

COMMITTEE REPORT

Committee: West & City Centre Area **Ward:** Guildhall
Date: 21 June 2007 **Parish:** Guildhall Planning Panel

Reference: 06/02425/FUL
Application at: Former Waterworks Engine House Museum Street York YO1 7DJ
For: Change of use of Engine House to form restaurant (Class A3) and 1 no. apartment; erection of extension to form restaurant dining room; new outdoor terrace; new railings gates and steps
By: Lendal Tower Venture
Application Type: Full Application
Target Date: 16 February 2007

1.0 PROPOSAL

1.1 The application site is located in the southeastern corner of Museum Gardens, fronting onto the River Ouse, and consists of the former Engine House at the rear of Lendal Tower/Lendal Hill House, the detached public toilet block immediately to the west, and an area of adjacent land. It is proposed to convert part of the Engine House to a two bedroomed apartment (on two floors) together with an associated leisure suite. The remainder of the Engine House would be converted to kitchen and dining facilities associated with a new restaurant, the majority of which would be located within a predominantly glazed extension on the western side of the building. The extension would occupy part of the footprint of the public toilet block, which would be demolished.

1.2 The public toilet block incorporates facilities for boat users, including toilets accessed by a British Waterways key, a boat sluice and a water supply. The originally submitted application made no specific provision for replacement facilities, other than to show a possible alternative site for a public toilet block with facilities for boaters adjacent to the boat house at the western end of Museum Gardens. An offer of a financial contribution towards the provision of this alternative facility was made. The remote location of the facility and the lack of certainty regarding its provision were not considered to be acceptable and attracted objections from, amongst others, a number of boating organisations.

1.3 Revised drawings have subsequently been submitted incorporating a disabled toilet (available for use by the general public) adjacent to the entrance lobby to the restaurant, a boat sluice/refuse area at the rear of the site and a water point adjacent to The Esplanade. The revised drawings also incorporate minor changes to the proposal following initial discussions with the Conservation Architect, including a slight reduction in the height of the restaurant extension, an increase in the depth and width of the gap between the existing and new buildings, and minor internal and external design changes. The number of apartments proposed within the Engine House has been reduced from two to one. Although built on a single level, the restaurant extension would be a tall building with a sloping "flat" roof 7.3 metres in

height at the front and 6.3 metres at the rear, slightly lower than the parapet wall of the Engine House. The extension would be attached to the Engine House by a glazed link at a lower level, creating a separation distance of approximately 1.5 metres between the two buildings. An outside dining terrace would be formed in front of the restaurant extension abutting the flank wall of the Engine House, overlooking the river.

1.4 The restaurant extension would necessitate the reconfiguration of the entrance to Museum gardens from this direction, which would be formed by constructing a new flight of steps rising from the Esplanade, together with new purpose made gates and railings. A level (1 in 20) access would be formed on the adjacent land. A new access to Museum Gardens, also serving the new restaurant and residential unit, and would be opened through the City Walls (by enlarging an existing gateway) from the slipway which descends from Museum Street down to the river. This would provide a dry access to the site during flood conditions, in addition to a level access for the disabled. Pedestrian access to the new apartment would also be available from the shared access with Lendal Tower and Lendal Hill House.

1.5 The Engine House was purpose built in 1835/36 to house pumping equipment in connection with the supply of water. Originally the equipment was housed within Lendal Tower. The main water supply distribution centre was moved to Acomb following the development of new waterworks and filter beds between 1846 and 1849. The application to convert and extend the Engine House forms the second phase of development proposals by the Lendal Tower Venture, the first phase being the conversion of Lendal Tower to form a single dwelling and the conversion of Lendal Hill House to form two dwellings. Planning permission and listed building consent for this proposal were granted in May 2005, and a revised proposal to form three apartments within Lendal Hill House is now also under consideration.

1.6 The site is within the Central Historic Core conservation area. The Engine House is a Grade II listed building and a separate application for listed building consent has also been submitted. A separate listed building consent application has also been submitted for the formation of the new entrance to the site through the City Walls, an alteration that will also require Scheduled Monument Consent from the Department for Culture, Media and Sport. Museum Gardens are included on the Government's Register of Parks and Gardens of Special Historic Interest.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

City Boundary York City Boundary 0001

DC Area Teams Central Area 0002

Floodzone 2 Flood Zone 2 CONF

Floodzone 3 Flood Zone 3

Listed Buildings Grade 2; Former Waterworks Engine House Museum Street 0086

Listed Buildings Grade 2; Lendal Hill House Museum Street 0087

Listed Buildings Grade 1; Lendal Tower Museum Street 0088

Scheduled Ancient Monuments SMR 30 City Walls Museum Street To Lendal Hill House 0177

Scheduled Ancient Monuments SMR12 St Mary's Abbey SE 599522

Scheduled Ancient Monuments SMR 30 City Walls Lendal Tower 0178

2.2 Policies:

CYGP1
Design

CYHE2
Development in historic locations

CYHE3
Conservation Areas

CYHE9
Scheduled Ancient Monuments

CYHE12
Historic parks and gardens

CYC3
Change of use of community facilities

3.0 CONSULTATIONS

3.1 INTERNAL

HIGHWAYS - This site is within the city centre therefore there is no car parking requirement for either the restaurant or the dwellings. Servicing can be accommodated within the adjacent highway. The proposed cycle parking should be

amended to use fewer stands spaced further apart whilst maintaining a clear desire line for pedestrians. No objections subject to a conditions requiring details of cycle parking to be submitted for approval, together with a detailed method of works statement.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

Conservation

Comments below refer to the revised drawings received with a consultation cover paper dated 10th May 2007.

The Former Engine House is part of the complex of buildings which includes Lendal Tower and Lendal Hill House - all previously associated with the York Waterworks Company. The building was built in 1836 to house the pumping engine for the waterworks; however it was converted to offices approx 20 years later and the main chimney and engine beds were removed at this time (RCHME vol V). The building remained in use as offices until the late C20th. It contains both C19th & C20th adaptations. The building was listed at grade 11 in 1983.

New uses have been secured for Lendal Tower and Lendal Hill House and recent flood protection work appears to have been successful in alleviating problems with flooding. The Engine House itself though is still considered "at risk" as it remains unused, and it is located in a vulnerable area where it is susceptible to vandalism.

We would have no objection to the principle of converting the engine house itself to a restaurant; however the scheme proposed would be a mixed use scheme resulting in a significant extension into the garden. The garden is on scheduled land and the process of obtaining scheduled monument consent takes precedence over listed building consent procedures. We understand that English Heritage still have outstanding concerns about the revised proposals. We also note that in their letter of 19th December 2006 English Heritage stated that the proposed use of the Engine House and extension were acceptable in principle. We therefore offer our comments on the planning application with a degree of reservation.

The gardens are situated within the St Mary's Abbey precinct close to the heart of the city. In addition to being scheduled (County Monument no 12) the Museum Gardens are included in the Register of Parks and Gardens of Special Historic Interest in England maintained by English Heritage. The gardens constitute a finite cultural resource of national importance. They are publicly accessible and heavily used at all times of year. Locally they are of great amenity value and their open and green character contributes to the special character and appearance of this part of the Central Historic Core Conservation Area.

At present the area adjacent to the Engine House is used for WC's and boat facilities. From within the gardens the area is hidden and appears somewhat as a "backwater" area, previously used for glasshouses and sheds; whereas from the riverside and Lendal Bridge the WC site is highly prominent. The existing buildings are vernacular in type and modest in scale. They are considered to have a neutral to negative effect on the character and appearance of the conservation area. The

proposals though would change the character of the area by forming a new attraction in this corner of the gardens designed to respond to its riverside context.

Historically sites have been taken out of the gardens for other uses i.e. the Exhibition Hall built in 1978 (Art Gallery area), the swimming pool which was formed in the SW corner (now facilities for rowing club). This new use would be publicly accessible but rather urban in nature and it would remove potential garden space. It is therefore vital to know how these proposals fit within the overall vision and masterplanning of the gardens. A balanced assessment of the proposed change of use cannot be made until it is demonstrated that the proposals would benefit the gardens in some way. A statement from the YMT would be most welcome.

Should a strong statement of support comes forward, we offer the following comments on the scheme (comments made notwithstanding EH's response):

- 1) The new uses in the engine house have been organized to afford a degree of privacy to the dwellings which share the garden area. The restaurant use would allow parts of the building to be enjoyed by the general public.
- 2) A section should be provided showing why the additional high level windows in the Engine House area required.
- 3) The changes to the extension have introduced softer materials (more timber structure and solar shades)- this is welcome
- 4) The extension has been slightly lowered and the link has been increased. The elevational drawings give a slightly misleading impression of the extension as it appears to compete with the engine house. It is attached in the 5th and 6th bay back from the front of the Engine House so its impact will be much reduced in reality (a model would show this better or a 3D axon). The building would intrude on views across to the Yorkshire Museum from parts of Lendal Bridge. This view changes however as one moves across the bridge. It is considered that a building of some stature is required to respond to its riverside context and one which offers a lofty internal space similar to earlier glass houses is seen as suitable for this area.
- 5) The external works are seen as too grand and too bulky.
- 6) There are concerns that access to the garden has been made more difficult with the steps. The effect of the ramp on tree roots has not been ascertained.

We suggest that the external works are reassessed. The steps into the garden should be reduced in number and eased i.e. made shallow, to invite access. The remaining steps up to the restaurant could be within the terrace and if they were "dog-legged" they would allow the front of the terrace to be lowered (and allowed to flood) This would improve the relationship with the front of the Engine House and the river prospect as a whole. The terrace itself should be greened so it offers back a garden like the neighbouring walled area. The whole area appears too hard and urban at present. The existing pillars should be reused at the entrance so that it is more modest and lighting should be subtly integrated into the scheme.

In addition a drawing should be submitted showing the scheme in the context of the draft masterplan.

Only with the positive supporting documentation and changes suggested above can the scheme be seen as making a positive contribution to the conservation area.

Archaeologist

This site lies within outside the Area of Archaeological Importance and in an area which has produced significant Roman and medieval deposits. The building is listed grade II. The proposed extension lies within the area of the St Mary's Abbey and Museum Gardens scheduled ancient monument (county monument no 12).

The existing structure is the former Pump engine house later converted to offices and now empty. The structure was built in 1836 and converted to offices in 1854. The building was built for the York Waterworks Company to house the waterworks pump engine, built by Joseph Smeaton in 1784. The engine was removed to new works at Acomb Landing c1850 after which the engine house was converted to office use.

The proposed extension lies within the scheduled area of monument no 12, St Marys Abbey and Museum Gardens. The applicant has commissioned an archaeological evaluation of this area. This was carried out by the York Archaeological Trust in December 2006. At the time of writing no report on the evaluation has been received. I visited the evaluation on 19th December. The evaluation trench had been excavated to a depth of 1.25m. A series of features and deposits associated with 18th and 19th century activity had been recorded. These deposits are important and they should be recorded wherever they are revealed during the groundworks programme. Other groundworks will be required to construct the proposed perimeter wall adjacent to the Riverside Walk, the proposed lift within the existing building, and service connections to the development. The application will have an effect on archaeological deposits which might be preserved within the boundaries of the site. Therefore, an archaeological watching brief on all groundworks for the development will be necessary. This watching brief should be secured by means of the standard condition ARCH 2 on any planning consent which may be granted.

In addition, a full drawn, photographic, and written record of the structure in accordance with a scheme of investigation approved by the planning authority of (a) of the current state of building (b) of the building with modern interventions removed and (c) of the building once works have been completed must be made.

Countryside Officer

Having seen the repeat survey carried out for the phase 2 development, I am happy to accept the findings that there are no major bat roosts within the buildings and that a licence from DEFRA is not required. However, the potential use of the building by single males etc is still a possibility as they move around quite freely. Also, the buildings are ideally located being within Museum gardens and close to the river. A condition is recommended, therefore, requiring roost features to be incorporated into the design of the refurbished building. Such enhancement work as part of the development is advocated within Planning Policy Guidance Note 9 and is neither onerous to implement or likely to have any significant impact on the use of the building. In this instance, a sealed loft roost would be advantageous if it can be incorporated into the design.

Landscape Architect

The two main trees to the northwest of the new restaurant are the Hornbeam and the Oak. Between these two is a large, mature Walnut with a severe lean, which I presume will be removed and replaced as part of the development. The Walnut has an impressive crown but its location and form does not lend itself to retention within the proposed layout or the increased public exposure. The canopies of the Oak and Hornbeam would eventually merge following the removal of the Walnut. The other two trees should and could be retained if the new pavement to the river does not involve excavations within the minimum root protection area. To this end the applicant should demonstrate in greater detail the existing and proposed levels in this area. The pavement should also be of a porous material. The large Plane outside of the site next to Lendal Hill House will also need protecting during the works, if the archway is to be used for access.

The proposals involve the removal of one Sorbus and one Elm on the Dining Terrace. The Elm is young and leaning as it is overshadowed by the Sorbus. A tree in this location does serve a purpose, as part of the setting of the buildings and a connection between the built environment and the main gardens. If due to level changes this tree can not be saved, it should be replaced. I feel that rather than remove trees and replace with artificial parasols, the terrace should be adorned with (non-sap dropping) trees such as 'top-worked' plane trees to act as natural parasols as is common on the continent.

A planting scheme should also be included for the planting bed within the courtyard.

Appropriate conditions are recommended in order to address these issues.

CONSERVATION AREA ADVISORY PANEL - The Panel referred to their previous minute : "The Panel felt that this has a detrimental effect on this part of the Conservation Area and the tranquility of the Registered botanical gardens. The gardens contain Grade I listed buildings and is mostly a scheduled area. The majority of the panel were opposed to the development and felt that the application was premature in the light of proposals that Yorkshire Museums Trust have for the area. The majority of the panel felt that the restaurant should not encroach further than the existing building and that the design was poor. The panel were further concerned that it appeared that there had been no attempt to find a use for the building, which would fit into the existing fabric. The Panel regret the sub-division of the Engine House and feel that it would be preferable to exploit its existing character and open interior.

YORK CONSULTANCY - DRAINAGE

Further to my memo dated 12 February 2007, Engineering Consultancy STILL OBJECTS to the proposed development, on the following grounds:-

The developer needs to address the possibility of reverse flow and subsequent flooding through the sewerage system, via the public sewer running under the archway through the city walls.

As detailed in my response to the conversion of the adjacent site at Lendal Tower, the flood risk assessment by Gifford's appears to have failed to assess the effect of reverse flow through the public sewers (passing under the newly installed flood barriers), to such an extent that the flood defences may be by-passed.

A point of note - recent River Ouse flooding saw ponding behind the barriers. Although the extent of this was not verified, this appears to justify the above concerns.

ENVIRONMENTAL PROTECTION - The Environmental Protection Unit have no objections to this application. However it was noted from the plans that the proposed kitchen to the restaurant, is sited close to the proposed residential units and I am concerned about the effects of noise and odour on the occupiers of those dwellings. In addition it is likely that there will be other types of plant and equipment associated with this type of business such as cellar refrigeration and air conditioning. Due to the close proximity of the residential units the hours of operation should be restricted to protect the residents amenity. In addition it is likely that noise could affect the amenity of nearby residents during demolition and construction works. Lastly a watching brief condition should be attached in case any ground contamination is encountered during the development. Conditions are recommended to address these issues.

LIFELONG LEARNING AND LEISURE - I am content with the re-provision of facilities for boaters as shown on plan LEN (D) 11 C subject to further clarification on the following issues :

- a) The exact location of the water point needs to be agreed with the Council. The developer needs to provide comments from the Environment Agency / Yorkshire Water before the location is agreed by CYC. That the water point will be to the standard required by British Waterways.
- b) That the replacement toilet has the same key arrangements as the boat refuse / sluice.
- c) That confirmation is obtained that there will be no ongoing maintenance costs of those facilities within the restaurant and there will be no charge for the any water used by the boaters. I am happy that we pick up any costs for replacement taps and pipe work once the water point is installed.
- d) As the facilities are available during the summer 1st April - 30th September I would want to see continuity of provision during any construction in that time

In addition, we will require a section 106 payment for the flat(s) within the development

3.2 EXTERNAL

GUILDHALL PLANNING PANEL Original response - We support the application subject to the Local Planning Authority being satisfied that the proposed development will not flood or exacerbate flooding.

Response to revised drawings- We object. The original design appears to have changed out of all recognition and its bulk is entirely inappropriate in such close proximity to a listed building.

N.B. The design of the building has not changed significantly - only relatively minor design changes have been made.

ENGLISH HERITAGE - It is the view of English Heritage that the revised proposal remains fundamentally the same scheme, and therefore our concerns with regard to unacceptable height, negative impact on the setting of adjacent Listed Buildings, Registered Park and Garden and Scheduled Monuments, and lack of justification for the scheme remains unchanged.

In addition we are unclear as to the need for replacement toilet block facilities and whether or not these will be subsequently located elsewhere within the Scheduled Monument as previously discussed. This presents a procedural problem in that English Heritage cannot advise Department of Culture Media and Sport that Scheduled Monument consent should be granted because we need to be clear at this stage whether there will be a second consent application for toilet facilities within the Scheduled Monument.

English Heritage Advice

English Heritage has been closely involved with both the conversion of Lendal Tower Tower/Lendal Hill House and the discussions concerning the proposed restaurant. We believe that the provision of such a facility in this location can be beneficial and could support the development aims of the York Museums Trust. Our concerns relate to the need to review the choice of materials; the unacceptable height of the building; its negative impact on the setting of adjacent Listed Buildings, Registered Park and Garden and the Scheduled Ancient Monument; the need for greater separation from the Engine House; and lack of provision of justification for the scheme, with particular regard as to why the restaurant could not be accommodated entirely within the Engine House, and why the proposed restaurant has to be double height.

Although the negative impact of the proposed building on the setting of both the Registered Park and Garden and Scheduled Monument is a major consideration, it is not clear whether the scheme presented contains all the necessary information on which to judge impact on historic assets. The original scheme for the restaurant extension and conversion of the Engine House included demolition of the toilet block and its replacement with a facility adjacent to the Boating House in the Museum Gardens. The revised scheme does not specify whether, or where, a replacement toilet block is needed, and therefore we cannot assess the full impact of the proposals on the Scheduled Monument or if there will be second consent application for toilet facilities within the Scheduled Monument.

Recommendation

It is the view of English Heritage that the revised proposal remains fundamentally the same scheme, and therefore our concerns with regard to unacceptable height, negative impact on the setting of adjacent Listed Buildings, Registered Park and Garden and Scheduled Monuments, and lack of justification for the scheme remain unchanged. We believe the existing Scheduled Monument Consent application for the restaurant extension should be withdrawn by the applicant because we are unable to advise the Department for Culture, Media and Sport (DCMS) that consent should be granted on account of the negative impact of the proposed building on the setting of the Scheduled Ancient Monument. Therefore it is the case that English Heritage recommends that until these issues are addressed the planning application should also be refused.

ENVIRONMENT AGENCY - The Environment Agency maintains its objection as the applicant has not addressed the following issues:

- no details of the operation of the proposed flood gates and barriers have been provided.
- no clarification of the re-positioning of the northern most flood gate has been provided
- the applicant has been strongly recommended to use flood proof construction techniques in the development
- the applicant states that the proposal would only have a negligible impact on flood storage capacity. However, the Agency would maintain its objection until a scheme of compensatory storage can be achieved.
- the Agency would wish to see all topographic levels clearly marked as to whether they are proposed or existing.

N.B. The applicant has been made aware of these comments and it is likely that further information will be submitted prior to the meeting.

SAFER YORK PARTNERSHIP

- (i) the location of the cycle racks is not overlooked and is likely to attract crime - they should be in a location that can be more adequately supervised.
- (ii) if the new (upper) entrance is not controlled it would provide access to the whole of the gardens after it would normally closed.
- (iii) the proposed glass fronted extension is likely to attract damage and anti-social behaviour if not managed properly or kept separated from the public domain.

BRITISH WATERWAYS - Original comments as follows: Unless full details of a replacement boat facilities which are equal to or better than the existing facility and provided by the developer as part of this application, and the existing facility is not closed until the new facility is opened and available for use, we wish to object to this application.

N.B. No response has been received to the revised drawing, which incorporates replacement facilities for boaters within the scheme.

OBJECTIONS RECEIVED FROM BOATING ORGANISATIONS AND LEISURE INTERESTS

These include:

The Boating Association
Inland Waterways Association
York Motor Yacht Club
Ripon Motor Boat Club
British Waterways

1. Although the application indicates an alternative site for the public toilets and boat facility, no firm proposals, timescales or financial guarantees have been provided regarding the replacement facility.
2. The loss of the existing (very limited) facilities even for a short period would be detrimental to river users.
3. Full details of a replacement facility which is equal or better than the existing facility should be provided.
4. River users will be discouraged from visiting the city unless alternative facilities are provided, adversely affecting the tourist economy.
5. The proposal would leave the Council in a dilemma as to where the alternative facilities should be provided given the sensitive nature of the area and the need for convenient access by river users.
6. The best solution would be to incorporate new facilities within the redevelopment proposals, with temporary facilities being provided during the construction period.
7. Alternatively, replacement facilities should be provided in a suitable location prior to the removal of the existing facilities.
8. The redevelopment of the existing toilet facilities should form an integral part of the proposals and should be a condition of planning consent.
9. The final detail of any replacement facilities should be agreed with British Waterways and other river user groups.

Only one response has been received in response to the revised drawings, from the Boating Association. This acknowledges that the needs of boaters have now been catered for, but considers that full toilet facilities should be provided in the area to service the requirements of the thousands of tourists and residents who frequent the area throughout the year.

LETTERS OF OBJECTION FROM YORK RESIDENTS

Four letters were received from York residents in response to the original application, making the following points:

1. The need for another restaurant of this size is vastly outweighed by the negative impact such a development will have on the city.
2. The construction of such a large and high modern glass structure in this location will significantly alter the aesthetics of the area and detract from Lendal Tower.

3. The extension will reduce the sense of open public space in the park and will restrict views of the river.
4. The dwelling of the mature tree is unnecessary and the developer should adjust the plans to accommodate the existing vegetation more fully.
5. York does not need another restaurant.
6. There are many historic buildings in York which would benefit from restoration and the developer could undertake such a project to accommodate a new restaurant. The building of a new structure is unnecessary for this purpose.
7. A restaurant located within the confines of the engine house together with outdoor seating would provide an adequate refreshment service.
8. The applicant states that a smaller restaurant would not be commercially viable. There are many smaller restaurants in York which are commercially viable and the applicant should find someone who is prepared to operate at a smaller scale.
9. The principle of a new restaurant on the site is supported subject to appropriate alternative facilities being included within the proposed development.
10. The applicant claims to be the owner of the site when part of it is the responsibility of the Museums Trust and the toilet block is owned by the City of York Council (N. B. the correct notice has been served on both organizations).
11. The total amount of the financial contribution for any replacement facility has not been specified. The developer must bear the full cost and there should be no burden on public funds.
12. The alternative site indicated by the applicant is unsuitable on environmental impact grounds.
13. Demolition within a conservation area is not permitted unless an acceptable alternative has been approved. This requires comprehensive design details to be submitted and evaluated.

Two letters have been received in response to the revised drawings, re-iterating previous concerns, in particular:

- the architectural style and dimensions of the proposed development
- its visual impact on the surrounding environment
- its practical impact on the surrounding environment
- the scope of the proposed development
- the proposed development remains inappropriate in design and conception, and the changes will not make it any less intrusive.
- a two storey extension will dwarf the surrounding architecture by virtue of its size and height
- the size of the extension will result in too large an area of the small municipal gardens being lost
- the style of the extension, a "glass cube" is an inappropriate structure in this location
- the adjustments will not prevent views of the river being obscured, nor the view of the city from Lendal Tower.

4.0 APPRAISAL

4.1 Key Issues

- impact on the character and appearance of the conservation area
- impact on the setting of the adjacent listed building
- impact on Museum Gardens
- replacement toilet facilities and facilities for boaters
- flood risk

4.2 The application relates to the conversion and extension of the former Engine House, a Grade II listed building, to a single apartment and a restaurant, together with the formation of an external dining terrace. The site is located in the southeast corner of Museum Gardens, overlooking the River Ouse, and is within the Central Historic Core conservation area. Museum Gardens is included in the Register of Parks and Gardens of Special Historic Interest. Policy E4 of the Approved North Yorkshire Structure Plan states that buildings and areas of special townscape, architectural or historic interest (e.g. listed buildings, conservation areas) will be afforded the strictest protection. Policy GP1 of the City of York Draft Local Plan relates to design and 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 building materials, and avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment.

4.3 Policy HE2 (Development in Historic Locations) states that within and adjoining conservation areas, and in locations that affect the setting of listed buildings, scheduled monuments or nationally important archaeological remains (whether scheduled or not), development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks and other townscape elements that contribute to the character or appearance of the area. Policy HE 3 states that within conservation areas, proposals involving external alterations or changes of use will only be permitted where there is no adverse effect on the character and appearance of the area.

4.4 Policy HE9 states that planning permission will not be granted for development which would adversely affect a scheduled ancient monument or its setting. Policy HE12 permits development affecting historic parks and gardens provided they have no adverse effect on the character, appearance, amenity, setting or enjoyment of the park/garden. The proposal would involve the demolition of the existing public toilets. As a facility that is available to the whole community, the public toilets could reasonably be regarded as a community facility to which Policy C3 applies. This states that planning permission will only be granted for the redevelopment or change of use of social, health, care homes, community and religious facilities where the proposal is of a scale and design appropriate to the character and appearance of the locality, AND it can be demonstrated that the existing land or buildings are surplus to, or no longer capable of meeting, the existing or future needs of the local

community; OR it can be demonstrated that alternative acceptable sites for the existing use can be provided.

4.5 An initial proposal to provide a restaurant on the area occupied by the Engine House (conversion) and the adjacent land was received by the Council early in 2006. Details of the proposal were included in a report to the Executive Members, and at the meeting held on 4 April 2006, it was resolved:

- That the opportunity for improvement to public toilet provision in the Museum Gardens area, with the refurbishment of Lendal Tower by the Helmsley Group, be noted.
- That the work undertaken in taking forward this development proposal with the Helmsley Group, at their own cost, be noted
- That the principle of closing the existing public conveniences in Museum Gardens be approved, subject to the provision of alternative public conveniences and facilities for boat users that are currently provided on the site.
- That the opening up of a new entrance to Museum Gardens from the riverside esplanade be approved and that the investigation of development of the site to the same restaurant use as the Lendal Tower site be welcomed.
- That officers present a further report to the Executive in June 2006, which will describe the feasibility work for the re-provision of the public conveniences and market consideration of the options set out in the report.

Reasons: To endorse this proposal to improve and enhance this part of Museum Gardens with an attractive restaurant facility and a new entrance to the gardens and to take advantage of the opportunity for improved public toilet facilities, whilst protecting the current provision for boat users.

The Executive have, therefore, endorsed the principle of the development of the site for a restaurant.

4.6 The proposal would involve the conversion of the Engine House (on two levels) to a single two bedroom apartment, together with kitchen and dining facilities associated with the new restaurant. The internal layout of the Engine House has been amended to take account of comments made by the Council's Conservation Architect. In response to these comments, the roof of the restaurant has been slightly lowered and the dividing gap between the extension and the existing building has been increased in depth and width. Although it would be built on a single level, the restaurant extension would be a tall building with a sloping "flat" roof 7.3 metres in height at the front and 6.3 metres at the rear, slightly lower than the parapet wall of the Engine House. It would be of a contemporary design, featuring large glazed elevations to the front and rear, with stonework and narrow "slot" openings to the side wall. The design also incorporates a dining terrace overlooking the river, raised above flood level. A new entrance to Museum Gardens would be created alongside the extension, featuring new steps, gates and railings. A level, disabled access to the Gardens would also be created.

4.7 The restaurant extension and dining terrace would be particularly prominent from Lendal Bridge and from the south bank of the river, although the extension has been designed so as not to block views of the Yorkshire Museum from these

viewpoints. In visual terms, the existing public toilets are considered to have a negative impact on the area and their removal and replacement by a building that makes a more positive contribution is to be welcomed. English Heritage have raised objections to the design of the extension, in particular due to its "unacceptable height", negative impact on the setting of the adjacent listed buildings, Registered Park and Garden, and Scheduled Monuments. However, the Council's Conservation Architect takes a slightly different view towards the design and appearance of the extension. In particular, it should be noted that although the extension appears to be flush with the front wall of the Engine House when seen in elevation, it would in fact be set back by a considerable distance, which would reduce the impact on the listed building.

4.8 Although it would not be subservient to the Engine House in terms of its height, the contemporary design of the extension would not compete with the more traditional appearance of the Engine House. It is considered that any reduction in the height of the extension would clash with existing architectural features in the side elevation of the Engine House, in particular the arched brick detailing, and would result in the extension having an unduly diminutive appearance. It is concluded that the extension is a bold, innovative design that has the potential to make a positive contribution to the character and appearance of the conservation area and the riverside frontage in particular. It is considered that the impact on Museum Gardens as a whole would be relatively small, given the location of the site in the southeast corner of the Gardens, in an area which is already dominated by the existing toilet block and surrounding areas of hard surfacing.

4.9 The Conservation Architect has requested that the proposed external works are reassessed, and considers the proposals to be too hard and urban. It has been suggested that the front part of the terrace be lowered (below flood level) and the whole area "greened" so that it has a softer appearance. The applicant does not agree with this suggestion, and points out that the application site is already located within an urban area; it is clearly not suburban or rural. In addition, the applicant states that the restaurant extension and dining terrace occupy a similar area to the existing toilet block and apart from a small tree the whole of the existing site is hard paved or built upon. The new proposals have been glazed on both principal elevations, to allow the eye to pass through the buildings to the gardens beyond in one direction and from the gardens to the riverside from the other. Members will be able to form their own views on this issue following the site visit that is scheduled to take place prior to the Committee meeting. As the proposal would affect a Scheduled Monument, Scheduled Monument Consent would also be required for the proposal from the Department of Culture Media and Sport (DCMS), who are advised by English Heritage. However, this is an entirely separate process and there is no reason why the Council, as Local Planning Authority, should not express its own view on the proposal through the granting (or refusal) of planning permission.

4.10 The proposal would result in the demolition of the existing toilet block, a proposal that has been endorsed in principle by the Executive. The revised proposal incorporates a public toilet (to disabled specification) within the restaurant lobby, which would be available during restaurant opening hours. This is in contrast to the existing public toilets, which are only open to the public between March and October. In addition, it is intended that boaters would be able to access the toilets "out of

hours" using a standard British Waterways key. It is also intended to provide a boat sluice, refuse area and water point to replace the existing facilities that would be lost as a result of the demolition of the toilet block. The Head of Parks and Leisure, having originally objected to the loss of boater's facilities, has raised no objections to the revised proposal, subject to the precise location of the new water point being agreed. This could be conditioned.

4.11 The area occupied by the public toilets is owned by the Council and leased to the Yorkshire Museums Trust, so clearly a land transaction will have to take place in order for the applicant to acquire the land and enable the development to take place. The Yorkshire Museums Trust have already indicated in a letter to the Helmsley Group that they are keen that the development of the restaurant takes place and that they do not wish to impede any progress of the planning process. It is considered that the issue of replacement toilet facilities (beyond those incorporated into the proposal), including funding, could be addressed through the land transaction process. In these circumstances, it is not considered that a further financial contribution through a Section 106 Agreement would be appropriate. As lessees of the site and trustees of the Gardens, the Yorkshire Museums Trust would be actively involved in the process. Any stipulations regarding the timing of the demolition of the existing toilet block could be made a condition of any sale agreement, in order to ensure that adequate replacement facilities are first made available.

4.12 A number of issues in relation to flood risk have been raised by the Environment Agency and by the Council's Structures and Drainage Engineers. These have been brought to the attention of the applicant and it is likely that further information will be submitted on these matters prior to the meeting.

5.0 CONCLUSION

5.1 As an overall package, it is considered that the proposal has some merit and would bring a new restaurant facility of contemporary design and appearance to a prime location within the city. It would also secure the removal of the existing toilet block, and through the subsequent land transaction, would act as a catalyst for the provision of alternative toilet facilities elsewhere within Museum Gardens. Replacement facilities for boaters, in addition to a public toilet, would be provided within the scheme. It is acknowledged that English Heritage have objected to the detail of the scheme. However, the applicant will be required to obtain Scheduled Monument Consent for the proposal, which is a separate process, and there is no reason why the Council, as Local Planning Authority, should not express its own view on the proposal through the granting (or refusal) of planning permission.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2

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

LEN(D) 11 Rev "C", LEN(D) 12 Rev "C" and LEN(D) 13 Rev "B", all received on 8 May 2007

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

- 3 VISQ8

- 4 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.

- glazing details, including glazing bars
- glazed link between the existing building and the extension
- roof overhang
- glazed screen to front of dining terrace
- railings, gates, steps and stone pillars
- rainwater goods

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

- 5 HWAY18

- 6 Prior to the commencement of any works, a detailed method of works statement shall be submitted to and agreed in writing by the LPA. This statement shall include the precautions to be taken to ensure the safety of the general public, the method of securing the site and the route to be taken by vehicles transporting the demolition and construction material, and the hours during which this will be permitted.

Reason - To ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent public highway

- 7 LAND1

- 8 Before the commencement of development, including demolition, building operations, or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in

writing by the Local Planning Authority. This statement shall include details and locations of protective fencing, phasing of works, site access during demolition/construction, type of construction machinery/vehicles to be used, (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles and storage of materials. Details of pavement construction and existing and proposed levels shall also be included, where a change in surface material and/or levels are proposed within the canopy spread and likely rooting zone of the trees to be retained.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are in a conservations area and are considered to make a significant contribution to the amenity of the area.

- 9 No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority of the measures to be taken within the design of the building to accommodate bats.

Reason: In the interests of habitat creation, as advocated by Planning Policy Guidance Note 9: "Biodiversity and Geological Conservation"

- 10 Details of all machinery, plant and equipment to be installed in the proposed premises, which is audible outside the site boundary, and the proposed noise mitigation measures, shall be submitted to the local planning authority. These details shall include maximum (LA_{max}(f)) and average (LA_{eq}) sound levels (A weighted), and octave band noise levels they produce. 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 appropriately maintained thereafter.

Reason: To protect the amenity of occupiers of nearby buildings.

- 11 Any kitchen extraction system proposed by the applicant must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenity of occupiers of nearby premises by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for 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 nearby occupiers of premises.

- 12 All works and ancillary operations during construction and demolition including deliveries to the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 to 13.00 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of nearby residents.

- 13 Any contamination detected during site works shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development on site.

Reason: To protect the health and safety of workers on site, future occupiers of the site and the integrity of any proposed underground services.

- 14 ARCH2

- 15 No development shall take place until the applicant has secured the implementation of an agreed programme of archaeological work (metrical survey, written description and analysis, and photographic recording of the standing buildings) which has been agreed in writing by the Local Planning Authority and submitted a report and copies of the survey and record to the Local Planning Authority and these have been approved in writing by the Local Planning Authority.

Reason: The buildings on this site are listed structures of historic importance and must be recorded prior to any development taking place.

- 16 The existing toilet block shall not be demolished unless and until alternative facilities (including facilities for boaters), whether temporary or otherwise, have been provided, in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure that the facilities referred to are available to the public at all times.

- 17 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the City of York Draft Local Plan.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £815.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

- 18 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 7.3 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

7.0 INFORMATIVES:

Notes to Applicant

1. 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:

- impact on the character and appearance of the conservation area
- impact on the setting of the adjacent listed building
- impact on Museum Gardens
- replacement toilet facilities and facilities for boaters
- flood risk

As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, HE2, HE3, HE9, HE12 and C3 of the City of York Local Plan Deposit Draft.

2. In addition the attention of the developer should be drawn to the following to minimise noise and dust nuisance from construction works, to nearby residents.

(i) 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".

ii) 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.

- iii) 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.
- iv) 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.
- v) Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.
- vi) There shall be no bonfires on the site.

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