

| City of York Council | Committee Minutes                                                                                                                                                 |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Meeting              | Planning Committee A                                                                                                                                              |
| Date                 | 16 January 2025                                                                                                                                                   |
| Present              | Councillors Crawshaw (Chair), Fisher (Vice-Chair), Ayre, J Burton, Clarke, Cullwick, Melly, Steward, Moroney, Watson and B Burton (Substitute for Cllr Whitcroft) |
|                      | Gareth Arnold – Development Manager<br>Jonathan Kenyon – Principal Planning Officer<br>Sandra Branigan – Senior Lawyer                                            |
| Apologies            | Councillor Whitcroft                                                                                                                                              |

#### **142. Apologies for Absence (4.39pm)**

Apologies for absence were received and noted for Cllr Whitcroft.

#### **143. Declarations of Interest (4.39pm)**

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. Cllr Watson noted that he was a Trustee of York Archaeology. There were no further declarations of interest.

#### **144. Minutes (4.40pm)**

Resolved: That the minutes of the meetings held on 7 November and 5 December approved as a correct record subject to the following amendments:

- Under item Land to South and East of the Cemetery, New Lane, Huntington, York [23/01016/OUTM] the first bullet point in Cllr Cullwick answers to questions in public speaking to change to ‘the application site was in the zone of influence in Strensall Common.’
- First sentence of final paragraph before the resolution on Land Lying to the North West of Murton Way, York [23/02030/FULM] to change to ‘Following debate, Cllr Ayre proposed the officer recommendation to refuse the application.’
- Final sentence of final paragraph before the resolution on Land Lying to the North West of Murton Way, York [23/02030/FULM] to change to

‘Following a vote with six voting in favour, two against and two abstentions, it was:’

- Second bullet point of Steven Gough’s answer to answers to questions in public speaking to change to ‘The author of the report was not a qualified fire safety engineer and was an expert in safety.’

#### **145. Public Participation (4.42pm)**

It was reported that there had been one registration to speak at the meeting under the Council’s Public Participation Scheme on general matters within the remit of the Planning Committee A.

Flick Williams spoke under the general remit of the Committee. She noted that AI stated the Public Sector Equality Duty (PSED) applied to the Planning and Licensing functions and could not be delegated. She explained that the committee had correctly imposed three conditions of access before occupancy on the York Central development. She noted that on 23 December 2024 a planning officer made a delegated decision to allow occupancy of the government hub before the conditions were met. She quoted from the decision notice and asked what guarantees there would be that this would not be followed by a succession of applications all of whom wanted occupancy before access. She added that access delayed was access denied and that there must be no more delay.

#### **146. Plans List (4.46pm)**

Members considered a schedule of reports of the Head of Planning and Development, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

#### **147. Hungate Development Site, Hungate, York [21/00280/FULM] (4.46pm)**

Members considered a major full application for the erection of an apartment block to comprise residential units (Use Class C3) together with flexible commercial uses (Use Class E and F2), landscaping and associated works (Block H) at Hungate Development Site, Hungate, York. The Chair advised that it was a major full application as the reserved matters had expired. He added that paragraphs 5.52 and 5.53 of the

published report set out that the pedestrianisation of Hungate was not part of the application.

The Development Manager outlined the plans and gave a presentation on the application. He noted that it was a build to rent scheme and he explained how this was defined in the NPPF. He noted that the reason for a full application was because the full application had run out. He noted the conditions from the outline planning permission were included in the conditions in the application before Members.

The Principal Planning Officer gave an update on the application. He noted that there had been further representation from the applicant an extended time period of five years and it was felt that that the standard 3 year time limit was appropriate. He added that there had been further representation from Hungate residents regarding parking, the delivery of St John's Square and building heights. He detailed the corrections and clarifications to the report, changes to conditions 28 and 30 regarding landscaping and public realm, an additional condition regarding cycling and additional items for the S106 heads of terms and replacement wording for item iii of the resolution.

#### Public Speakers

Mark Russell spoke in objection to the application. He explained how the development prevented access to the Bellerby Court multi storey car park due to cars queuing to get into the car park. He requested that access to the multi storey car park should be via Hungate. He believed that St Jon's Square should be completed at the same time as block H.

Ian Kingham spoke in objection to the application. He noted that he was a committee member of Leetham House Community Group. He explained that renters did not make a contribution to the community. He noted that Dundas Street would become single lane and he did not believe that it would be able to cope with retail units. He was concerned that St John's Square would attract anti social behaviour and he expressed concern regarding noise during the building works. He asked for the pelican crossing to be reinstated.

Cllr Dave Merrett, Guildhall Ward Cllr, spoke in objection to the application. He had been contacted by residents about their concerns regarding St John's Square being delayed. He noted residents' concerns regarding access to the car park and that they would like to see the Hungate route being retained. He expressed concern regarding the S106 funding. He noted that it was difficult for residents to cross opposite the Hiscox building and noted that residents would also like additional electric vehicle (EV) charging.

Colin Murphy, the applicant, spoke in support of the application. He explained that the scheme would provide professionally managed rental accommodation, including affordable rents. Regarding the St John's Square delay, the applicant was committed to delivering St John's Square. He explained that that part of the site was needed for the building of block H. He noted that the pedestrianisation of Hungate was not part of the application. He noted that the application was important for the completion of the Hungate scheme.

Colin Murphy was joined by Suzanne Yates (agent for the applicant) to answer Member questions. They were asked and explained that:

- The scheme provided two additional EV spaces.
- Affordable rents would include a service charge.
- Their experience was that there would be less demand car parking space and increased use of public transport. The scheme would provide a cycle space per unit and the cycle spaces were large.
- The intention was for the block to be for rental in the future.
- Regarding making sure the tenants had a voice would be discussed with the operator.
- Block H has sufficient sunlight for grass to grow.
- There was space to store equipment.
- All flats were designed to building regulations and a proportion would be adaptable.
- There was a proposed layby in Dundas Street for deliveries and drop off.
- The pedestrianisation of Hungate was not part of the application.
- Accessibility was explained and there was level access and parking not attached to the block. There was approximately 23m to the car parking.
- Regarding the delay of St John's Square, there were constraints to the site and the area was needed when the block was constructed.
- The remaining blocks would be built sequentially, not concurrently.
- The reason for the request of 5 years was because of the site constraints and the delivery of St John's Square would be after 5 years.

[The meeting adjourned from 5.34pm until 5.42pm)

Members asked officers a number of questions to which they responded that:

- Hungate was not part of the application and was part of the 2015 application. For the streets to be pedestrianised it would require a Traffic Regulation Order (TRO) at an Executive Member Decision Session.
- The area of land being considered was demonstrated using the site location plan. The plans showed a paved footway and if there was two separate planning permissions for the two separate blocks and if there was an overlap the planning permissions should say the same thing.

The central bit of Hungate outlined under the planning permission for block G.

- Access was shown within the red line on the plan for the proposed hard landscaping and this was demonstrated to Members on the screen in the room.
- The scheme had been brought forward without car parking.
- The starting points for affordable housing was different to build to rent. It was explained how the calculation was made for discounted rent. The percentage of affordable rent should not impact the other blocks coming forward.
- There was the potential that the properties could be sold off after 10 years and there was national guidance on that scenario.
- There was a clawback written into the S106 about the contribution if the properties were sold off after 10 years and there was a formula set out in the NPPF if the scheme ceased to be build to rent.
- Regarding a S106 contribution, the NHS had not made a consultation response to the application. There had been no contributions to the NHS on the other Hungate applications.
- Regarding subletting and Airbnb's the scheme was build to rent and the build to rent management provisions were noted.
- The controls under the S106 agreement were sufficient for longer tenancy agreements.
- The scheme was promoted for a specific purpose for longer term tenancy agreements and it wasn't possible to close off whether it was a tenant sublet or as a holiday rental. A condition regarding this would not meet the reasonable test.
- The build to rent management conditions were in line with NPPG advice.
- A pedestrian crossing on Stonebow was included in the local transport plan.
- Regarding the delivery of St Johns Square there was consistent conditions regarding phasing.
- All conditions met the six tests of reasonability.

During debate a Member put on record that they were disappointed that there had been no contribution to NHS funding. The Chair asked if it was possible to remove the build to rent conditions from the S106 heads of terms and replace with a condition. Officers felt that it would sit more comfortably with the S106. This view was supported by the Senior Lawyer who noted that the S106 agreement included a period of tenancy of 3 years and covenant period of 10 years. It was the view of the Senior Lawyer that there were rent management provisions in the S106. A Member expressed concern regarding the planning enforceability of a change of use.

Cllr Steward proposed the officer recommendation to delegate authority to the Head of Planning and Development Services to approve the application subject to the completion of a Section 106 Agreement to secure planning obligations, the addition of an informative covering short term holiday letting and the C3 use class, changes to conditions 28 and 30 regarding landscaping and public realm, an additional condition regarding cycling, additional items for the S106 heads of terms and replacement wording for item iii of the resolution: This was seconded by Cllr B Burton. Following a vote with ten voting in favour and one abstention it was:

Resolved: That delegated authority be given to the Head of Planning and Development Services to approve the application subject to the completion of a Section 106 Agreement to secure planning obligations, the addition of an informative covering short term holiday letting and the C3 use class, changes to conditions 28 and 30 regarding landscaping and public realm, an additional condition regarding cycling, additional items for the S106 heads of terms and replacement wording for item iii of the resolution:

Section 106 Agreement to secure the following planning obligations:

(i) Affordable housing – 9.8% of Build to Rent units (a total of 21.7 rounded up to 22) on-site to be discounted as follows –  
1-bed x 15 units with a discount of 38%  
2-bed x 7 units with a discount of 50%

(ii) Education - a contribution of £132,832 towards expansion at St Oswalds and / or Fishergate Primary school, £78,378 to Fulford School and £170,784 towards pre-school provision.

(iii) Off-site sports provision - Financial contribution of £61,983 towards - multi-use games area within the Guildhall Ward or another suitable sports project at the time of the payment either within the ward or adjacent wards or within 15 - 20-minute walking distance or within 20 minutes on public transport of the Development.

(iv) Off-site amenity and play space provision - Financial contribution of £80,761 new play equipment for Navigation Road (Rosemary Place), Glen Gardens or St Nicholas Fields with the amenity element of the contribution spent on enhancements to open spaces around the City Walls, Walmgate area or St Nicholas Fields.

(v) £200 per dwelling to promote car club use = £44,200

(vi) Monitoring fee £1,510.00 per item = £7,550

- The finalisation of the terms and details of the Section 106 Agreement.
- The finalisation of the detail of planning conditions.

### **Additional Informative**

Addition of an informative covering short term holiday letting and the C3 use class

### **Conditions 28 & 30**

Conditions 28 & 30 regarding landscaping and public realm – amend wording to specify completion required linked to occupation.

### **Additional Condition**

Cycle parking – additional condition to require completion prior to first occupation and retention thereafter.

### **S106 heads of terms**

Heads of terms to include -

- Archaeology – condition 15 to be omitted and the requirements to be included in the s106 agreement. This is consistent with other Hungate applications.
- Traffic Regulation Order - £10,000 required (works on The Stonebow and Dundas Street).
- Build to rent management provisions, aligned with NPPG advice -
  - Managed by single BTR landlord.
  - Management and service agreement required.
  - Homes to remain within the rental sector for agreed covenant period (10 years).
  - Tenancy agreements aligned with national guidance (includes longer tenancy if tenants desire such and 1-month options for tenants to terminate agreement after first 6 months).

Reasons:

1. This application seeks permission for revised proposals for Block H, which until April 2021 benefited from an extant outline approval. The time for submitting the reserved matters (of the extant approval) has expired. This proposal involves an

increase of 52 units with other changes to the previously approved design parameters, the key ones being the removal of the basement car park and an increase to the extent of the seventh floor; the scheme under consideration has been submitted as a stand-alone, full application.

2. The building massing for the Stonebow elevation as proposed in this application is within the “maximum heights” parameter granted consent under the original hybrid permission and therefore a similar assessment of the impact on heritage assets has been applied with the same conclusions reached. In terms of the massing for the remaining parts of Block H, the revised scheme is broadly in accordance with the height limits and floor areas of the permitted outline scheme with the difference relating to a minor addition at seventh floor. Whilst this increase in the extent of the seventh floor would be visible, its location towards the centre of the development would ensure that the visual impact is not material.
3. The proposal, by virtue of the width and height of the Stonebow elevation, would result in less than substantial harm (at the lower end) to the setting of the Conservation Area. The excavation of an apron of unexcavated archaeology which remains around the perimeter of the site would result in harm to non-designated heritage assets. The identified harms are consistent with those identified previously under permitted application 15/01709/FULM.
4. The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The harm is considered “less than substantial”. The NPPF requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.
5. It is considered that the identified harm to heritage assets has been mitigated by the measures detailed in the archaeology investigation and is outweighed by the environmental, social and economic benefits associated with the provision of new housing, for which there is identified need, and the sustainable regeneration of previously developed land. The development



and consequent increased local population would bring regeneration and economic benefits to the city centre. As set out in section 5, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

Cllr J Crawshaw, Chair

[The meeting started at 4.35 pm and finished at 7.03 pm].

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