

LHR Catering Ltd

Full Application for:

Siting of 5 External Dining/ Meeting Pods in Front
Garden of Hotel for a period of 5 years

The Churchill Hotel, 65 Bootham, Clifton, York, YO30 7DQ

Planning and Design & Access Statement

28th March 2024

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1.0 Introduction

1.1 This statement is prepared in support of a planning application for the siting of five dining/meeting pods in the front garden of the Churchill Hotel for a period of 5 years. The polycarbonate pods provide an enclosed space for safe outdoor dining and meeting all year round.

1.2 This Planning Statement sets out the background to the proposal, the relevant policy context and the response to the various technical issues raised by the application.

1.3 The planning statement is organised as follows:

- Section 2 of the statement describes the site, surrounding context and planning history;
- Section 3 describes the application proposals;
- Section 4 sets out the Planning Policy Context for the consideration of the application;
- Section 5 sets out an assessment of the proposal against planning policy and related considerations and the response to the main planning issues raised by the proposal;
- Section 6 sets out a summary and conclusions of the statement.

1.4 The following background reports and documents are included with the application:

Report	Author
Site and Landscape Drawing	The Landscape Partnership
Elevation and Section Drawing	The Landscape Partnership
Landscape Statement	The Landscape Partnership
Visualisation	The Landscape Partnership
Heritage Statement	Montague Evans
Tourism & Economic Appraisal/Market Study	The Tourism Business
Pod elevations and plans	
Planning Statement	O'Neill Associates

2.0 Site Description Surrounding Context and Planning History

Site and Surrounding Context

- 2.1 The site, the Churchill hotel, is situated on the northwest side of Bootham, at its junction with Grosvenor Terrace which defines the southeast boundary of the site, approximately 600 metres from the city centre. The immediate context of the site is one of mixed use. Residential properties adjoin the north-east and northwest site boundaries, but further northwest there is a dry cleaners and bakery fronting Bootham.
- 2.2 On the opposite side of Bootham, to the southwest, are a row of almshouses and another hotel, No1 Clifton. To the southeast, on the opposite side of Grosvenor Terrace, are the grounds of the former Bootham Park Hospital and further southeast, travelling towards the city centre, retail and education uses predominate.
- 2.3 The Churchill Hotel is a two storey Grade II* listed building, built around 1827 with a 21st Century extension on its north east side, a car park to the west and with a lawn fronting the south west elevation of the building. A set of railings with stone posts, separately listed at grade II, provide the boundary with Bootham main road. The Site is located within the York Central Historic Core Conservation Area.
- 2.4 The building has architectural and historic interest as a well-proportioned Regency house of status, with much of its architectural integrity intact both externally and internally. A detailed description of the historic development of the building and an assessment of its significance is set out in the Heritage Statement submitted with the application.
- 2.5 Other heritage assets around the site include the adjoining Nos. 67 and 69 Bootham – grade II listed; the almshouses (Ingram House) on the opposite side of Bootham – Grade II* listed; No.84 Bootham, also on the opposite side of Bootham, Grade II listed; and Bootham Park Hospital and Grounds, Grade 1 and II listed.

Building History

- 2.6 Following its construction c 1827, the house was in private ownership until it was acquired by Her Majesty's Principal Secretary for the War Department in 1882. By 1892 the building was described as Government House and remained in Government hands passing through various departments including the Command Pay Office, the Health Authority and Customs & Excise until in 1984 it was closed down.
- 2.7 In the spring of 1985, the previous owners of the property undertook extensive alterations and repairs to the building restoring it to its former glory. Initially The Churchill opened as a fourteen bedroom hotel until, in 2006, a new chapter in the building's history began when the current owners undertook the complete refurbishment of the original building and added a sympathetic extension resulting in a 32 bedroom hotel and fine dining restaurant.

Planning History

- 2.8 The planning history of the building prior to 2022 is set out in the section 3 of the Heritage Statement
- 2.9 More recently in July 2022 an application for the permanent siting of 5 pods was refused. The single reason for refusal stated that the pods were considered of uncharacteristic and harmful appearance and would represent an incongruous form of development which would result in harm to the significance of the listed building and to the character and appearance of the Conservation Area. In addition, the refusal stated that being located within a highly visible, formal frontage, the pods would be unsympathetic to the local character and history of the area, the view along this part of the Bootham being described as a key view in the Conservation Area Appraisal. The scale of the harm was identified as substantial. These issues are addressed in detail in the Heritage Statement and in this planning statement.
- 2.10 A revised application for the siting of 5 pods was for a period of 5 years was refused on the 27th July 2023. The reason for refusal was similarly worded to the previous refusal. However, the scale of the harm to the setting of the listed building and the character and form of the Conservation Area is identified as less than substantial but towards the higher level because of the very high heritage value of the building.
- 2.11 The main change proposed in this application is a change to the design of the pods. This is addressed in Section 3 of this statement. However, the publication of the Council's *Our City Centre Vision* in February 2024 provides considerable support for the proposal and changes the policy context for the consideration of the application.

3.0 Development Proposal

- 3.1 Full permission is sought for the siting of five dining pods in the front garden of the hotel for a period of 5 years. The need for the pods initially arose out of the requirement for social distancing due the Covid pandemic. While Covid restrictions have been phased out, many people have increased expectation for some degree for social distancing when visiting hospitality venues.
- 3.2 In addition, the Pandemic accelerated what was already a growing trend for outdoor or alfresco dining. In the winters of 2020/21 and 2021/22 the hotel availed of temporary relaxations in planning controls and installed temporary pods that enabled socially distanced outdoor dining. The pods proved immensely popular and were a lifeline for the hotels business.
- 3.3 The popularity of, and increased demand for outdoor dining and meeting spaces, has been highlighted not just by the outdoor facilities provide at private venues across the City but also by the outdoor public seating facilities made available by the Council in the summers of 2021 and 2022, for example in College Street, overlooked by the east window of the Minster and in Exhibition Square, in front of the Art Gallery.
- 3.4 More recently, the former Minster School (grade II listed) has been converted to a restaurant with permanent canopies and pergolas in the garden in front of the building. Not only is the former school grade II listed, it lies inside the York Minster cathedral precinct Scheduled Monument and in the setting of the Grade I listed York Minster.
- 3.5 The proposed dining pods are composed of clear overlapping polycarbonate glazing panels that are connected by small nuts and bolts, so that when assembled the structure appears translucent. The panels are highly durable with a lifespan of 10+ years and a UV coating to ensure they don't degrade in the sun. When complete, the structure has Vents and retractable windows allow for adjustable airflow keeping it cool and comfortable in summer months,
- 3.6 The pods can either be placed straight on the ground or, where the ground is uneven, they can be fixed on top of a levelled wooden frame. While the hotel garden is relatively even, a wooden frame will be used to provide a stable level base for the pods. The pods do not need to be fixed to the ground but in periods of high wind, they can be secured for added security if necessary.
- 3.7 The pods have a diameter of 3.55m; a footprint of approximately 9.9 sq m; and a height of 2.1 m. Details of the pods and images taken from manufacturers brochures are included with the planning submission.
- 3.8 For winter use the pods are heated by a small blow heater. Power for this heater is taken from a power cable that is already installed in the garden to power floodlights. Access to the pods will be from an existing path around the garden.

3.9 The proposed scheme also includes new landscape proposals to supplement existing planting. A non-native conifer tree is to be removed. Details of the landscape proposals are provided in the landscape and proposed site plan.

3.10 In summary the dining pods:

- are **not** permanent structures
- are **not** permanently fixed to the ground
- do **not** require any ground excavation for foundations or services
- Are for a period of **five years**
- are **wholly** reversible once the need for them has ceased

4.0 Planning Policy Context and Material Considerations

- 4.1 Determination of this application is to be made under Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, which requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 National planning guidance contained in the National Planning Policy Framework 2023 (NPPF) confirms this in paragraph 12 and advises that the NPPF does not change the status of the development plan as the starting point for decision making.
- 4.3 There is no adopted Local Plan for the City of York. The Council produced a Development Control Local Plan (DCLP) in April 2005 but this has not been subject to Examination, is now out of date, and its policies carry weight only according to their degree of consistency with the National Planning Policy Framework.
- 4.4 The Submission version of the City of York Local Plan 2018 (the emerging plan) was submitted for examination on 25 May 2018. The Examination in Public commenced in December 2019 and phased hearings took place between December 2019 and September 2022. Consultation on Main Modifications ended in March 2023. The Inspector's report is anticipated sometime in 2024. In accordance with paragraph 48 of the NPPF, the emerging plan policies can be afforded weight according to:
- the stage of preparation (the more advanced, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to the policies in this framework (the closer they are, the greater the weight that may be given).
- 4.5 The evidence base underpinning the emerging plan is also capable of being a material consideration in the determination of planning applications. The weight that can be afforded to the emerging local plan policies and its evidence base has to be considered on a policy by policy basis with reference to NPPF paragraph 48 as follows:
- a. The stage of preparation of the emerging plan*
The emerging Plan was submitted to the Planning Inspectorate on 25 May 2018. The emerging Plan is a material consideration in the determination of planning applications.
- b. The extent to which there are unresolved objections to relevant policies*
The emerging Plan was subject to publication consultation between February and April 2018. Comments made in response to policies in the emerging Plan have been collated and are presented as part of (CD0013A) 'City of York Local Plan Consultation Statement (Reg 22)' which forms part of the local plan examination

library. Further consultations were held in July 2019, July 2021 and March 2023 on modifications to the draft Plan.

- 4.6 The Regional Spatial Strategy for Yorkshire and the Humber (The Yorkshire and Humber Plan, May 2008) has been revoked with only policies relating to retention of the Green Belt around the City of York being retained.
- 4.7 The National Planning Policy Framework (December 2023) (NPPF) sets out the Government's planning policies for England and outlines how they are expected to be applied and is a material consideration. Given the current status of local plan policy in York it is clear that the NPPF will provide the main policy basis on which this application is determined.

National Planning Policy Framework

- 4.8 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development (Paragraph 11). The Framework at Paragraph 11 also states that for decision-taking this means granting permission where the development plan is absent, silent, or relevant policies are out-of-date, unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or
 - specific policies in the Framework indicate development should be restricted.

Delivering Sustainable Development

- 4.9 Paragraph 8 of the NPPF advises that the economic objective of sustainable development requires that sufficient land of the right types is available in the right places and at the right time to support economic growth.

Economic Growth

- 4.10 Section 6 of the NPPF - 'Building a Strong, Competitive Economy' states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.

Decision Taking

- 4.11 Paragraph 38 requires LPAs to approach decisions on proposed development in a positive and creative way, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

- 4.12 Paragraph 203 states that in determining applications, LPAs 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.
- 4.13 Paragraph 205 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 (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.
- 4.14 Paragraph 208 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.
- 4.15 Paragraph 212 states local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Local Planning Policies

Relevance of Policies

- 4.16 The Development Plan currently consists only of the unrevoked parts of the Yorkshire and Humber Regional Strategy relating to the Green Belt around York.
- 4.17 The City of York Draft Local Plan was approved by the Council for development control purposes in April 2005 (hereafter referred to as the Development Control Local Plan 2005 (DCLP 2005)). It is not part of the Development Plan. It effectively forms the 4th set of modifications to what was the 1998 deposited draft of the City of York Local Plan. But, no examination was ever completed and the deposit draft Plan progressed through a series of untested modifications, all subject to a substantial number of objections, until further work ceased in favour of progressing a Core Strategy which was subsequently abandoned in favour of preparation of a Local Plan.
- 4.18 Given the level of objection, its age and the untested nature of the DCLP, its role must largely depend upon its consistency with the NPPF, always bearing in mind that it is not actually part of the Development Plan.

Submission Draft Local Plan May 2018

Policy D1 Placemaking

- 4.19 Development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

Policy D5 – Listed Buildings

- 4.20 Proposals affecting a Listed Building or its setting will be supported where they preserve, enhance or better reveal those elements which contribute to the significance of the building or its setting and are accompanied by an appropriate, evidence based heritage statement, assessing the significance of the building.

Policy DP2 – Sustainable Development

- 4.21 Policy DP2 'Sustainable Development' includes principles that development should help to 'Create a Prosperous City for All' and 'Conserve and Enhance the Environment' through:
- protecting and enhancing the visitor economy through supporting existing facilities, promoting new development and encouraging improved infrastructure.
 - conserving, and where appropriate enhancing, the elements which contribute to the special character and setting of the historic City by ensuring development is in acceptable locations and of the highest standards in terms of urban design and detailing.

Policy DP4 – Approach to development Management

- 4.22 Policy DP4 'Approach to Development Management', states that the Council will take a positive approach to future development. It will work proactively with applicants to find solutions, which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 4.23 Policy DP4 continues to state that planning applications that accord with the policies of the Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 4.24 Development will be supported where it minimises the need to travel and provides safe, suitable and attractive access for all transport users and maximises the use of more sustainable modes of transport (Policy T1 'Sustainable Access').

Policy ENV2

- 4.25 Policy ENV2 'Managing Environmental Quality' states that development will not be permitted where future occupiers and existing communities would be subject to significant adverse environmental impacts such as noise, vibration, odour, fumes/emissions, dust and light pollution without effective mitigation measures.

Other Relevant Documents

York Central Historic Core Conservation Area Appraisal

- 4.26 The site lies within the York Central Historic Core Conservation Area. The conservation area is divided into 24 'character areas', with the Churchill Hotel located within Character Area 2: Bootham. The character area generally comprises 19th Century development to each side of Bootham.

Draft York Economic Strategy 2022-2032 (Nov 2022)

- 4.27 The draft Economic Strategy was published in November 2022. The strategy highlights the importance of the tourism sector and highlights how the Council through the Covid Pandemic, has refocused on the importance of the city centre and of employment in tourism, retail, and hospitality.
- 4.28 The Strategy points out the importance of increasing the productivity of the tourism sector to improve the overall quality of employment in the City. It also includes as one its objectives, the growth of the value of tourism with a quality offer for visitors and locals. Through growing productivity in tourism, retail and social care businesses, the Strategy believes they can be even better providers of employment for York's people.
- 4.29 The Strategy recognises the importance of the opportunities part time working offers to those who have other commitments that preclude them from taking a full-time job. In recent years the City has seen strong growth in hospitality, retail and social care employment. The strategy recognises that these lower paid sectors provide much of York's part-time work, contributing to household incomes.
- 4.30 Two thirds of those in part-time work are female. The Strategy seeks to focus on growing the amount of part-time work available in higher paid sectors, and on increasing both productivity and pay in sectors such as retail, tourism and social care, and on helping women to make best use of their skills and qualifications.

Our City Centre Vision (February 2024)

- 4.31 The Council's My City Centre project establishes a 10 year strategic vision for the centre of York, which sets out a series of objectives, priorities and aspirations for the centre, which will allow York city centre to adapt, grow and thrive.

4.32 Changes brought by the communications revolution, changing consumer behaviours and the Covid pandemic bring opportunities as well as challenges, but the key to maintaining the long-term success is to create a thriving, flexible city centre that benefits from the positives and minimises the negative impacts.

4.33 The strategy highlights that this is particularly important for York, where the city centre is a huge driver of the economy, and where vibrancy will be a determining factor in retaining and attracting not just visitors and businesses, but residents also, as quality of place rather than job location becomes more of a deciding factor in where people choose to live.

4.34 In order to support the local economy, the document states

*".....we must continue to support the vision of a city centre people want to visit, stay and enjoy at all times of the day and year. **People, or footfall, is the key to a successful place.**"*

4.35 The core premise of the Vision is that a vibrant city centre, which a wide range of people want to spend time in across the day and night, will create the right conditions for responsive businesses to grow and adapt, for city living to develop, and for cultural and social activity to flourish and that:

"....tourism is a key component of our economy. But first and foremost our city centre exists to serve the needs of our residents."

4.36 The Our City Centre Vision will create the environment for all of this to happen through eight key themes which have a number of actions associated with them. The themes and actions relevant to this application are:

Theme 1 A family friendly city centre

Action *F - provide more covered and indoor spaces to spend time in all weather*

Theme 3 An attractive City offer at all times

Action - *A - Support businesses and family friendly activity in the early evening
B - Create a family friendly environment in the early evening, particularly midweek
C - Support outdoor eating and café culture in the city centre*

Theme 4 Making tourism work for York

Action - *D - Provide targeted priority measures for residents over visitors*

Theme 7 Thriving businesses and no empty buildings

Action - *A - Ensure city centre businesses are able to thrive & adapt through a supportive regulatory environment & creating a city centre people want to visit
B - Support businesses to improve operational sustainability
C. Support our independent businesses*

Theme 8 Celebrating heritage and making modern history

- Action -** *A - Recognise the huge changes facing city centres, and the role of planning in allowing buildings to adapt for modern uses*
- B - Support the re-use and re-purposing of historic buildings and spaces to avoid them becoming redundant or under-used*
- C - Provide more planning flexibility for the types of uses that most benefit residents and the city*
- D - Provide more early support for planning applications.*

Y Tourism

- 4.37 In autumn 2020, Make it York commissioned Group NAO to elaborate how York can “build back better” with tourism after the pandemic. Several themes emerged for the research focussed around:
- increasing the quality of the tourist offer making the most of, and expanding, the City’s cultural offer;
 - Less emphasis on volume tourism and more emphasis on increasing value tourism;
- 4.38 A general observation from the research was that there were two audiences for the city centre – daytime locals and nighttime visitors and that many restaurants, boutiques and bars traditionally have catered to the visitors rather than residents as their primary audience.
- 4.39 Another observation from local business leaders interviewed for the research was that:
- York has always been a quite complacent city. People will always come to York. We are the historic centre for centuries...it is sometimes difficult to make real and significant changes because everything is protected.*
- 4.40 One of the conclusions from the research was that tourism had an important role in maintaining the vibrancy of the City Centre - with retail decline in the city centre, there was an opportunity to allow contemporary cultural uses to move in
- 4.41 The research also found that the Covid pandemic created a feeling of locality – businesses came to rely on local custom and trade in the absence of tourists. Any strategy for tourism must acknowledge and cater for locals.

Statutory requirements

Planning (Listed Buildings and Conservation Areas Act) 1990

- 4.42 The Planning (Listed Buildings and Conservation Areas) Act 1990 (“the 1990 Act”) provides the legislation that is used to assess the impact of proposals on listed buildings and conservation areas. The following sections of the 1990 Act set out the duties on the decision maker in this case:

Section 66(1):

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features or special architectural or historic interest which it possesses.”

Section 72(1):

“With respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

5.0 APPRAISAL

(ii) Principle of Development

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises the saved policies of the Regional Spatial Strategy relating to the Green Belt that are not relevant to this application.
- 5.2 The Policies of the 2005 Development Control Draft Local Plan now carry limited weight. The policies of the 2018 Submission Draft Local Plan carry limited to moderate weight. However, some of the evidence base informing the preparation of the Draft Plan may be capable of being considered as a material consideration in the determination of applications.
- 5.3 The presumption in the NPPF, at paragraph 11, is that planning consent should be granted without delay for development proposals that accord with the development plan. Where the plan is silent, or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 5.4 The assessment of the technical issues set out below demonstrates that there would be no adverse impact of granting planning permission for this scheme and in these circumstances the presumption in favour of sustainable development applies.

Heritage Issues

- 5.5 A Heritage Statement prepared by Montague Evens is submitted with the application. The Statement provides an assessment of the proposals on the significance of the grade II* Churchill Hotel and its grade II listed railings and gate, and the York Central Historic Core Conservation Area, in which the hotel is located.
- 5.6 The Statement provides statutory and legislative context and guidance relevant to the proposals; summarises the historic development of the site and surrounding area; provides an analysis of the significance of the listed building and Bootham Character Area of the York Central Historic Core Conservation Area; and provides a full heritage assessment of the scheme proposals. In addition, the Statement responds to the reasons for refusal of the previous application.

History

- 5.7 The building known originally as Bootham House has been known variously as Government House, Record House and currently The Churchill Hotel. Originally a house, it has undergone a range of different uses including as a school and as accommodation for the War Department. Since the mid-1980s it has been a hotel and in 2006 a rear

extension added additional accommodation. The building and grounds as existing reflect the varied uses and changes to the building over time.

Significance

- 5.8 The Heritage Statement summarises the significance of the grade II* listed building is as follows:
- The architectural and historic interest derived from the intactness of many original external and internal features of high aesthetic value;
 - As representing a building of status likely to have been designed by prolific local architects Pritchett and Watson;
 - Its group value with the grade II listed railings fronting Bootham;
 - For its contribution to the Bootham and Marygate character area of the York Central Historic Conservation Area, in which:
 - It contributes to an understanding of the 18th and 19th Century development in this part of York;
 - It represents a landmark building on Bootham, appreciated in views from Bootham in conjunction with the grade II listed railings fronting the street.

Listed Building Setting

- 5.9 In considering the impact of the proposed development on the setting of the listed buildings the Statement concludes that the proposals would have no impact on the intrinsic architectural and historic interest of the listed building; the impact is related to setting.
- 5.10 The setting of the listed building has undergone considerable change since the house was built in the early 19th Century. The remaining setting elements that contribute to the significance of the listed building relate to the relationship between the listed building and the grade II listed boundary railings, and wider relationship with the York Central Historic Conservation Area: both aspects appreciated from Bootham and the south of the Site.
- 5.11 The lightweight nature of the pods and their transparency ensures that the visual impact from Bootham is limited, and the pods do not obstruct views of the principal façade of the hotel. The illustrative view submitted with the application indicates that the height of the pods will not appear greater than the height of the railing posts fronting Bootham.
- 5.12 The setting back of the building behind the building line on Bootham gives the building a sense of prominence and status. This is accentuated by its scale and architecture, as designed by Pritchett and Watson who designed other buildings of status in York and beyond.
- 5.13 The pods themselves are elegant and simple and in their form and materials deliberately contrast with the original masonry construction of the listed building.
- 5.14 The Statement concludes that the proposals and associated landscaping are an enhancement to the property's functionality and an aesthetic improvement in comparison

with the existing landscaping. As a result, the works are comparable to any listed building upgrade which makes necessary and desirable changes to enhance amenity and improve the sustainable economic future of the listed building.

- 5.15 The proposed planter with low evergreen hedge behind the railings in the car park would improve the experience from Bootham by virtue of screening the unattractive hardstanding, as indicated in the illustrative sketch submitted with the application. This would reflect an historic arrangement showing evergreen hedges lining the railings, which obscured vision of the lawn from Bootham. All the other trees would be retained except a low-quality conifer tree in the east side of the lawn, and additional planting complementing the listed building will be introduced.
- 5.16 Responding to the reason for refusal of the previous applications, the statement concludes that the pods would not impact on the sense of separation between the listed building and Bootham. This is because the pods would be incorporated into the garden by existing and proposed vegetation; the height of the pods at 2.1 metres ensure that they are subservient to the main building and only marginally exceed the height of the railing.
- 5.17 The pods would not distract from and understanding of the building. The building is no longer experienced in a 'formal landscape setting' because the original setting has undergone considerable change since the 19th century in response to the changing use of the building. The extension to the rear of the building; the car park to the side and front; and the use of the garden as outdoor space for the restaurant and bar have served to informalise the garden space. The building is already understood as a commercial building. The Pods will not change that.
- 5.18 Modern extensions to listed building are not uncommon and examples are provided in the Heritage Statement. The Churchill is already experienced in the context of significant human activity, including pedestrian and vehicular movement in the car park and the activity on Bootham, one of the busiest roads in York. In winter months the subtle lighting of the pods would create an inviting environment encouraging exploration of the building whilst providing a sense of human presence in the dark winter hours for pedestrians walking along Bootham.
- 5.19 The Statement concludes that the development would at least preserve the setting and significance of the listed building.

Conservation Area

- 5.20 In terms of the impact on the Conservation Area, the Statement concludes that the proposals do not erode the legibility of the listed building as contributing to an understanding of the historic development of Bootham, as they would be clearly read as a modern element distinct from the main building. The position of the existing building as a landmark building on Bootham would not be adversely affected as the transparent, lightweight structures would be glimpsed in views to the rear of the railings.

- 5.21 The listed building in its lawned setting with mature trees and boundary railings is still clearly read and understood, and the deferential height of the pods in relation to the railing posts ensures they are not visually obtrusive and do not impede an appreciation of the group. The Statement concludes that the development would at least preserve the significance of the conservation area and in turn would comply with paragraph 203, 205, 206 and 212 of the NPPF.
- 5.22 The proposal comprises discreet glazed structures which only occupy, and which are only visible, across a very limited part of a conservation area spanning a large area – so large in fact that it is divided into 24 character areas. The proposal would be entirely complementary to the uses and character of the conservation area.
- 5.23 The Statement concludes overall that the proposal does not give rise to any harm to heritage assets and that it preserves the character and significance of the conservation area. If the decision maker arrives at a different conclusion to the analysis (which is no harm) then the Assessment considers that the harm must be less than substantial and very low on the spectrum and entirely capable of being outweighed by the benefits.
- 5.24 The proposal for the pods is also supported by Theme 8, Action A, B and C of the Our City Centre vision. Action A explains that our spaces and buildings must respond to the pace of change currently underway in the city. It states:
- “Our spaces and buildings must respond to this to ensure that they remain in active and sustainable use, and in an ever more competitive world, those least responsive cities will be left behind. These issues should be acknowledged by planning as a Material Consideration to be weighed in the balance in the determination of relevant planning applications within the centre.”*
- 5.25 Action B, while specifically directed at supporting the re-use and re-purposing of historic buildings and spaces, does make the general point that our historic spaces and buildings must adapt to change and find commercially productive uses.
- 5.26 Action C highlights the need to provide more planning flexibility for the type of uses that will most benefit residents of the city. It states:
- Where planning permission is still needed to change the use of a historic building, and less than substantial harm is proposed, we will explore a policy which permits greater flexibility for schemes or uses which include those uses that are most beneficial to our communities.....*
- 5.27 The pods provide a significant positive economic impact to the benefit for the city as explained below.

Alternative Permitted Use

- 5.28 Recognising the impact that the Covid pandemic has had on the hospitality sector, in November 2021 the Government introduced new permitted development rights allowing drinking establishments to erect temporary external structures of up to 50 sqm in area and 3 metres in height for 120 days of the year.
- 5.29 An application for prior approval for the siting of a temporary marquee in the front garden of the Churchill Hotel meeting the requirements of Class BB was submitted to the Council on the 12th August 2022. The period of 56 days within which the Council must make a decision passed on the 7th October 2022 and, in accordance with BB.3.10(c) of the GPDO, prior approval is deemed to be granted.
- 5.30 The pods arguably have less impact than the marquee. With a footprint of 3.55m diameter they have a similar combined footprint to the Marquee and are a lower height (2.1 m as opposed to 3 m). The heritage statement concludes that the marquee option is not as aesthetically pleasing as the dining pods and would be more prominent than the discreet translucent pods.

Economic Impact

- 5.31 The importance of securing viable uses that sustain and enhance the significance of heritage assets is referenced in paragraph 196 of the NPPF in relation plan making and again in paragraph 203 in relation to decision taking where the NPPF states:

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.

- 5.32 On the basis of the information set out in the Heritage Statement, there is little doubt that the current hotel use of the listed building is perhaps the most viable use for the building. The hotel use commenced in July 1986 after extensive repairs to the roof and main building. Grant aid from Visit Britain helped with the conversion costs. The investment made in 1986 was c.£210,000 to convert the house into a hotel, bar and restaurant, and the repairs to the fabric of the building and roof were approximately £175,000 – a total cost of £385,000 (£1,200,000 in today's value¹). The car park was also laid out at this time.
- 5.33 Conversion to hotel use in 1986 gave the building a new lease of life and the initial success was consolidated when the current owners added a 24 room extension and refurbished public areas in 1986 at a cost of £1.2m (£1.85m in today's value). The hotel spends circa £120,000 per annum on a rolling programme of room refurbishments, repairs, and renewals.

¹ Today's value determined using bank of England calculator

- 5.34 The hotel operates successfully and has consistently good reviews in the travel press and online reviews. However, as a relatively small independent hotel it faces significant competition from the growing number of larger chain / corporate hotels in the City.
- 5.35 It goes without saying that the hotel, bar and restaurant, like most other hospitality venues, has faced unprecedented challenges since the Covid pandemic in 2020. The Hotel was closed to customers for five and a half months in 2020 and four and a half months in 2021. It had to work with the restrictions required for social distancing and this has reduced the capacity of the dining and bar areas. Despite the end of Covid restrictions, the hotel has found that many patrons have ongoing concerns about Covid and welcome, and in many cases expect, social distancing measures to be in place in the bar and restaurant.
- 5.36 To maintain patronage, in December 2020 the hotel availed of the temporary relaxation in planning controls and installed 7 pods that could each accommodate parties of up to 6 people – essentially in an outdoor setting but sheltered from the elements. These pods were a geodesic frame with a plastic covering – unlike the more robust polycarbonate pods proposed in this application.
- 5.37 The pods proved immensely successful with customers and were in constant use, achieving approximately 87% occupancy. Whilst the pods sometimes cater for hotel guests, they primarily cater for other non-resident visitors. Of particular note, a having regard to the objectives of the My City Centre Vision and the recommendations of the Y Tourism research is that a significant proportion of the custom for the pods is from local people. It is also of note that there have been no objections from local residents, but there has been support.
- 5.38 The pods were erected on a shallow timber platform placed on the ground. No excavation or other building work was required. Having regard to the residential neighbours, the use of the pods ceased at 11pm and noise levels were carefully controlled.
- 5.39 The pods were taken down in March 2021 and erected again for the Christmas season in November 2021 and removed at the end of January 2022 when the temporary relaxation of Permitted Development Rights was ended. The pods were erected again in November 2022 and November 2023 for the Christmas seasons.
- 5.40 The success of the pods has resulted in additional jobs being created – 7 permanent full time and 11 permanent part time plus seasonal casual labour. The additional staff are required both because of the increased patronage generated by the pods and, because the pods are outdoor, they require additional staffing. Whilst the hotel endeavours to keep these additional permanent staff employed during the spring, summer and autumn months, the unpredictable nature of the British weather can restrict the use of the garden area and makes this problematical. Without the ongoing use of the pods during the colder months the hotel will need to embark upon redundancies for the majority of these roles

and solely employ seasonal, casual staff just for the warmer months. This issue is considered under the heading of 'Operational Justification', below.

- 5.41 An Economic Appraisal/ Market Study for the pods is submitted with the application. It considers the changing trends in the tourism and hospitality sector nationally and in York and the implications of these changes for hotels and restaurants in particular. The report highlights that York is one of the top 10 most visited English cities and is recognised nationally and internationally as the jewel in the crown of the north of England.
- 5.42 The York visitor economy is expected to remain buoyant over the medium term. Whilst the city has bounced back strongly in the last 18 months from the Covid Pandemic, there have been long term changes in the behaviours of restaurant goers that require changes in the way hotels and restaurants must operate if they are to survive.
- 5.43 The report highlights the importance of the dining out market to hotels and restaurants, both from tourists and the indigenous "eating out" market of residents living in and near - in this case - the City of York. A hotel like The Churchill needs a healthy market mix of both tourists and city residents to ensure success in its restaurant, bar and other food and drink outlets.
- 5.44 The report highlights the key current and future trends within the food and dining out sector. These include:
- a) a continual move to less formality in dining
 - b) less time spent on meals
 - c) the growth of pop-up restaurants and bars and food "experiences"
 - d) more healthy options on offer on menus
 - e) organic and premium-sourced food
 - f) special dietary requirements, including vegetarian, vegan, gluten-free, wheat-free, etc.
 - g) local provenance and in many cases a farm-to-table approach
 - h) growth in the afternoon tea market
 - i) growth in al fresco dining
 - j) the introduction of more tech in food and drink service
 - k) involvement in the local community, including provision of food boxes, takeaway and delivery services
- 5.45 As this submission demonstrates, the proposal for dining pods at The Churchill ticks most of these important food and drink consumer trends, as well as providing product innovation and helping the hotel survive as a viable business in the Bootham/Clifton area of York. It is also relevant that the majority of customers for the bar and restaurant are not hotel guests. This accords with the objective set out in the Council's draft Economic Strategy of growing the value of tourism with a quality offer for visitors and locals. It also accords with Theme 4 Action D of the Our City Centre Vision, which supports making the city centres amenities and businesses more affordable and / or accessible for residents of the City or local area in comparison to visitors from further afield.

- 5.46 The report reveals that probably the greatest growth over the two years of the pandemic within the dining out market has come within “al fresco” dining, which has never been as popular as it is now.
- 5.47 The “al fresco” movement has gathered pace exponentially since the onset of the Covid pandemic and the distancing rules which came with it.
- 5.48 Whilst the fear of Covid has now been overtaken in consumer minds by the cost-of-living crisis, it still looms large in official research as a cautionary factor, and one for which social distancing, outside dining and a broader range of hotel facilities being provided, can go some way to overcome. There are, in fact, lingering concerns around Covid (relating to avoiding crowds and a feeling that the virus is still circulating), and these are continuing to hold some audiences back from visiting, particularly those aged 55 or over.
- 5.49 In March 2022, for example, the Office for National Statistics (ONS) published a report on public perceptions now that all coronavirus restrictions had been removed. This report found that (a) 32% of people in Great Britain felt it would take more than a year for life to return to normal, with 12% of people thinking that life would *never* return to normal, and (b) 57% of people still avoided crowded places.
- 5.50 And as at the end of August 2022, further ONS figures showed that 87% of adults still feel that the measures to slow the spread of Covid are either very important or important, and that 46% of adults always or often practise social distancing.
- 5.51 And VisitBritain said in its recent “MIDAS” report/Sentiment Tracker that, “regarding the Covid-19 residue...personal safety is also now at the fore”.
- 5.52 The report concludes that the proposed dining pods at The Churchill will mean that this popular neighbourhood within the City of York – just 600 metres from the city centre - can satisfy the demand which has grown over the last two years for al fresco dining throughout the year. Importantly for the success of the business, and other businesses such as retail outlets nearby, the pods will offer a unique dining or outdoor experience over the long winter months, whatever the weather.
- 5.53 Furthermore, the dining Pods will also match the City of York’s requirements for “quality tourism and hotel development” and are expected to attract customers from the city’s three main overnight target market segments – (a) UK couples and families on short breaks and longer stays, (b) international leisure travellers, and (c) business travellers and conference/event delegates – as well as attracting at least half their business from non-residential, more local, dining customers. The pods are ideal for small groups, including business groups/meetings, groups of friends, and multi-generational families.
- 5.54 The proposed Dining Pods fit the Churchill’s strategic goals for this hotel and fine heritage asset to move with the market and to survive and thrive as one of York’s long-standing hotels and tourist amenities. The Pods make a valuable contribution to the hotels revenue as well as securing 18 full and part time permanent roles.

- 5.55 The immediate economic benefits are therefore significant and a development like the dining pods at the Churchill not only creates jobs in the sector itself, but also encourages growth in other primary and secondary sectors of industry and the local economy. This, of course, is the “multiplier” effect, the indirect benefit of the development, including recruiting and training up locally-based food service staff, and buying local goods and produce from suppliers within the City of York and the wider Yorkshire region.
- 5.56 The proposal for the Pods fully accords with Theme 3 Actions A and B of the My City Centre vision which support businesses and family-friendly activity in the early evening and seek to create a family friendly environment in the early evening, particularly midweek to provide an attractive offer for both residents and visitors.

Al fresco dining in York

- 5.57 The popularity of outdoor seating has been highlighted not just by the outdoor facilities provided by private venues across the City but also by the outdoor public seating facilities made available by the Council in the summer of 2021 and 2022, for example in College Street, overlooked by the east window of the Minster and in Exhibition Square, in front of the Art Gallery.
- 5.58 Other proposals for temporary al-fresco dining have been approved in sensitive heritage locations with a similar context to the Churchill Hotel. For example permission was granted for the temporary siting of 6no. chalets by the South Quire Aisle of York Minster from November 2022 to January 2023 (York Minster is Grade 1 listed and part of a scheduled ancient monument). In considering the proposal the officer report concluded:

As outlined above, the proposals by virtue of their nature in terms of design and character, would have an adverse impact upon designated heritage assets. However, this impact is not considered to amount to substantial harm, nor would it result in the total loss of a designated heritage asset, and it would be wholly reversible. The proposals would also assist with ensuring the Minster is financially sustainable. The proposals are therefore considered to accord with policies D1, D4 and D5 of the draft local plan and policies contained within the Minster Precinct Neighbourhood Plan and NPPF.

- 5.59 A proposal as for a 364sq m marquee over 7 metres high in the grounds of the Grade 2 listed Principal hotel have also been approved for the months of November and December 2021. The officers report for that proposal concluded:

As per paragraph 196 of the NPPF, the harm to the designated heritage assets is considered to be less than substantial especially taking into account the temporary nature of the permission sought. The public benefits stem from the use of the space as a drinking establishment during the period of Covid restrictions which has employment and economic benefits particularly for York which has a strong visitor economy and limited public open spaces in the city centre. These public benefits are considered sufficient to outweigh the harm, if a temporary permission for the periods suggested is granted.

5.60 The pods widen the scope for outdoor dining in York and in that respect are supported by Theme 1 Action 5 of the My City Centre Vision which seeks to provide more covered and indoor spaces for families to spend time together.

5.61 Support is also provided by Theme 3, Action which supports and seeks to expand outdoor eating and café culture in the city centre. It states:

The expansion of pavement cafés have been an essential part of the sector's response to lockdown. We will develop a permanent approach to outdoor eating & Café culture which can create a vibrant atmosphere whilst managing accessibility and amenity impacts, and maintaining a high quality city centre environment.

Operational justification

5.62 As outlined above, the pods are clearly required to outdoor dining in the winter months. This is an objective supported by the findings of the My City Centre Vision which noted that:

The open spaces and parks of the city are well used in through the summer months, but there are limited spaces for families to get out of winter weather when using the centre. Facilities such as Sheffield's Winter Gardens, covered markets, food courts and arcades prove popular elsewhere and could increase footfall and activity.

5.63 However, there is equally a requirement for the pods through the rest of the year to ensure continuity of trade that is not weather dependent. This enables the hotel to retain/create more permanent jobs rather than solely relying on casual labour. This supports the Council's economic objective of providing more stable higher quality part time jobs. The permanent roles created by the pods include:

- two additional full time chef roles
- one full time and one part time managerial role to oversee the smooth operation of the beer garden
- four additional full time serving positions and eleven additional permanent part time positions rather than casual vacancies:

5.64 The business would be able to avoid losing money when the weather is inclement i.e. even with the existing smaller full time team there are shifts to which the hotel is committed and pay staff for, but sometimes take no revenue because customers do not want to sit in the garden when it is cold.

5.65 With the certainty the pods bring, staffing becomes easier to manage. For example whilst the hotel retained both its permanent and casual team through the 120 days the temporary pods were in use between November 2022 and February 2023, the majority of

the casual bank of staff (12 people) were let go when the temporary pods came down in February. Those temporary staff have since had to find new employment.

- 5.66 However, the hotel would struggle to cope with the retained permanent team should a favourable period of weather in spring (April May), result in people using the garden. But the hotel cannot recruit more temporary staff simply on the 'hope' of good weather in spring. If the weather was to be very favourable the hotel might have to turn away customers due to lack of staff.

Justification for 5 years - Anticipated Financial Return

- 5.67 To purchase and fit out the Pods to the high standards customers expect, will cost approximately £17,000 per Igloo. The case for requesting a minimum 5-year term is based on taking approximately £1000 per Igloo per week when the weather is inclement and the garden trade it replaces would otherwise be taking minimal money. After VAT (20%), food and drinks costs (approx. 25%), staff costs (approx. 25%) plus sundries including energy (approx. 5%) this would leave about £250 per Igloo per week profit.
- 5.68 Determining a break-even point is not easy to predict because this will depend upon how many days the hotel could 'save' with the pods rather than 'lose' due to weather but, working on a conservative figure of 150 days, means that an Igloo would re-coop £5,357 per annum, breaking even in just over three years and allowing for two additional profitable years.
- 5.69 However, the more important factor is that the hotel would be able to maintain a consistent and permanent level of local staff generated by the additional trade from the pods for those 5 years rather than relying on sourcing fresh transient labour to see the hotel through each summer season.

Residential Amenity

- 5.70 The use of the garden as an outside meeting/dining space has the potential to impact surrounding neighbouring residents by way of noise and other nuisance. However, the previous experience of the pods has demonstrated that it is not unreasonable for the hotel to utilise part of their outside space for guests and that this can be achieved without impacting residential amenity. In their nine months of use over the past three winters, no complaints were received from residential neighbours – indeed some residential neighbours were frequent users of the pods.
- 5.71 Also, the use of the pods, being enclosed structures, will contain and dampen some of the noise created by outside guests whilst socialising. To limit the impact on residential amenity the hours of use would be limited to 8am to 10pm Sunday - Thursday and 8am - 11pm Friday - Saturday. The proposed hours of use are similar to that of existing events held at the hotel and also correspond with the premises license. The 8 am start allows the pods to be used for breakfast service.

Other Planning Issues

5.72 The low impact and reversible nature of the proposed pods means any potential impact is limited.

(i) Highways and transportation

No additional car parking is proposed. Much of the custom for the pods come from hotel guests, local residents or people already visiting the city. The potential for additional traffic generation is therefore limited.

(ii) Drainage

No discharge is proposed to either sewers or watercourses. Any surface water runoff will drain to existing ground as present.

(iii) Trees

The pods are light weight, no excavation is required and where pods are located within root protection areas, they affect only a small proportion of the root area. The potential for adverse impact on trees is therefore minimal.

(iv) Ecology

The location of the pods is already lit by floodlights and affected by streetlights and road noise. The use of the pods will cease by 11pm. Any potential for impact on any bats that might be present is low to negligible.

Presumption in favour of development

5.73 The NPPF identifies three strands to sustainability:

- ***An economic role***
- ***A social role.***
- ***An environmental role.***

5.74 The proposed development can address the inter-related strands of sustainable development in the NPPF as follows:

Economic: The development proposal will have a direct positive economic impact in terms of direct employment as evidenced above. The pods also have an indirect impact in that they provide a dining venue for other accommodation venues in the City that do not have dining facilities.

Social: The development will provide a useful social role by providing the outdoor dining and meeting facilities for those who continue to have concerns about social distancing given the continuing

presence of Covid for the foreseeable future. In addition, the pods will contribute to the continued viable use of the hotel bar and restaurant which allows a greater number of people to experience the listed building than if it was in alternative use, such as residential apartments for example.

Environmental:

The site is in a sustainable location within cycling distance of local residential areas and is also served by regular bus services. The landscaping scheme will result in an improvement to the environmental quality of the site.

6.0 CONCLUSIONS

- 6.1 Planning law requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF also carries a presumption in favour of sustainable development.
- 6.2 Planning permission is sought for a low impact development of 5 pods for a period of 5 years to facilitate outdoor dining/ meeting space to maintain the viability of the Churchill Hotel, bar and restaurant. The hospitality sector has had 4 years of unprecedented operational and economic challenges, and the Churchill Hotel has been no exception to this. Whilst Covid restrictions are being gradually relaxed, Covid has not been eliminated and this will continue to create uncertainty for hospitality venues.
- 6.3 Even with Covid restrictions removed, many people continue to exercise caution and expectations for social distancing are still expected by patrons. The installation of pods on a temporary basis in the winters of 2020/21; 2021/22, 2022/23 and 2023/24 proved immensely popular and enabled the hotel to maintain its patronage without giving rise to any complaints from residential neighbours. Many patrons now expect increased availability of outdoor dining.
- 6.4 Given the context of the Churchill Hotel and its large plot, it is not considered unreasonable for the hotel to have some element of outdoor seating. And given the changeable British climate, it is also considered reasonable for some part of this outdoor seating to be covered. The proposed pods meet that objective.
- 6.5 The pods are not considered to adversely harm the character or appearance of the listed building. The pods are principally see-through and therefore their visual impact may be considered less than a solid sided freestanding structure or extension in the same location.
- 6.6 The proposal does not give rise to any harm to heritage assets. If the decision maker arrives at a different conclusion to the analysis (which is no harm), then the Statement considers that the harm must be less than substantial and very limited indeed. The Heritage Statement concludes that the reason for refusal of the previous application cannot be sustained, particularly as the application is for a temporary period of 5 years.
- 6.7 The application benefits from the policy support provided by both national and Local Plan Policies and will help deliver many of the economic aspirations and objectives in the Council's *Economic Strategy* and *Our City Centre Vision*.
- 6.8 The temporary use of pods over the past 4 years had enabled the hotel to maintain and even increase staffing levels, a significant positive economic impact. Having the pods in place for a fixed period of 5 years will enable the hotel offer both permanent and part time staff more certainty of employment.

6.9 In summary the dining pods:

- are **not** permanent structures
- are **not** permanently fixed to the ground
- do **not** require any ground excavation for foundations or services
- are for a period of 5 years
- are **wholly** reversible once the need for them has ceased

Planning Balance

6.10 The proposed pods should be considered in the context of the presumption in favour of sustainable development, applied in Paragraph 11d of the NPPF. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

6.11 The assessment of the impacts of the proposal clearly demonstrates that the public benefits identified in terms of positive economic and social impacts of the proposal, supported by the Council's My City Centre Vision, outweigh any perceived impacts and there are no obstacles to a grant of planning permission.