



Report Reference Number: 2017/0872/FUL

To: Planning Committee
Date: 28 October 2020
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APPLICATION NUMBER:	2017/0872/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	North Yorkshire County Council	VALID DATE: EXPIRY DATE:	29 th August 2017 24 th October 2017
PROPOSAL:	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation to be retained		
LOCATION:	Land At Wharfe Bank Tadcaster		
RECOMMENDATION:	REFUSE		

Members previously determined this scheme on the 16th January 2019, which was then subjected to a Judicial Review challenge by Samuel Smith Old Brewery. The decision was then quashed by Court Order. Therefore, this matter needs to be re-considered by Members of the Planning Committee in the context of any changed circumstances or new material considerations since the original consent was issued and a new decision issued by the Authority accordingly on the application.

1.0 INTRODUCTION AND BACKGROUND

1.1 This application was initially considered at Planning Committee on the 16th January 2019 and was recommended for approval, subject to conditions. The Officers' report to that meeting and associated Update Note are attached as Appendix A.

1.2 This decision was then subject to a Judicial Review (JR) by Samuel Smith Old Brewery, who objected to the planning permission on the following grounds:

- Ground 1: Misleading, unlawful and irrational treatment of the baseline and/or deficient reasoning.

- Ground 2: Double counting of heritage benefits.
- Ground 3: Misdirection on Policy ENV29.

- 1.3 Following discussions between the Council's Solicitor and the Solicitor acting for the Claimant, a Consent Order was issued on the 23rd April 2019 by the Court, which quashed the Decision to grant planning permission.
- 1.4 The application has been re-assessed by Officers taking into account the further information and amended plans submitted by the applicant and also considering the proposed grounds put forward by the Brewery.
- 1.5 This report seeks Committee's agreement accordingly to the recommendation as set out of section 7.

Site and Context

- 1.6 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 1.7 The application site comprises an existing temporary bridge foundation located on a grassed riverbank on the south side of the River Wharfe, to the south east of the Grade II listed Wharfe Bridge. Members should note that the temporary bridge foundation is an unlawful structure, and the site should have been returned to its original form as a grassed riverbank following the removal of the temporary footbridge in February 2017. However, North Yorkshire County Council have instead submitted an application to retain the temporary bridge foundation and repurpose it by installing a recreational raised seating area. The installation of the temporary bridge foundation in January/February 2016 was to enable the provision of a temporary footbridge over the River Wharfe following the collapse of the Grade II listed Wharfe Bridge in the December 2015 flood event.
- 1.8 To the north of the application site is the River Wharfe; to the south east and north west of the application site is the grassed riverbank on the south side of the River Wharfe; and to the south west of the application site is a car park associated with the Football Ground.

The Proposal

- 1.9 The application proposes the retention of an existing temporary bridge foundation and the installation of a recreational raised seating area over it. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along

with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.

Relevant Planning History

- 1.10 There are no historical applications that are considered to be relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

All immediate neighbours have been informed by neighbour notification letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

- 2.1 **Parish Council** – Initial Response 27.09.2017: No objections.

Further Response 09.05.2018: No objections. Members fully and strongly support this application. The plans are good for tourism, would be a great asset to the community, would greatly improve the area, increase footfall and attract more visitors to the town.

Further Response 23.10.2019: Members fully support the application and welcome the development.

- 2.2 **Conservation Officer** – Initial Response 28.09.2017: As the site can be viewed from the conservation area and from listed buildings, the development here would impact upon the setting the heritage assets, in particular the Grade II listed Wharfe Bridge. The ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the creation of a seating/viewing area could also improve the appearance of this site if it is designed well and uses high quality natural materials. It is advised that the proposals are re-designed to improve their appearance.

Further Response 16.05.2018: The principle of the development is supported; however, there will need to be further amendments to the proposals before they are considered to be acceptable for this location:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use bespoke railings and furniture
- Flat topped railings, simple appearance and a traditional style found within Tadcaster
- Use of natural materials for the paving slabs and not concrete
- Reclaimed stone for cladding the walls to blend in with surroundings
- Amend path details

Further Response 29.10.2018: The principle of the development is supported; however, there are still elements of the proposal which are considered to have an

adverse impact upon the significance of the listed bridge through development within its setting:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use of natural materials for the paving slabs and kerbs and not concrete.

Further Response 08.04.2020: Reverting the embankment back to a natural slope would be the ideal situation as the existing concrete base, tarmac path, aggregate and timber fence is not a sympathetic addition within the setting of the listed bridge or the Tadcaster Conservation Area. The access to this area is also untidy and requires improvement works. However, there is also potential for the concrete base to be improved in appearance to create a public space to view the river and the bridge. In order to achieve this, the development must be very high quality, appropriate for the site and to use traditional natural materials found in the area.

The current development has been viewed as causing harm to designated heritage assets, therefore there must be improvements to the scheme to reduce the harm caused. Ways to reduce the harm and improve the scheme are as follows:

- Reduce size of seating area to cover the existing concrete base only.
- Use reclaimed local natural stone throughout the development so that it can blend in with the surroundings. New stone will be bright and draw the eye and has the potential to have an adverse impact upon the character and appearance of the conservation area and setting of listed bridge. My previous comments stated: Reclaimed stone with a pitched face that reflects the stone on Tadcaster Bridge in terms of type, texture, stone size, and colour. Sample stone required.
- Simplify the railings around the edge of the seating area and ensure that they have a very traditional detail and profile, such as estate railings. A modern and contemporary approach is not particularly sympathetic in this location. My previous comments advised simple flat topped with the vertical elements being attached directly to stone and not a floating rail. Detailed drawings at a scale of 1:20 supported by photographs of the style.
- Improvements to the path to maintain the natural setting of this embankment. Make the path more informal and remove timber fencing as well as tarmac.

2.3 **Historic England** – Advised no consultation with Historic England necessary.

2.4 **HER Officer** – No objections.

2.5 **Communities and Partnerships** – No response received.

2.6 **Public Rights of Way Officer** – No objections, subject to an informative in respect of public rights of way.

2.7 **The Environment Agency (Liaison Officer)** – Initial Response 08.05.2018: In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission.

Further Response 15.05.2018: No objections following the submission of a revised FRA.

Further Response 22.10.2019: No objections.

- 2.8 **Ainsty (2008) Internal Drainage Board** – No comments.
- 2.9 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.10 **Canal And River Trust** – Advised no consultation with Canal and River Trust necessary.
- 2.11 **Council's Tree Consultant** – No objections, subject to a condition on the method of working in close proximity to trees. In terms of the possible removal of trees covered by tree preservation order, it is considered likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of constructing the temporary bridge.
- 2.12 **Designing Out Crime Officer** – An analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out for a 12 month period and there were no incidents recorded by North Yorkshire Police. We have liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour, they have no evidence to prove that it will. As there are no dwellings nearby there is no potential natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the bridge over the river. It is therefore important that any sight lines are not obstructed by any trees and there should be a management and maintenance policy in place to ensure that this does not occur. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore this area should be provided with lighting. It is understood that the temporary bridge was illuminated and therefore this should not be an issue. Any lighting should be attached to a lamp column and bollard lighting should not be used as it does not project sufficient light at the right height and distorts the available light due to the 'up-lighting' effect; making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It is also susceptible to being damaged. The provision of lighting on a lamp column would also provide the potential for a mobile CCTV camera to be installed, should it be felt that one is required. There should be a litter bin provided that is constructed of a fire-resistant material. The design of any seating should prevent people from being able to lay across them, the provision of arm rests can be one solution. It is understood that the proposed materials for the seating and tables may be amended to consist of iron frames and wooden lats. These should be secured in place and again there should be a Management & Maintenance Policy in place that provides details of how any damage, including graffiti, will be dealt with in a timely manner.
- 2.13 **Neighbour Summary** – All immediate neighbours have been informed by letter, a site notice has been erected and an advert placed in the local press. Ten letters of representation have been received as a result of this advertisement from three person(s). These object to the application and raise concerns in respect of: (1) the retention of the temporary bridge foundation, which should be removed and the

area reinstated to its previous condition; (2) removal of protected trees without consent to facilitate the provision of the temporary bridge foundation; (3) insufficient information submitted in support of the application in respect of various main issues; (4) insufficient consultations carried out by the Local Planning Authority; (5) the impact of the proposal on designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area; (5) incorrect assessment of the application in respect of designated heritage assets; (6) the impact of the proposal on the historic avenue of Lime Trees adjacent to the application site which are protected by Tree Preservation Order; (7) the impact of the proposal on local amenity space; (8) access to the proposed seating area for members of the public who are non-ambulant; (9) impact of the proposed seating area on the residential amenities of surrounding properties in terms of noise and disturbance; (10) the impact of any proposed lighting on the designated heritage assets, character and appearance of the area and residential amenities of neighbouring properties; (11) the existing temporary bridge foundation being subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed; (12) the increase in the size of the seating area and lack of justification for the increase in the size of the seating area; (13) the materials and furniture proposed for the seating area; (14) the location of the replacement TPO trees outside the application site boundary; (15) the incorrect application fee being paid; (16) lack of details regarding the maintenance of the development once completed; and (17) the impact of the proposed development on wildlife.

3. SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 3.2 The application site is located in close proximity to a number of designated and non-designated heritage assets and within an archaeology consultation zone.
- 3.3 The application site includes part of and is located adjacent to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 3.4 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.

4. POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“213....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment
 - SP19 – Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
 - ENV2 – Environmental Pollution and Contaminated Land
 - ENV25 – Control of Development in Conservation Areas
 - ENV27 – Scheduled Monuments and Important Archaeological Sites
 - ENV28 – Other Archaeological Remains
 - ENV29 – Protection of Local Amenity Space

5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- The Principle of the Development
- Impact on Heritage Assets
- Impact on Archaeology
- Design and Impact on the Character and Appearance of the Area
- Impact on Trees
- Impact on Residential Amenity
- Flood Risk
- Other Issues

The Principle of the Development

- 5.2 Policy SP1 of the Core Strategy provides that *"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.3 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy. Policy SP2 of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement"*.
- 5.4 The application site is located on an existing area of Local Amenity Space. Policy ENV29 of the Selby District Local Plan states that *"Proposals for the development of local amenity space, as defined on the proposals map, will not be permitted"*. The supporting text to Policy ENV29 at paragraph 4.172 states that *"The built framework of settlements necessarily includes areas of open space, both public and private. This open space fulfils a number of important roles, for example, providing the setting for buildings or groups of buildings, or contributing to the character and townscape of settlements. In many instances such areas also provide opportunities for informal recreation. Village greens are particularly important having historical, townscape and local amenity value"*. The overall aim of the policy is to protect Local Amenity Space from infill development to support housing and employment growth within settlements. Existing areas of Local Amenity Space within built up areas which provide an important local amenity are therefore protected from such forms of development through Policy ENV29 of the Selby District Local Plan.
- 5.5 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation to be retained as part of the proposals. Whilst Policy ENV29 purports to prevent any form of development of Local Amenity Space; when the policy is read in context and with the written justification set out in paragraphs 4.172-4.174 of the Selby District Local Plan, it is clear that the policy is seeking to prevent the loss of such Local Amenity Space to other forms of

development that would exclude use or enjoyment of such Local Amenity Space. This proposal would provide opportunities for informal recreation which would complement the designation of the site as Local Amenity Space and would not undermine the policy objectives set out in SP2 of the Core Strategy or ENV29 of the Selby District Local Plan. There is nothing in the Development Plan or the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location. The proposal is therefore considered to be acceptable in principle and accords with Policies SP1 and SP2 of the Core Strategy and Policy ENV29 of the Selby District Local Plan.

Impact on Heritage Assets

- 5.6 The comments of representees are noted regarding the impact of the proposals on heritage assets. It should be noted that additional and/or updated information in respect of the impact of the proposals on heritage assets has been provided throughout the course of the application. The following assessment of the application in respect of the impact on heritage assets is based on all of the current/up-to-date information as submitted at the time of writing this report in September 2020.
- 5.7 The application site is located within close proximity to a number of designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area.
- 5.8 Relevant policies in respect of the effect upon the setting of heritage assets include Policies SP18 and SP19 of the Core Strategy. Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.9 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 5.10 Paragraph 189 of the NPPF states that *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation"*.
- 5.11 Paragraph 192 of the NPPF states that *"In determining applications, local planning authorities should take account of:*

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness”.*

- 5.12 Paragraph 193 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*
- 5.13 Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*
- 5.14 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.15 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. Section 72 of the above Act contains similar requirements with respect to buildings or land in a Conservation Area.
- 5.16 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137*, it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the settings of listed buildings should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
- 5.17 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation to be retained as part of the proposals. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed

recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.

The Applicant's Assessment of the Impact of the Proposals on Heritage Assets

- 4.18 The application has been supported by an updated Heritage Impact Assessment (version 3.1), undertaken by Solstice Heritage LLP dated August 2019. The executive summary states that: *“This assessment finds that the proposed development will, in creating a designated viewing area and introducing an interpretation panel, better reveal the significance of the Grade II-listed Wharfe Bridge. This, combined with the use of sympathetic materials which will allow the proposed development to blend in with the surrounding area, will result in an overall minor to moderate positive impact upon the setting and significance of the designated bridge. In terms of potential wider impacts, the proposed development is situated c. 50 m south of the Tadcaster Conservation Area. In spite of this close proximity, however, there are no meaningful views between the proposed development site and the historic town centre, in particular the linear development along Bridge Street and the numerous listed buildings along it. As such, the proposed development will result in a neutral impact upon the significance of the Tadcaster Conservation Area. Finally, given the distance and lack of intervisibility to and from the proposed development site due to intervening development, it is considered that the proposed development will result in a neutral impact to the significance of the scheduled Tadcaster motte and bailey castle.”*
- 5.19 The Heritage Impact Assessment acknowledges that the application site is located within close proximity to a number of designated heritage assets and that the proposal has the potential to affect the setting of those designated heritage assets. The assessment identifies one Conservation Area, one Scheduled Ancient Monument, three Grade II* listed buildings and 43 Grade II listed buildings within 500 metres of the application site. The application site is located approximately 50 metres south east of the Tadcaster Conservation Area, approximately 300 metres south east of the scheduled Tadcaster motte and bailey castle and approximately 75 metres south east of the Grade II listed Wharfe Bridge. An assessment of the significance of each of these designated heritage assets is provided within the Heritage Statement. In addition to designated heritage assets, the Heritage Statement acknowledges that the application site is located within close proximity to a number of non-designated heritage assets and that the proposal has the potential to affect the setting of those non-designated heritage assets. The assessment identifies up to 56 non-designated heritage sites within 500 metres of the

application site and provides details of the significance of those non-designated heritage assets.

- 5.20 The Heritage Impact Assessment sets out that the application site currently comprises a large modern concrete platform with railings, left behind after the removal of a temporary footbridge across the River Wharfe. The Statement notes that the assessment will be based on the sites previous use as a grassed riverbank, given the unlawfulness of the temporary bridge foundation. However the Statement goes onto sets out that the current unattractive concrete platform situated within the proposed development site, visible from the Grade II listed Wharfe Bridge looking south, detracts from its setting, and as a result, its significance. On the other hand, the Statement sets out that views of the bridge from the proposed development site are extensive and allow for appreciating and understanding the structure. Therefore, these views and the ability to experience them make a contribution to the setting of the asset. Finally, the site itself is set back from the main road and due to intervening development, is substantially screened from the historic centre of the town providing no contribution to views looking east and west along Bridge Street whether entering or exiting the conservation area.
- 5.21 In terms of an impact assessment, the Statement again sets out that the assessment of impact will be considered against the site's former situation as a grassed riverbank, as opposed to the current concrete platform which was constructed without planning permission. The Statement asserts *"The creation of this area will allow for extensive views of the bridge which, as previously identified, make a positive contribution to the setting of the designated heritage asset. Furthermore, the use of sympathetic materials in keeping with those of the local area will allow the proposed development to better blend in with the bridge and surrounding area. The ability to experience this view and therefore, better appreciate and understand the structure, will result in an overall positive impact upon its setting and therefore, its significance."*
- 5.22 The Heritage Impact Assessment focuses the assessment on the impact of the proposed development on the three key designated heritage assets which have the potential to be affected by the proposals: the Tadcaster Conservation Area, the scheduled Tadcaster motte and bailey castle; and the Grade II listed Wharfe Bridge. In terms of the impact of the proposed development on the Tadcaster Conservation Area, the Heritage Impact Assessment concludes that the conservation area derives much of its primary character from the line of historic development along Bridge Street. There is no intervisibility between the proposed development site and the main street, due to intervening development. Furthermore, views looking southward over the bridge on arrival into Tadcaster, where the proposed development is visible, would be marginally improved. Given there is no intervisibility between the proposed development site and the main street, the Heritage Impact Assessment concludes that the development is considered to have an overall neutral impact on the setting of the Tadcaster Conservation Area. In terms of the impact of the proposed development on the scheduled Tadcaster motte and bailey castle, the Heritage Impact Assessment concludes that given the distance and lack of intervisibility to and from the proposed development site, the proposed development would result in a neutral impact to the significance of the Tadcaster motte and bailey castle scheduled monument. In terms of the impact of the proposed development on the Grade II listed Wharfe Bridge, the Heritage Impact Assessment concludes that the proposed development, in creating an

additional designated viewing area as well as introducing an interpretation panel, would better reveal the significance of the bridge through creating improved views to and from it, and providing information on its history. As such, the Heritage Statement concludes that the proposed development would have a moderate positive impact on this element of the setting of the historic bridge.

- 5.23 The applicant's agent has submitted additional information on the impact of the proposals on heritage assets during the application process. In terms of justifying the size of the proposed recreational raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area.

The Local Planning Authority's Assessment of the Impact of the Proposals on Heritage Assets

- 5.24 The application has been assessed by the Council's Conservation Officer, the comments of whom are noted and have been fully considered as part of the assessment of this application. In initial comments, the Council's Conservation Officer advised that the ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the Council's Conservation Officer also advised that the creation of a seating/viewing area could improve the appearance of this site, by comparison to its lawful use as a grassed riverbank, if it is designed well and uses high quality natural materials. Accordingly, it is clear from the initial comments of the Conservation Officer that the starting point for the assessment of the application in respect of the impact of the proposals on heritage assets is the lawful use of the site as a grassed riverbank. However, the initial view from the Conservation Officer was that the creation of a seating/viewing area at the site could be acceptable in respect of the impact of the proposals on heritage assets, although the design and materials to be used would need to be improved from those then proposed.
- 5.25 In the most up-to-date comments, the Council's Conservation Officer states *"Reverting the embankment back to a natural slope would be the ideal situation as the existing concrete base, tarmac path, aggregate and timber fence is not a sympathetic addition within the setting of the listed bridge or the Tadcaster Conservation Area. The access to this area is also untidy and requires improvement works. However, there is also potential for the concrete base to be improved in appearance to create a public space to view the river and the bridge. In order to achieve this, the development must be very high quality, appropriate for the site and to use traditional natural materials found in the area. The current development has been viewed as causing harm to designated heritage assets, therefore there must be improvements to the scheme to reduce the harm caused."* The Council's Conservation Officer considers that further amendments would be required in order for the proposals to be considered acceptable including a reduction in the size of the recreational raised seating area to reflect the existing concrete base and not to increase its size, the use of natural materials, improvements to the railings and improvements to the path to maintain the natural setting of the embankment. The

comments of the Conservation Officer in terms of the proposed amendments to the scheme are addressed below in the Officers assessment of the impact of the proposals on heritage assets.

- 5.26 Officers have fully considered the information submitted by the applicant in respect of the impact of the proposals on heritage assets, the comments of representees in respect of the impact of the proposals on heritage assets and the consultation response from the Council's Conservation Officer in respect of the impact of the proposals on heritage assets.
- 5.27 The application site currently comprises an existing temporary bridge foundation and an area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. This was installed in January/February 2016 to enable the provision of a temporary footbridge over the River Wharfe following the collapse of the Grade II listed Wharfe Bridge in the December 2015 flood event. The temporary footbridge remained in situ for approximately 12 months while works were undertaken to repair the Grade II listed Wharfe Bridge, after which it was removed. The temporary bridge foundation to the north side of the riverbank was removed and returned to a grassed riverbank at that time; however, the temporary bridge foundation to the south side of the riverbank remains in situ. It is noted that the temporary bridge foundation to the south side of the riverbank is an unlawful structure and the site should have been returned to be returned to its original form as a grassed riverbank following the removal of the temporary footbridge in February 2017. However, North Yorkshire County Council have submitted an application to retain the temporary bridge foundation and repurpose it by installing a recreational raised seating area. Given the temporary bridge foundation is an unlawful structure; the starting point for the assessment of the application in respect of the impact of the proposal on heritage assets is from the lawful use of the site as a grassed riverbank. In this respect the application seeks planning permission for the retention of the unlawful temporary bridge foundation and the installation of a recreational raised seating area.
- 5.28 The submitted Heritage Statement concludes that the retention of the temporary bridge foundation and installation of a recreational raised seating area over it would better reveal the significance of the Grade II listed Wharfe Bridge though creating improved views to and from it and providing information on its history through the introduction of an interpretation panel on the recreational raised seating area. While the Council's Conservation Officer does not raise any objections to the principle of the development, concerns have been raised by the Council's Conservation Officer that the proposal goes beyond the re-use of the existing temporary bridge foundation and the Council's Conservation Officer recommends that the size of the proposed seating area is reduced to reflect the existing concrete base , to be retained as part of the proposals, and not to increase its size, otherwise the proposal has the potential to result in less than substantial harm to the setting of the Grade II listed Wharfe Bridge. The rationale behind this is that the larger the size of the proposed recreational raised seating area, the more prominent it would be on the riverbank and the greater the potential for a harmful impact on heritage assets, specifically the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge.
- 5.29 The existing temporary bridge foundation itself causes harm to the significance of designated heritage assets, namely, the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. In terms of the size of the proposed recreational

raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area. Members should note that the size of the recreational raised seating area has been reduced since the application previously came to Planning Committee, however, it still covers an area larger than the existing temporary bridge foundation. The concerns of representees and the Council's Conservation Officer are noted regarding the size of the recreational raised seating area, however, it is also noted that the proposal would utilise raised land on which works have already taken place (albeit without the benefit of planning permission) in relation to the provision of the temporary footbridge over the River Wharfe and are all tied into the repurposing of this area of land. On this point, therefore, it is concluded that the existing temporary bridge foundation and the size of the proposed recreational raised seating area which would be sited on top of it would lead to less than substantial harm to the setting of the Conservation Area and the setting of the Grade II listed Wharfe Bridge but no harm to the setting of any other designated or non-designated heritage assets.

5.30 In terms of the proposed materials, the Council's Conservation Officer raises concerns regarding the use of non-natural materials setting out that the proposals must use high quality natural materials in order for them not to have any adverse impact on the setting of heritage assets. However, the proposed materials are similar to those used on the works to repair the Grade II listed Wharfe Bridge itself. On this point, therefore, it is concluded that the proposed materials to be used for the proposed recreational raised seating area would lead to no harm to the setting of any designated or non-designated heritage assets. The Council's Conservation Officer also raises concerns regarding the design of the railings and the paths leading to the recreational raised seating area, which could be improved to maintain the natural setting of this embankment. On this point therefore, it is considered that the railing design and path design would lead to less than substantial harm to the setting of the Conservation Area and the setting of the Grade II listed Wharfe Bridge but no harm to the setting of any other designated or non-designated heritage assets.

5.31 Overall, having regard to the above discussion, the proposal is considered to lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. Paragraph 196 of the NPPF states "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*". As set out earlier in this report, paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that when considering the impact of a proposal on the significance of a designated heritage asset, "great weight" should be given to the asset's conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990. The desirability of preserving the settings of heritage assets, including listed buildings and conservation areas, should not simply be given careful consideration by the

decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

5.32 In terms of public benefits, the applicant's agent has advised the proposal would lead to the creation of a recreational raised seating and viewing area on the south riverbank of the River Wharfe which would provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and visitors alike. Furthermore, the applicants agent advises that the proposal would lead to improvements to the visual appearance of this part of the riverside; result in additional recreational space; result in improved access to the riverside; enhance Tadcaster's heritage through the provision of an information lectern detailing the history of Tadcaster Bridge; and enable community engagement through the burying of a time capsule.

5.33 Taking each of these proposed public benefits in turn:

- While the creation on of the recreational raised seating area would allow provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and visitors alike; the existing public footpaths along the grassed riverbank currently provide for this.
- The visual appearance of this part of the riverside would, in only be improved when taking into account the existing unlawful temporary bridge foundation, otherwise, it is not considered that the visual appearance of this part of the riverside would be improved in any significant sense, when comparison is made to a grassed riverbank.
- The proposal would not result in any additional recreational space. It would be sited on an existing area of Local Amenity Space which would complement the designation of the site.
- The proposal is not considered to result in any improved access to the riverside. Existing public rights of way run alongside the south side of the riverbank.
- While the provision of an information lectern and time capsule are noted, these could be provided without the need for the proposed development.

5.34 In weighing the harm against the public benefits of the proposal, it is not considered that the applicant has demonstrated any public benefits which would, taken either singularly or cumulatively, outweigh the harm identified in this instance.

5.35 Having regard to the above, it is considered that the proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal would therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

Impact on Archaeology

5.33 The application site is located within an Archaeological Consultation Zone and within close proximity to the scheduled Tadcaster motte and bailey castle. North

Yorkshire County Council Heritage services have been consulted on the proposals and the Principal Archaeologist has advised that the proposals, given their nature, siting and scale are unlikely to have a significant impact on archaeological deposits. The Principal Archaeologist therefore raises no objections to the proposals.

- 5.34 Having regard to the above, it is considered that the proposed development would not have any adverse impacts on archaeology in accordance with Policy ENV28 of the Selby District Local Plan and national policy contained within the NPPF.

Design and Impact on the Character and Appearance of the Area

- 5.35 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation, which would be retained as part of the proposals. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.
- 5.36 Given the size, siting and design of the proposals in respect of the context of their surroundings, it is considered that the proposals would not have any significant adverse impact on the character and appearance of the area, in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and national policy contained within the NPPF.

Impact on Trees

- 5.37 The proposed development is sited next to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 5.38 The application has been supported by a Tree Report to BS5837:2012 undertaken by Jo Ryan Arboriculture Urban Greening dated March 2018. The survey includes significant trees/ groups of trees with a diameter of 75mm or more (measured at a height of 1.5m above ground level) located within and adjacent to the development area. The report provides information for the retention and protection of trees on the development site.

- 5.39 The submitted Tree Report has been assessed by the Council's Tree Consultant who notes that vegetation in proximity of the proposed development comprises an avenue of Lime trees which are covered by TPO reference 2/1987 and an informal line of trees lying to the west of the main avenue and abutting the sports ground. The Council's Tree Consultant concurs with the tree quality assessments contained within the submitted Tree Report and is broadly in agreement with the data provided. The Council's Tree Consultant concludes that there would be no adverse impact on trees in proximity to the proposed works subject to no excavation works being undertaken south of the existing line of sheet piling and any roots over 20mm diameter encountered during excavation being cut cleanly (using a hand saw) and their cut ends covered in damp hessian to prevent desiccation until the excavation can be backfilled. This should be undertaken (using good quality topsoil) as quickly as possible – ideally within one working day. As such, the Council's Tree Consultant raises no objections to the proposals, subject to a condition on the method of working in close proximity to trees.
- 5.40 The comments of representees are noted regarding the potential removal of some of the TPO trees covered by TPO reference 2/1987 at the time of the installation of the temporary bridge foundation, without consent. The Council's Tree Consultant has considered this claim and advises that it is likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. However, Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of the installation of the temporary bridge foundation.
- 5.41 The submitted proposed site plan (drawing no. NY017099-A-100.003 P5) demonstrates how 3No. standard size Lime trees would be planted in positions to match the existing avenue as part of the proposals, in lieu of the TPO Lime trees which have been removed previously. These replacement trees would be covered by TPO reference 2/1987. For the avoidance of doubt, these replacement trees are located within the application site boundary and therefore a condition could be attached to any planning permission granted requiring these to be planted, maintained and managed. The proposed trees are to be Common Lime (*Tilia Europaea*) standard size in accordance with BS:3936. A maintenance and management plan has been submitted in respect of the lime trees to be planted as part of the proposals, which sets out: newly planted trees will be checked for disease by a competent person annually for any major deterioration in their condition; pruning of epicormic or basal growth will be undertaken annually in September; weed control by ensuring no weed growth within a 500mm diameter of each tree annually between April and August. A suitable herbicide should be used in compliance with manufacturer's instructions. Fertilise using suitable slow release fertiliser as per manufacturer's instructions for the first 3 years after planting annually between April and August; inspect tree ties and stakes as scheduled and after strong winds. Replace loose, broken ties or decayed stakes to original specification; remove ties and stakes 4 years after planting; and remove dead trees and replace as per original specification annually until year 5. The applicant's agent has confirmed that North Yorkshire County Council would be responsible for the management and maintenance of the trees for the first 5 years, although this work would be carried out by the tree supplier.

- 5.42 Subject to conditions relating to the method of working in close proximity to trees and the planting of replacement TPO trees which would be subject to the submitted maintenance and management plan, it is considered that the development is acceptable in respect of its impact on trees in accordance with Policy ENV1(5) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.43 The comments from representees are noted regarding the impact of the proposals on the residential amenities of neighbouring properties. In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of oppression, overshadowing or overlooking, given the size, siting and design of the proposed development in relation to neighbouring properties, it is not considered that the proposals would result in any significant adverse effects of oppression, overshadowing or overlooking so as to adversely affect the amenities of the occupiers of any neighbouring properties in these respects.
- 5.44 In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of noise and disturbance, it is noted that the application site is located on an area of land allocated as Local Amenity Space, which is already used for recreational purposes. The proposal would result in the provision of a recreational raised seating area on part of this land. The use of the land for recreational purposes would remain as part of the proposals, albeit that a formal viewing and seating area would be created. As the land use would remain the same, there is nothing to suggest that the proposal would result in any significant adverse impacts on the residential amenities of neighbouring properties in terms of noise and disturbance over and above the current situation.
- 5.45 Having regard to the above, it is considered that the amenities of the adjacent properties would be preserved in accordance with Policies ENV1(1) and ENV2 of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk

- 5.46 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.
- 5.47 Paragraph 155 of the NPPF states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 5.48 Paragraph 158 of the NPPF states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach*

should be used in areas known to be at risk now or in the future from any form of flooding”

- 5.49 Paragraph 159 of the NPPF states that *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 5.50 The application proposes the installation of a recreational raised seating area over the existing temporary bridge foundation (which is proposed to be retained) within Flood Zone 3a and therefore the sequential test would be required to determine whether there are any reasonably available sites at lower probability of flooding that could reasonably accommodate the proposed development. Given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge.
- 5.51 A flood risk assessment and a sequential test have been submitted with the application.
- 5.52 In terms of the flood risk assessment, the submitted information includes a Flood Risk Assessment (Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated April 2018 and an Addendum to the Flood Risk Assessment Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated May 2018. The Environment Agency have been consulted on the proposals and consider that the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment are acceptable and the proposed development would not cause any unacceptable increases in flood risk. The Environment Agency therefore raise no objections to the proposed development in terms of flood risk. A condition could be attached to any planning permission granted requiring the development to be carried out in strict accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment.
- 5.53 In terms of the sequential test, the submitted information sets out that given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge. This is agreed by Officers. The applicant’s agent has undertaken the sequential test on this basis and considers that the proposal passes the sequential test as all the land within the geographical search area, as identified in the submitted Sequential Test documents, is located within Flood Zone 3a. Officers have undertaken the sequential test on this basis and consider that there are no other areas at lower floor risk within the geographical search area. As such, Officers consider that the scheme is considered to be acceptable in terms of passing the sequential test.

- 5.54 Subject to the aforementioned condition relating to the development being carried out in accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment, the proposal is considered to be acceptable in respect of flood risk in accordance with national policy contained within the NPPF.

Other Issues

- 5.55 Concerns have been raised regarding the access to the proposed seating area for members of the public who are non-ambulant. The scheme incorporates the provision of ramped access to the recreational raised seating area within the land which forms part of the application site. It is noted that to the north west of the application site (outside of the red edge) are existing kissing gates to access the riverside public footpath walks, however these are outside the application site and the applicant does not have control over this area or the removal of the kissing gates. Access to the riverside and Local Amenity Space for non-ambulant members of the public therefore would remain as at present, however the proposals themselves have also taken this matter into account with the provision of a ramped access.
- 5.56 Concerns have been raised that the existing temporary bridge foundation has recently been subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed. The Designing Out Crime Officer has been consulted on the proposals and has advised that an analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out, at the time the application was submitted, for a 12 month period and there were no incidents recorded by North Yorkshire Police. The Designing Out Crime Officer has liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour they have no evidence to prove that it will. Representatives have subsequently advised that anti-social behaviour has been evident at the site of the existing temporary bridge foundation. Within the period from 1 October 2018 to 30 September 2019, 3 crimes and 1 anti-social behaviour incident had been recorded by North Yorkshire Police and therefore the site continues to be located within a low crime and disorder area. The Designing Out Crime Officer notes that there are no dwellings in a position to allow natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the Wharfe Bridge. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore the Designing Out Crime Officer recommends that this area should be provided with lighting. The Designing Out Crime Officer states that they understand that the temporary bridge was illuminated and therefore conclude that the provision of lighting at the site should not be an issue. They go on to advise that any lighting should be attached to a lamp column. The comments of the Designing Out Crime Officer are noted regarding the provision of a lighting scheme on the recreational raised seating area. However, the lighting of the temporary bridge was agreed for a temporary period and was in response to an emergency situation. The provision of permanent lighting in this location needs to be given consideration in respect of its impacts, including its impact on heritage assets. The Council's Conservation Officer has advised against the provision of any permanent lighting at the site due to the potential adverse impact on the setting of nearby heritage assets. In light of this and taking into account the visibility of the proposed recreational raised seating

area from the Wharfe Bridge which itself has lighting, it is considered that the design of the proposal without any lighting would be acceptable in respect of designing out crime, on balance.

- 5.57 Concerns have been raised that insufficient information has been submitted in support of the application in respect of various main issues and that insufficient consultations have been carried out by the Local Planning Authority. Throughout the application process, additional information has been submitted by the applicant's agent in support of the proposals, as requested by the Local Planning Authority to enable a comprehensive assessment of the scheme and additional consultations have been undertaken with consultees on the proposals.
- 5.58 Concerns have been raised that the incorrect application fee has been paid.

6. CONCLUSION

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal would therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

Notwithstanding the above, it is considered that the proposed development is acceptable in respect of its impact on archaeology, the character and appearance of the area, trees, the residential amenity of the occupants of neighbouring properties, flood risk and any other issues which have been raised and assessed as part of the application.

7. RECOMMENDATION

This application is recommended to be REFUSED for the following reason(s):

01. The proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal is therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

8. Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010 and the Public Sector Equality Duty (PSED)

Section 149(1) of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant characteristic and those who do not share it. Subsection (3) of Section 149 specifies in further detail what “having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it” involves.

This includes having due regard, in particular, to the need to:

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The “relevant protected characteristics” are listed in Section 149(7) and include age, disability and race.

In the case of the determination of this application, the possible impact when it comes to access to the riverside and Local Amenity Space for non-ambulant members of the public has been highlighted as a potential issue. However, as noted above such access would remain as at present and a ramped access has been incorporated into the proposed development. In the circumstances and paying due regard to the PSED, it is not considered that the proposals would give rise to any adverse impacts on those sharing a protected characteristic.

9. Financial Issues

Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2017/0872/FUL and associated documents.

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Appendices:

Appendix A: Officer Report and Officer Update Note to 16 January 2019 Planning Committee