUBLICITY

3.26 Comments received from 2 parties;

- Drive through restaurant would be unsustainable and harmful to the amenity of guests.
- The scheme should be re-designed to take advantage of the river. Presently services and car parking are situated at the rear.
- The obligation to the ring road must be robust.
- A green roof should be provided in this case, and such practice should be promoted by the council.
- The fence should be maintained at the north boundary to prevent access into the residential site to the north, in the interests of safety/security.
- Rubbish bins to be provided to prevent litter creation from the takeaway /drive-through.

4.0 APPRAISAL

4.1 Key issues

- Principle of the proposed development - including health and safety
- Visual impact
- Residential amenity
- Highway Network Management
- Flood Risk
- Management of the river walkway
- Sustainable design and construction

Principle of the proposed development

4.2 The site is within the Heworth Green action area, designated in policy SP9 of the Local Plan. The aspiration, as established in the plan, was to develop the site as a mixed use of employment, retail, leisure and residential. Policy E3b allocates the wider Heworth Green site to deliver 0.7ha of land for either B1, B2 or B8 uses. 5,171 sq m was provided at the site to the north and 1,860 sq m has permission at the site to the NE (24 Heworth Green). The 1,860 sq m at 24 Heworth Green is identified as a potential employment land in the more recent 2009 employment land review.

4.3 The Core Strategy seeks to create new employment opportunities and improve the appearance of the Layerthorpe area, to create a fitting gateway to the City Centre. An opportunity exists to create a new 'Production Park' facing the River Foss, connecting the city walls between the Red Tower and Layerthorpe Bridge, with links to both the City Centre and the Foss Islands area. This would create a suitable landscape setting in which to encourage creative enterprises and green technologies to grow and flourish and help support York as a Science City. In addition the LDF seeks to provide housing at the site.

4.4 PPS4 seeks to promote economic development which secures sustainable economic growth. Key considerations are:

- Whether the proposal has been planned over the lifetime of the development, to limit carbon dioxide emissions and provide resilience to climate change.
- Accessibility by a range of transport modes
- High quality design which improves the appearance of the area.
- Impact on physical and economic regeneration in the area.
- Impact on local employment.

4.5 However the policy asks for a sequential approach, with a preference for economic development to occur in existing centres (the site is classed as edge of centre in determining a proposed hotel). It is required that sites outside existing centres are subject to an impact assessment on the vitality and viability of the centre. Schemes should be refused when there is clear evidence that the proposal is likely to

lead to significant adverse impact on the centre. There is a practice guide to PPS4 which provides further information on assessment of need, impact and the sequential approach.

Hotel

4.6 The PPS4 practice guide warns that there may be cases where the impact of a new out of centre hotel could undermine the viability and contribution of more central hotels, or prejudice the potential to secure further hotel development on a more central site. The guide recognises that hotels cater to different market segments and while occupancy rates may be low at one end of the market, there may be turnaway trade occurring at the other end. High annualised occupancy rates (where seasonal fluctuations cause instances of turnaway trade) in a given market segment are an indication of local hotel need. When occupancy rates rise to the point that turn-away trade occurs in accommodation of a certain quality category there is a need for additional hotel facilities catering to that market segment.

4.7 The 2010 York Hotel Occupancy Survey undertaken by Visit York advises the average hotel room occupancy in 2010 in York was 78.8%, an increase of 1% compared with 2009. Occupancy was highest in the summer months (July to September), peaking in September at 88%. Hotel occupancy rates in York rank the highest outside London.

4.8 Customers are not usually turned away as when hotels are full, operators in York will always recommend another York hotel or the Visitor Information Centre, so business tends not to leave the city in situations such as this.

4.9 Hotel operators usually plan for occupancy rates of 70% or greater, the York rate is well above this (and the regional average). This, along with the year on year increase in occupancy rates (which is intended to continue) indicate that more hotel bedspaces in the city could be provided without impacting significantly on existing supply.

4.10 Budget hotels represent around 12% of the local hotel bedroom provision according to Visit York and the recent additions, and those with planning permission but yet to be constructed, mainly provide higher quality accommodation. Visit York hotel members currently have a total of 2,771 bedrooms in the city. The 124 bedroom hotel proposed would represent around 4% of this total. Given this and the increasing visitor / expenditure levels in the city, the proposal would not have a significant adverse affect on the existing hotels in the city centre.

Retail / restaurant / pub

4.11 The 2008 retail study found that the majority of residents living in the built up urban areas have access within a 5 minute drive time of some form of convenience store. The local foodstore for many residents is, however, small with a minimal

product range, forcing shoppers to travel further afield to gain access to their wider requirements. It is clear in policy and sustainability terms that the enhancement of foodstore provision in the district and local service centres, and not the major out-of-centre foodstores, would be effective in improving accessibility to shopping and service requirements.

4.12 The practice guide to PPS4 on assessing impact advises that 'in determining the appropriate area of search for an application, including whether it is appropriate to consider sites within or on the edge of established centres, it will be relevant to consider the scale and form of development proposed. For example, some proposals will serve a purely localised need (e.g. 'local' foodstores) whereas others are likely to serve a materially wider catchment area. In these instances, it will be relevant to consider whether the proposal is of an appropriate scale to the location proposed, or whether some of the need could be better met within an existing 'higher order' centre'.

4.13 The proposed retail premises would offer convenience goods. The surrounding area is predominantly residential and there is the potential the immediate residential population will increase when the 24 Heworth Green site comes forward, and potentially the area to the immediate east of the site. The PPS4 practice guide advises there is a general assumption 'like affects like' and that generally customers will seek to use the closest comparable facility. It is likely the proposed store, due to its scale would compete with the existing stores nearby, predominantly the ASDA on Layerthorpe and the larger stores (Sainsbury's, Morrison's and Waitrose), all of which are similar edge of centre locations. As a group these stores provide convenience shopping within walking distance from the Heworth area and reduce the need for out of town shopping.

4.14 Overall there would not be a significant effect on the vitality and viability of the city centre. A restaurant and/or pub onsite would also cater for the local population and would compete with similar facilities either at the edge of centre or out of town, and would not have a significant effect on (the type of) restaurants on offer in the city centre.

Health and Safety

4.15 The gasholder at Heworth Green is yet to be de-commissioned. As such there is an objection from the Health and Safety Executive (HSE) on safety grounds because of the proximity of the hotel to the gasholder, and as the hotel would provide in excess of 100 guestrooms. The objection would be withdrawn when the gasholder is de-commissioned, or if under 100 guestrooms were proposed. The Heworth Green site has been granted planning permission for housing, subject to de-commission. It is expected de-commission will occur within the next two years at the latest. The applicants propose that the scheme be approved subject to a condition which would allow construction to start, but the development would not be occupied until the gasholder were de-commissioned. HSE have confirmed they consider this approach

would be acceptable.

Land contamination

4.16 The site, in particular ground water, is contaminated. The applicants have carried out investigation to date and it is proposed permission be granted subject to conditions that remediation be carried out prior to construction. This approach is agreed to by Council and the Environment Agency. At least a year of monitoring will be required also to ensure the ground water contamination has been deal with. A condition regarding monitoring will need to include means of protection for the monitoring points, so monitoring is not precluded due to construction.

Visual impact

4.17 Local Plan policy GP1 refers to design, for all types of development. It states that development proposals will be expected to, respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area; using appropriate materials; avoid the loss of open spaces, vegetation and other features which contribute to the quality of the local environment; retain, enhance, or create urban spaces and other townscape features which make a significant contribution to the character of the area; provide and protect amenity space; provide space for waste storage.

4.18 The draft LDF core strategy cites the River Foss corridor as a green corridor of regional importance; thus a number of the strategic objectives are applicable to this site; for example, to conserve and enhance the River Foss for landscape, biodiversity and cultural value. Policy L4 of the Local Plan asks that existing walkways and cycleways along the river are retained and where possible enhanced as part of development proposals and within the Local Plan there is a proposed cycle/pedestrian network along the Foss leading to Peasholme Green (policy T2b).

4.19 The proposed building would be 5-storey which is a storey higher than other new developments in the area. However the site is lower and in views the development would appear harmonious with its neighbours. The building will be predominantly of brick, the detailing would be repetitive and the horizontal emphasis broken up by the cranking in the building line and through deeply recessing openings for doors and windows. The large flat roof area to the rear will be a living roof, which will add to biodiversity and to the benefit of outlook from guestrooms at the rear. The site has a significant amount of car parking however the landscaping scheme will soften the impact. There will be trees and a hedge aligning the pavement at the front of the building, trees within the car park at the rear and a spacious landscaped river walkway along the Foss. The design of the scheme is acceptable.

Residential amenity

4.20 Policy GP1 also asks that developments ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from overdominant structures.

4.21 The proposed building will be 5-storey. There are residential units to both the north and south. To the north the dwellings are 20m away from the proposed building. There are bedroom windows and living room windows on each level facing the site, with alternative outlook from living rooms via east facing windows. The only window on the side elevation of the proposed building would provide light to a stairwell area. There would be no undue overlooking and the separation distance between the two buildings is deemed to be acceptable, to the extent that the new building would not be overbearing or over-dominant.

4.22 To the south there is a first floor flat at former Frog Hall public house building. There is one dormer window on the rear roofslope which would look towards the single storey flat roof part of the proposed building; there are no windows on the rear elevation.

4.23 The proposed hotel and ancillary restaurant would be 24 hour operations and officers would not typically seek to restrict the hours of an A1 retail premises. The proposals also seek permission for flexibility to allow the ground floor area to also possibly be used as a pub/restaurant and drive-through takeaway/restaurant. It is asked the drive-through be allowed to operate until 24:00.

4.24 Preference would be for the proposed uses to cease at 23:00, as after this time is classed under PPG24: Planning and Noise as the night-time. The drive-through would be to the south of the site, thus any disturbance would only be likely to affect the flat at the former Frog Hall pub. The drive through counter is shown on plan adjacent the flat and potentially cars driving to this point and stopping to place orders would cause disturbance. As such it is suggested this element of the business cease at 23:00. The restaurant could still be open to customers until 24:00 but orders would need to be placed within the premises. This would manage person/vehicle movements, so they were further away from the flat.

Highway Network Management

4.25 There is no objection to the scheme on highway grounds.

- Adequate secure and covered cycle parking (16 spaces) is proposed for staff, there is visitor parking (10 spaces, sheffield type stands) by the entrance. The amount of car parking, 91 spaces, is below the maximum requirements established in the Local Plan.

- The scheme will deliver the second phase of the James Street Link which forms an integral part of the council's highway strategy established within the Foss Basin Masterplan.

Flood risk

4.26 The site is predominantly in flood zone 3. A hotel use is classed as a 'more vulnerable' use in PPS25 and therefore it must pass the exception test in order to be acceptable. To pass the exception test the development is expected to -

- provide wider sustainability benefits
- be located on previously developed land
- be safe, without increasing flood risk elsewhere

4.27 In addition policy seeks to direct development to zones with a lower probability of flooding, so it must also be demonstrated there are no available sites in flood zones 1 or 2 which could instead be developed.

4.28 Apart from possibly Hungate there are no sequentially preferable sites immediately available that could accommodate a hotel of this scale. The development would pass the exception test if there are significant benefits by providing a building of sustainable construction on this derelict site, which is constrained by land contamination.

4.29 The 1 in 100 year flood level for the site is 10.98 AOD. The floor levels within the building will be above this, at 11.150 AOD. A condition is suggested which would require the users of the site to sign up for the Environment Agencies flood warning service. All sleeping accommodation within the building will be at 1st floor and above. Overall the development would be reasonably safe from flooding.

Management of the river walkway

4.30 It is an aspiration of the Council to provide a continuous walkway along the Foss. This will need to occur as sites come forward for development, and a walkway has been provided at the site to the north. The scheme would continue the walkway. The scheme has been revised since the original submission and the walkway now will have a pleasant and spacious character in spirit with the walkway to the north. Via a legal agreement the applicants would manage the walkway and provide public access in due course. This is a welcome part of the scheme.

Sustainable design and construction

4.31 The Core Strategy and interim planning document on sustainable construction both require schemes to achieve a BREEAM rating of very good. In addition schemes

should either provide 10% energy demand from on-site renewable, or demonstrate a 10% carbon reduction.

4.32 Supporting documentation with the application states it is intended the scheme will achieve a BREEAM bespoke rating of very good and renewable energy will be acquired via air-sourced heat pumps. Conditions are proposed to ensure policy requirements are met.

5.0 CONCLUSION

5.1 The site is derelict and the proposed scheme will deliver both a river walkway along the Foss and the James Street Link Road, two aspirations within the existing Local Plan and part of the Core Strategy. The building would be constructed to meet sustainable construction requirements and there would be no undue harm to amenity, highway safety and flood risk. In addition there is no evidence that there would be a significant impact on the vitality and viability of the city centre, as required by PPS4.

5.2 It is recommended that the scheme be approved, subject to a legal agreement to ensure -

- Delivery of Section of James Street/Heworth Green Link Road.
- Delivery of, maintenance of and access to Riverside Walk/Cycleway.
- Contamination bond of £250k to cover the need for remediation works in the event that groundwater contamination occurs.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to 106 Agreement

1 The development shall be begun not later than the expiration of three years from the date of this permission. The development shall not be occupied until the York Holder Gasholder Station at Heworth Green has been decommissioned and removed, and the hazardous substances consent for the site revoked.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004 and in the interests of safety due to the scale of the proposed development and proximity to the major hazard site.

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

Drawings LYH

Site plan : 04 P03.

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Floor plans : 11, 12 and 14 P02 and 03 P01.

Elevations : 31 and 32 P02, windows to be recessed as per drawing 41 P02.

Sections 21 and 06 P02.

Cycle store and sub-station : 43 P02

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

3 VISQ7 Sample panel external materials to be approved

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

(Materials to be agreed concurrently. Preference is to agree a palette of materials alongside required brick sample panel).

Reason: So as to achieve a visually cohesive appearance.

5 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- a) ground floor windows and doors and 'shopfront areas'
- b) eaves and verge details
- c) plant room enclosure
- d) all soil and ventilation pipes

Reason: So that the Local Planning Authority may be satisfied with these details.

6 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed hard and soft landscaping scheme. The scheme shall include the number, species, height and position of trees and shrubs to be planted, lighting columns and signage within the curtilage, entrance pillars, boundary treatment to riverside walk and furniture such as litter bins.

This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the 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 agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the overall appearance of the site.

7 Any signage to be placed on the ground floor fascia panels to the building shall approved in writing by the Local Planning Authority prior to installation and carried out in accordance with the approved details.

Reason: In the interests of the appearance of the host building.

8 There shall be no more than 741 square metres of floorspace within the development hereby approved used as either A1, A3, A4 or A5 uses. Any A1 use shall be for the sales of convenience goods only (as defined in PPS4).

Reason: To preserve the vitality and viability of the city centre and for the avoidance of doubt.

9 Any A3 (restaurant/cafe), A4 (drinking establishment) or A5 (hot food takeaway) uses on the site (independent from the hotel hereby approved) shall only operate within the hours of 08:00 and 24:00 each day of the week. The 'drive-through' restaurant shall only serve customers using the internal counter (rather than the drive-through element) between the hours of 23:00 and 24:00 each day of the week.

Reason: In the interests of the amenity of surrounding occupants.

10 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved 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 GP4a of the City of York Development Control Local plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

11 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority to demonstrate that no less than 10% of the development's predicted energy requirements will be provided from on-site renewable energy sources. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before first

occupation of the development. The site thereafter must be maintained to the required level of generation.

Reason: In the interests of achieving a sustainable development in accordance with the requirement of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

12 The area shown as cycle storage on drawings LYH 04 P03 and 43 PO2 shall be retained for such use at all times, in accordance with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for such storage, and to promote recycling and sustainable modes of transport in accordance with policies GP4a and T4 of the City of York Draft Local Plan and PPG13: Transport.

13 A travel plan, developed and implemented in line with local and national guidelines (see Department for Transport good practice guidelines), shall be submitted and approved in writing by the Local Planning Authority prior to first opening of the development hereby approved. The development shall thereafter operate in accordance with the aims, measures and outcomes of said Travel Plan.

Reason: To reduce private car travel in accordance with PPG13: Transport, and policy T13a of the City of York deposit Draft Local Plan.

14 No part of the development hereby permitted shall be occupied until the remaining section of the James Street Link and its connections to Eboracum Way and signalised junction onto Layerthorpe have been constructed and completed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.

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

15 Safety Audit; A full 3 stage road safety audit carried out with advice set out in the DMRB HD19/03 and guidance issued by the council, will be required for the internal highway layout and all off-site works requiring alteration as specified in drawing LYH 04 rev P03, stage 1 of which must be submitted and agreed in writing by the Local Planning Authority prior to works commencing onsite.

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

16 Method of Works; Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority. Such a statement shall include at least the

following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- details of how the car parking area will be managed during the construction period to ensure adequate car parking remains
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

17 Fully detailed drawing illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the start of construction on site. The development shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety.

18 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles, including the accommodation of delivery/service vehicles, 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 and to ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

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

Monday to Saturday	08.00 to 18.00
Sundays and Bank Holidays	09.00 to 17:00

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

20 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. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

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

21 The following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved by the local planning authority prior to the commencement of development;

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

22 A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be approved, in writing, by the local planning authority prior to commencement of the development.

The report shall include results of sampling and monitoring carried out in accordance

with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "long-term monitoring and maintenance plan" for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

The long-term monitoring and maintenance plan shall be implemented as approved. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan, including a plan for the protection and where necessary reinstatement of monitoring points during and on completion of the construction phase. On completion of the monitoring programme a final report demonstrating that all long - term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that verification of the remedial works is undertaken and post remediation groundwater monitoring proposals are carried out in order to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

INFOMATIVE: The monitoring programme may continue during and following development provided these are not below building footprints.

23 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

24 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

25 The following details of foul and surface water drainage works shall be

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approved in writing by the Local Planning Authority prior to development commencing and the development carried out in accordance with the approved details;

- a) Topographical survey showing existing and proposed ground and finished floor levels to Ordnance Datum. The development shall not be raised above the level of the adjacent land, to prevent runoff from the site affecting these properties.
- b) Surface water shall be restricted to that of a Greenfield runoff rate based on 1.4 l/sec/ha. Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.
- c) Details of the future maintenance/management of the proposed drainage systems.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site to comply with guidance contained within Planning Policy Statement 25 (Development and Flood Risk).

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

Reason: In the interests of sustainable drainage.

27 The development shall be carried out in incorporating the following flood risk mitigation measures:

- a) The provision of a 3m easement from the top of the bank of the River Foss.
- b) Finished floor levels shall be set no lower than 11.150m above Ordnance Datum (AOD).
- c) No raising of ground levels that are currently below 10.04m AOD. Any alteration of ground levels currently below 10.47m AOD must be done so through the cut and fill of material on site.
- d) No 'More Vulnerable' uses, as defined by PPS25, to be located at ground floor level.
- e) Occupants to sign up to the Environment Agency Flood warning service.

Reason: To reduce flood risk.

28 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible outside the application site, shall be submitted to the Local Planning Authority for written approval. These details shall include maximum ($L_{Amax}(f)$) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written

approval of the Local Planning Authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

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

29 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required 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 appropriately maintained thereafter.

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

30 Details of measures to be provided within the design of the new building and landscaping to enhance the biodiversity of the area shall be approved in writing by the Local Planning Authority prior to development commencing and the work completed in accordance with the approved details. Features suitable for incorporation include measures for species that use buildings such as bats and birds, and enhancement of the River Foss corridor which forms the boundary of the site.

Reason: To retain and enhance natural habitats and biodiversity in accordance with policies NE7 and NE8 of the Local Plan.

31 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil, petrol and grit interceptor.

Reason: To prevent pollution of the water environment.

7.0 INFORMATIVES: Notes to Applicant

1. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town & Country Planning Act 1990 relating to this development

2. ENVIRONMENT AGENCY ADVICE

The development may require an Environmental Permit from the Environment Agency for water discharge activity depending on the exact details of the remedial strategy. For further information, contact the EA National Permitting Service (Tel. 08708 506 506).

3. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the city centre, visual impact, amenity, highway network management, flood risk, the provision of a Foss walkway, and sustainable design and construction requirements. As such the proposal complies with Policies GP1, GP4, GP6, GP15, NE7, NE8, T2, T4, E1A, and V4 of the City of York Development Control Local Plan.

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