

## COMMITTEE REPORT

**Date:** 13<sup>th</sup> December 2017    **Ward:** Guildhall  
**Team:** Major and Commercial Team    **Parish:** Guildhall Planning Panel

**Reference:** 17/02019/OUTM

**Application at:** Hungate Development Site Hungate York

**For:** Variation of condition 3 (approved plans), 5 (maximum building height) and 6 (parameter plans) of permitted application 17/01847/OUTM to allow increase in height of Block G, minor revisions to the proposed building footprint and associated changes to landscaping and public realm, provision of vehicular service access to Block G from Garden Place and increase in cycle parking, revisions to maximum foundation levels and allowance for location of below ground attenuation tank and lift pits, revisions to finished floor levels for the residential and commercial elements of the scheme and minor amendments to the site wide surface water drainage strategy. Removal of condition 40 (air quality monitoring)

**By:** Hungate (York) Regeneration Limited

**Application Type:** Major Full Application (13 weeks)

**Target Date:** 30 November 2017

**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

#### PLANNING HISTORY

1.1 A hybrid planning application (part outline and part detailed) for the redevelopment of the remaining phases of the Hungate site (Blocks D, F, G and H) was approved in April 2017, following a resolution to grant planning permission by members of the Planning Committee in December 2015 (15/01709/OUTM). Blocks D and F were granted full planning permission, whilst Blocks G and H benefit from outline planning permission. The application was accompanied by an Environmental Statement (ES)

1.2 A Section 73 application to vary a number of plans listed under Condition 3 of hybrid planning permission 15/01709/OUTM was approved in October 2017. The revisions related solely to Block F and included amendments to the layout of the multi storey car park enabling the provision of an additional 22 car parking spaces, revisions to the window design at either end of the north elevation to facilitate larger glazed openings onto the balconies, removal of the brick structure separating the private terraces on the fifth floor facing the River Foss, and addition of a replacement "feature" canopy", and

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the replacement of protruding balconies with Juliet balconies to the ground and first floors of the east elevation.

1.3 Work has now commenced on Block F under the recent Section 73 permission (17/01847/OUTM).

## PROPOSAL

1.4 This Section 73 application has been submitted in order to vary Condition 3 (plans), Condition 5 (maximum height) and Condition 6 (parameter plans) and to remove Condition 40 (air quality monitoring) of hybrid planning permission 17/01847/OUTM. With the exception of the proposal to remove Condition 40, the application relates solely to Block G, which will comprise the fourth phase of the Hungate development to follow the completion of Block F, and has no implications for the other blocks approved as part of 17/01847/OUTM.

1.5 The outline permission for Block G established a series of parameters within which the detailed proposal for the block would be developed. This Section 73 application, in seeking to make amendments to the outline permission, is accompanied by updated parameter plans. Whilst detailed plans have been submitted, these are for illustrative purposes only to assist Officers' understanding of the implications for revising the parameter plans. Detailed plans relating to access, appearance, landscaping, layout and scale for Block G would be submitted via a reserved matters application pursuant to the determination of this Section 73 application.

1.6 It is proposed to develop Block G as a residential apartment block of 196 units with ancillary residential amenity floorspace (comprising a residents lounge/concierge facility, residents gym, landscaped courtyard and rooftop terrace) of 1,103 sqm and 479sqm commercial floorspace (to comprise flexible retail/leisure uses along active frontages at Stonebow and Hungate) alongside a landscaped courtyard, pedestrian, cycle and vehicular (service) access and associated infrastructure.

1.7 This application involves no changes to the total number of dwellings or the amount of commercial floorspace approved in the outline consent but seeks permission for a number of revisions to the established parameters, namely a revision to the height of the block together with other non material changes. These revisions are summarised as follows;

- an increase in the height of Block G, to include an eight storey element on the corner of Hungate and Carmelite Street (comprising a revised maximum height of 35.7m AOD) and a six storey building with a seven

storey set-back along Carmelite Street, turning the corner onto Garden Place and part of Hungate,

- an increase in the height of the central section of the elevation of Block G fronting Stonebow from 5 storeys (maximum height of 27.1m AOD) to 6 storeys (maximum height 30.4m AOD),
- minor revisions to the footprint of the building and associated changes to the landscaping and public realm,
- provision of vehicular service access to Block G from Garden Place,
- revisions to the maximum foundation levels and allowance (from 8.95m AOD to 10.14m AOD) for location of a below ground attenuation tank and lift pits,
- revisions to the finished floor levels to reflect the latest guidance from the Environment Agency,
- minor amendments to the site wide surface water drainage strategy.

1.8 Consent is also sought to remove Condition 40 of the outline permission, which requires that site specific nitrogen dioxide diffusion monitoring be undertaken for a minimum period of six months prior to the submission of reserved matters in respect of Blocks G and H. This monitoring study has been undertaken with the resulting 2016 Air Quality Monitoring Report (May 2017) forming a part of the application submission.

## THE SITE

1.9 The site lies just outside the Central Historic Core Conservation Area with the Conservation Area boundary following the north eastern side of the Stonebow and the northern bank of the Foss, directly adjacent to the recently built Block E (Phase 2). Rowntree Wharf, a Grade II listed building is sited opposite the development on the south bank of the river and Lady Hewley's Almshouses (Grade II listed) are located on the opposite side of Stonebow.

## ENVIRONMENTAL IMPACT ASSESSMENT

1.10 In accordance with EIA regulations and procedure, the Environmental Statement (July 2015) submitted with the hybrid application has been reviewed and assessments undertaken to identify whether the proposed changes to the scheme parameters would result in any new or amended environmental effects. This has resulted in reconsideration of the technical chapters relating to transport, townscape and visual impact, flood risk and drainage, archaeology, cultural heritage and micro climate. The assessments have also been updated to reflect the latest committed development schemes within the vicinity of the site and the results of the revised assessments are documented within the Supplementary ES, which has been submitted as part of this application.

1.11 In summary, the ES Addendum (August 2017) identifies that the proposed scheme changes, including that of the maximum height of Block G, would result in no change to the residual effects and/or overall conclusions reached in the original ES (July 2015).

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

2.2 Policies: Please see section 4 for the relevant national and local planning policy context.

## **3.0 CONSULTATIONS**

INTERNAL

ENVIRONMENTAL MANAGEMENT (DESIGN)

3.1 The comments of the Council's Architect are reported and considered in paragraphs 4.19 to 4.31 of the report.

HIGHWAY NETWORK MANAGEMENT

3.2 No objections. Please re-apply conditions as per previous consent.

CHILDRENS SERVICES, EDUCATION AND SKILLS

3.3 A S106 Education Contribution is still required for this variation to the development, details below.

Primary School: Fishergate  
Project: Internal Adaptations to Infrastructure  
Pooling count: 2nd contribution

Secondary - School: Fulford  
Project: Internal Adaptations to Infrastructure  
Pooling count: 2nd contribution

## PUBLIC REALM

3.4 A Section 106 contribution is still required for this variation to the development, details below.

- the expansion of teaching and workshop facilities at St. Nicholas Fields.
- children's themed educational planting and interactive at Museum Gardens;
- woodland and beck side adventure and educational play at St Nicholas Fields; and
- children / teenager skills and challenge course at Foss Islands Path;
- changing and ancillary facility improvements and additional sports facilities at Burnholme Community Health Hub; and
- club house and ancillary facility improvements at Heworth Rugby Club

## PUBLIC PROTECTION (AIR QUALITY)

3.5 The comments by Public Protection made to Watermans on their draft report have been incorporated into the 'Air Quality Monitoring' report submitted with the application and the methodology and approach to the study has been agreed. The study demonstrated that annual mean concentrations of nitrogen dioxide were below health based objective levels at all monitoring locations surrounding blocks G and H. On this basis, Public Protection agree with the conclusions of the report and do not consider that mechanical ventilation or non-opening windows are required to make the development acceptable in air quality terms. Based on the monitoring study undertaken, it is also considered that the site is suitable for balconies and outdoor areas.

## FOOD RISK MANAGEMENT

Content with the changes to the scheme which include:-

- Finished floor level - Residential at 11.015m AOD, and Finished floor level - Commercial at 10.620m AOD
- Increase in surface water restricted discharge to the River Foss now to include existing highway drainage from Dundas Street and Palmer Lane - from 131.4 litres /second to 148.6 litres /second.

## EXTERNAL

## YORKSHIRE WATER

3.6 No objection to the variation of conditions.

## NATURAL ENGLAND

3.7 No comment to make on the variation of conditions.

## NORTH YORKSHIRE POLICE

3.8 No comments to make in relation to designing out crime.

## CONSERVATION AREAS ADVISORY PANEL

3.9 The Panel object to this increase in height to eight storeys. It was also noted that no justification has been provided and no consideration had been given to the key views.

## YORK CIVIC TRUST

3.10 The Trust objects to the proposed scheme on three grounds:

(i) Raised maximum height

3.11 The proposed additional 8th floor on the eastern corner of Block G is unjustified and excessive. As there is no Design or Access Statement included with this application, no justification is made for the addition of this floor.

3.12 The proposed maximum height of Block G would exceed the permitted maximum height, as approved and set out by Condition 5 of the outline planning permission, which for Block G is 32.7 AOD. The revised height for Block G in this proposal would be 35.7 AOD (+/- 1m), and thus 3m higher. As a point of reference, the current height of Stonebow House (aside from the plant works) is 37.44 AOD - of which many York citizens consider is too high.

(ii) Lack of Visualisations

3.13 Considering one of the most contentious aspects of the original Hungate scheme was its impact on the city's vistas and skyline, the Trust considers any increase in the maximum height of Block G to be unacceptable. The lack of any visualisations for this proposal provides no context to adequately assess its impact on the cityscape, including historic vistas.

(iii) Increased massing (of Block G), and possible impact on amenities

3.14 Further to the raised height of the eastern corner of Block G, almost the entire block is to be raised by a storey (including an increase on the Stonebow aspect from 5-6 storeys to being entirely 6 storeys tall). This will have an impact on the massing of Block G, which could now be considered excessive.

3.15 This increase in massing is likely to also impact on Condition 8 of the outline planning permission for Blocks D-H which requires that within Blocks G and H combined there shall be no more than 375 residential units in total'. Without a Design and Access Statement or floor plans for Block G and H it is impossible to analyse this impact.

### THIRD PARTY REPRESENTATIONS

3.16 The application was publicised by site notice, press notice and letters of neighbour notification. Five letters of objection have been received raising the following points;

- object to increased height of Block G which is overdevelopment on this site
- cramming more into an already very dense development is wrong.
- the likely increase in number of residential units due to the extra bulk, leading to too great a density. This is exacerbated by the greatly reduced space allocated to non residential uses since the original approved scheme.
- the height increase will have a significant impact on local residents as access to daylight will be impacted and a further restriction of views will result.
- negative impact on views across the city, effecting sightlines to and from Rowntree Wharf, the minster and from the city walls
- as leaseholders of a north-facing flat on the 5th floor of Rowntree Wharf, the proposed height increase of Block G will adversely affect our view of the Minster
- It would increase shading and dominance on Peasholme Green and make the street darker and more enclosed leading to increased air pollution at street level
- impact of the increase in the mass on Stonebow
- object to the removal of the use of permeable pavements and walkways which play a role in reducing water run off and have no negative effects at all in their use.
- concerned that air quality monitoring should be suspended at the site

## 4.0 APPRAISAL

4.1 The key issues to be considered as part of this application are:-

- Height and Massing
- Residential Amenity
- Highway Issues
  
- Air Quality
- Financial Contributions

## POLICY CONTEXT

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies relate to York's Green Belt.

Section 66 the Planning (Listed Buildings and Conservation Areas) Act 1990

4.3. Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

National Planning Policy Framework (NPPF, March 2012)

4.4 Central Government guidance is contained in the National Planning Policy Framework. Paragraph 7 of the NPPF says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design and a good standard of amenity for all and to proactively drive and support sustainable economic development to deliver the homes and businesses that the country needs.

4.5 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people. Paragraph 65 says Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing

townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

#### City of York Draft Local Plan (2005)

4.6 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF.

4.7 The site falls within the Hungate Development Site as shown on the Local Plan Proposals Map (2005). It is identified as a mixed use allocation for both office development (B1a) and residential development. The relevant policies are considered to be:-

- CYED4 -Developer contributions towards Educational facilities
- CYL1C - Provision of New Open Space in Development
- CYHE2 - Development in historic locations
- CYGP1 - Design
- CYGP9 - Landscaping
- CYGP4B - Air Quality

4.8 Policies considered to be compatible with the aims of the NPPF and most relevant to the development are HE2 (Development in Historic Locations), GP1 (Design) and GP9 (Landscaping). A development brief for the site was prepared in 2005 and details the main planning and design principles that the development of the site should be based upon.

#### Emerging Local Plan

4.9 Consultation on a new pre-publication draft local plan and revised evidence base ended on October 30th 2017. The emerging local plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process which policies will be limited. The evidence base that underpins the proposed emerging policies is also a material consideration in the determination of the planning application.

4.10 Policy SS17 of the emerging Local Plan identifies the Hungate site as a Strategic Housing Site (Allocation Reference ST32). The draft allocation reflects permission 15/01709/OUTM. Policy SS17 requires that "design should respect local amenity and character whilst being imaginative and

energy efficient. The special character and/or appearance of the adjacent Central Historic Core Conservation Area should be conserved and enhanced".

## HEIGHT AND MASSING

4.11 The NPPF advises that good design is a key aspect of sustainable development and is indivisible from good planning. Planning policies and decisions should aim to ensure that developments:

- Will function well and add to the overall quality of the area
- Establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit
- Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- Are visually attractive as a result of good architecture and appropriate landscaping

4.12 Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.13 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 of the Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The current application must be judged on this basis.

4.14 In the NPPF listed buildings and conservation areas are classed as 'designated heritage assets'. When considering the impact of proposed development on such assets local authorities should give great weight to the asset's conservation. Any harm or loss should require clear and convincing justification (paragraph 132).

4.15 The site lies just outside the Central Historic Core Conservation Area. The boundary extends along the south-western elevation of the Telephone Exchange and runs along the north western side of the Stonebow (the opposite side of the road to the application site). Rowntree Wharf, a Grade II listed building is sited opposite the development on the south bank of the river

and Lady Hewley's Almshouses (Grade II listed) are located on the opposite side of Stonebow.

4.16 The proposed revisions to Block G as summarised at paragraph 1.7 are considered to be in substantial accordance with the parameters established by the outline element of the planning permission, including the overall development quantum, layout, foundation levels, public realm, landscaping and drainage. This is with the exception of height, which is varied from that shown on the approved parameter plan.

4.17 The proposal involves an increase in the height of block G with an eight storey element located on the corner of Hungate and Carmelite Street (comprising a revised maximum height of 35.7m AOD) and a seven storey element along Carmelite Street, turning the corner onto Garden Place and part of Hungate. This compares with a part six / part seven storey building (maximum height of 32.7m AOD) fronting part of Hungate, Carmelite Street and part of Garden Place which was consented as part of the 2015 hybrid scheme.

4.18 It is also proposed to increase the central section of the element fronting Stonebow from 5 storeys (maximum height of 27.1m AOD) to 6 storeys (maximum height 30.4m AOD) to provide a uniform building height for the Stonebow elevation.

4.19 In acknowledging that the cumulative impact of several changes over time is greater than the impact of one small change at any one time, Officers, in assessing the scheme, have taken into account the cumulative impact of the proposal. Although planning policy has changed since the initial outline permission, general principles of good daylighting design remain unchanged.

#### Carmelite Street

4.20 The submitted scheme for the 2015 hybrid application had detailed the Carmelite Street elevation of Block G to be 7 storeys in height, which Officers deemed at the time, could result in Carmelite Street, as a result of the proportion of street width to height and an unfavourable orientation, being one of the least successful streets in the scheme. The applicant addressed these concerns and submitted an amended plan indicating that a maximum of 50% of this elevation would be 7 storeys.

4.21 This application, in seeking to raise the height to 7 and 8 storeys, has clearly raised concerns similar to those expressed by Officers at the time of the 2015 hybrid application. These concerns do not relate to the impact on heritage assets as the location of this part of Block G towards the centre of the development would ensure that there would be no harm to the character

and appearance of the conservation area or to the setting of those listed buildings located on the opposite side of Stonebow and across the river at Rowntree Wharf, even with the increased height. Instead, Officers concerns relate to the quality of the street and the internal courtyard environment.

4.22 In response to these concerns, the applicant has agreed to set back the building line of the 7th storey element to the Carmelite Street and Garden Place elevations by 1500mm and to set back the 7th storey element of the courtyard elevations by 1400mm and 1500mm.

4.23 The Carmelite Street elevation of Block G lies opposite the St. John's Central student building. The consented scheme and the student block can be interpreted to imply the acceptability of a comparator on the other side of the street as the building separation is already established and streets generally should have similar sized buildings facing each other. The buildings are similar heights although it is noted that the proposed 150mm top floor set back for Block G is not as great as the set back on the top floor of the student block.

4.24 Although indirect reflected daylight onto Carmelite street would be poorer than the consented scheme, the proposed 1500mm set back for the top floor would not reduce direct daylight into Carmelite Street any more than the consented scheme. In terms of views, the appearance of the extra height should not be visible except in medium distance views, for example from within St Johns Square.

#### Hungate

4.25 The additional height proposed towards the entrance into St Johns Square gives some added drama to the pedestrian approach into the larger space of the square and this is considered to partly counter the additional height proposed. Impact in general design terms for the street scene is considered to be low to negative. As detailed at paragraph 4.20, there is considered be no impact from the increase in the height of this corner to 8 storeys on the setting of the conservation area.

#### Garden Place

4.26 As a secondary side street and vehicular access, the importance of the degree of change in Garden Place is not considered to be as critical as other areas. The impact is only marginally higher than the consented outline when the top floor set back is taken into account.

#### Stonebow

4.27 The 2015 hybrid permission had involved a general increase in height for the Stonebow elevation (Blocks G and H) from the previously consented scheme from 4 and part 5 storey plus pitched roof blocks to 5 and part 6

storey flat roof blocks (involving a drop in one storey in the middle of the elevation). In considering this element of the scheme, the Committee report at the time noted, *"it is by virtue of the combination of the width of these blocks to Stonebow and their height that Officers consider this element of the scheme to cause some harm to the setting of the conservation area. The affected context is considered to be Stonebow itself rather than longer views to and from designated historic assets, which are not considered to be significantly affected"*. The harm, which was assessed as minor, was balanced with other positive aspects of the proposal.

4.28 In turning the massing principle approved in the 2015 permission into a resolved design, it was apparent that the forced randomised up and down roof treatment would look odd on medium height mansion block scaled buildings such as this. Officers therefore agreed at pre-application stage that the infill of the middle section would represent a minor positive design change.

4.29 In medium distances the impact of this change on the historic environment is most evident in the view from Stonebow House at the edge of the medieval city streets (Whip Ma Whop Ma Gate). The change in impact from the consented scheme is at worst considered to be low to negative to neutral given that oblique elevation views partially mask the dropped section of the consented version from this vantage. However, given that the change is likely to produce a more attractive building design, it could be argued that the impact is low to positive. In views from immediately across the street, the impact is considered to be low to medium negative in absolute terms, this impact being mediated by an unusually wide street.

4.30 The harm to the setting of the Conservation Area, which is a heritage asset, is assessed as minor, although the legal test requires considerable importance and weight to be given to the desirability of avoiding such harm. The NPPF also requires great weight to be given to such harm in the planning balance, despite it being minor.

4.31 The principle of dramatic massing on Stonebow had been accepted in the 2004 masterplan and subsequent consents, and Officers are mindful of this in balancing the negative impact of the massing of the blocks along the Stonebow with other positive aspects of the proposal including the provision of much needed dwellings in the City.

4.32 Whilst harm to heritage assets is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance.

## IMPACT ON THE AMENITY OF SURROUNDING OCCUPIERS

4.33 One of the core principles of planning outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. Local Plan

policy GP1 (Design) requires that development proposals ensure that residents living nearby are not duly affected by noise, disturbance, overlooking, overshadowing, or from over-dominant structures.

4.34 Concerns have been raised by a resident in Rowntree Wharf and Phase 1 of the Hungate development that the proposed height increases of block G would restrict their views across the city and impact on daylight levels. Notwithstanding the fact that the loss of a private view is not a planning consideration, it is considered that the proposed changes would not have a material impact on residential amenity in the context of the planning permission when viewed as a whole.

## RESIDENTIAL AMENITY OF OCCUPANTS OF THE PROPOSED DWELLINGS

4.35 Considering the context, there are no objections on amenity grounds. Officers have raised some concerns relating to the quality of the internal courtyard in terms of daylight levels as a result of its size in relation to the height of the buildings enclosing it. These concerns have been addressed to some extent by the revised proposal which details the 1.4m set back of the 7<sup>th</sup> storey element. The applicants intend for Block G to offer its occupants a different lifestyle experience with the provision of a gym, residents lounge /concierge facility, communal roof terrace/garden and shared spaces. These features would be considered to offset the slightly poorer courtyard environment.

## HIGHWAY ISSUES

4.36 It is proposed to revise the parameter plan relating to access and parking through the introduction of a vehicular service access to Block G from Garden Place. This is for the purposes of loading / removals. No objections are raised to this amendment.

## OFF SITE FINANCIAL CONTRIBUTIONS

4.37 The hybrid planning decision (part outline and part detailed) for the redevelopment of the remaining phases of the Hungate site (Blocks D, F, G and H) was accompanied by a Section 106 Agreement which secured the following;

- (a) Affordable Housing
- (b) Open Space
- (c) Highway Works and Sustainable Transport measures
- (d) Community Facilities

4.38 In the context of the CIL Regulations whereby a Local Authority cannot regard a planning obligation as a material consideration in the determination of the planning application if more than 5 have been "entered into" for the same project or type of infrastructure since 6th April 2010, Officers have re-examined whether the projects identified within the Deed of Variation accompanying the Section 73 application relating to Block F (approved in October 2017), can be identified again. Officers from Education and Public Realm have confirmed that financial contributions are still required as a result of the development and that the project/type of infrastructure previously identified can be identified again having not been entered into more than five times previously.

4.39 A recommendation of approval for this S73 application would be subject to the completion of a deed of variation which makes reference to this application to secure the existing obligations.

#### AIR QUALITY (REMOVAL OF CONDITION 40)

4.40 Consent is sought to remove Condition 40 of the outline permission, which requires that site specific nitrogen dioxide diffusion monitoring be undertaken for a minimum period of six months prior to the submission of reserved matters in respect of Blocks G and H. This monitoring is to be used to inform the need, if any, for residential premises facing The Stonebow/Peasholme Green within Blocks G and H to be fitted with fixed windows that cannot be opened and associated mechanical ventilation required for any habitable rooms facing onto The Stonebow / Peasholme Green.

4.41 A six month air quality nitrogen dioxide monitoring study was undertaken from January 2016 to July 2016 to establish current air quality conditions at and surrounding the site. As required by the condition, the methodology and approach to the study, including location of the monitoring equipment, was agreed in consultation with Public Protection.

4.42 The study demonstrated that annual mean concentrations of nitrogen dioxide were below health based objective levels at all monitoring locations surrounding blocks G and H. On this basis, Public Protection agree with the conclusions of the 2016 Air Quality Monitoring Report (May 2017) and do not consider that mechanical ventilation or non-opening windows are required to make the development acceptable in air quality terms. Based on the monitoring study undertaken, it is also considered that the site is suitable for balconies and outdoor areas. Officers therefore consider that the 2016 Air Quality Monitoring Report (May 2017) submitted as part of this application provides the necessary evidence to justify the removal Condition 40 on the basis that the condition is no longer necessary.

## 5.0 CONCLUSION

5.1 This Section 73 application has been submitted in order to vary Condition 3 (plans), Condition 5 (maximum height) and Condition 6 (parameter plans) and to the removal of Condition 40 (air quality monitoring) of hybrid planning permission 17/01847/OUTM.

5.2 This application involves no changes to the total number of dwellings or the amount of commercial floorspace approved in the outline consent but seeks permission for a number of revisions to the established parameters, with the key revision being an increase in the height of block G.

5.3 It is not considered that the changes to the proposed plans will impact on either the sustainable aims of the development proposals, nor is it considered that the changes will have an adverse impact on the existing amenities of neighbouring occupiers. The key consideration therefore is the implications of the increase in the height of block G in terms of its scale and massing and any impact on the setting of heritage assets.

5.4 As with the consented scheme, whilst officers consider the massing to the Stonebow elevation to cause some minor harm to the setting of the Conservation Area, the affected context is Stonebow itself rather than longer views to and from designated heritage assets. In medium distances, the impact of this change on the historic environment is most evident in the view from Stonebow House. The change in impact from the consented scheme is at worst considered to be low to negative to neutral however given the consideration that it is likely to produce a more attractive building design, the impact could be argued to be low to positive. Whilst the harm is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance. The outcome of the assessment is that the benefits to the scheme including the provision of much needed dwellings in the City, outweigh the less than substantial harm identified.

5.5. In accordance with EIA regulations and procedure, the Environmental Statement (July 2015) submitted with the hybrid application has been reviewed and assessments undertaken to identify whether the proposed changes to the scheme parameters would result in any new or amended environmental effects. The ES Addendum (August 2017) identifies that the proposed scheme changes, including that of the maximum height of Block G, would result in no change to the residual effects and/or overall conclusions reached in the original ES. The development would fulfil the roles of sustainable development outlined in the NPPF and would otherwise accord with national and local planning policy.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement to secure the obligations as from the existing outline permission.

1 The detailed scheme as defined by Dwg No: 00344\_MP-014 Rev P02 (Hybrid Planning Application Boundary) shall be begun not later than the expiration of three years from 25.4.2017.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the following dates:

Block G: within 3 years of 25.4.2017

Block H: within 4 years of 25.4.2017

Development of Block G shall commence within 2 years of the approval of the reserved matters relating to Block G.

Development of Block H shall commence within 2 years of the approval of the reserved matters relating to Block H.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

3 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Site Location (Red Line) Plan 00344\_MP-013 Rev P02  
Hybrid Planning Application Boundary 00344\_MP-014 Rev P02

Block D

Basement Floor Plan 00344\_BD\_-01 Rev P02  
Ground Floor Plan 00344\_BD\_00 Rev P04  
First Floor Plan 00344\_BD\_01 Rev P02  
Typical Floor Plan 00344\_BD\_02 Rev P01  
Fifth Floor Plan 00344\_BD\_05 Rev P01  
Sixth Floor Plan 00344\_BD\_06 Rev P01  
Courtyard Elevations 00344\_BD\_C Rev P01

North East elevation 00344\_BD\_NE Rev P02  
South East elevation 00344\_BD\_SE Rev P02  
South West elevation 00344\_BD\_SW Rev P02  
North West elevation 00344\_BD\_NW Rev P02

## Block F

Indicative Site Sections 16059-P1170-A  
Ground Floor Plan 16059-P1010  
First Floor Plan 16059 -P1011  
Second Floor Plan 16059-P1012  
Third Floor Plan 16059-P1013  
Fourth Floor Plan 16059-P1014  
Fifth Floor Plan 16059-P1015  
Sixth Floor Plan 16059-P1016-A  
Seventh Floor / Roof Plan 16059-P1017-A  
Section AA 16059-P1175-A  
Section BB 16059-P1176  
Section CC 16059-P1177-A  
Section DD 16059-P1178-A  
North Elevation 16059-P1150-B  
East Elevation 16059-P1151-A  
South Elevation 16059-P1152-A  
West Elevation 16059-P1153-B  
Courtyard Elevations (01) 16059-P1160  
Courtyard Elevations (02) 16059-P1161  
DV Roof Maintenance 16059\_2017-09-25\_SK01  
DV Roof Maintenance 16059\_2017-09-25\_SK02  
DV Roof Maintenance 16059\_2017-09-25\_SK03

## Access Drawings

Site Access Arrangements Block F 3236/SK001/009 Rev A  
3236/SK001/14A Site Access Arrangements Stonebow/Garden Place  
Residential Cycle Parking Schedule (received 19.11.15)

## Landscape Plans

Landscape Block D Hardworks D0248\_001\_D  
Landscape Block D Softworks D0248\_002\_D  
Block D Sections D0248\_004  
Landscape Block F Hardworks D0248\_005\_C  
Landscape Block F Softworks D0248\_006\_C  
Landscape Block F Sections D0248\_008  
Landscape Block D Roof Plan Softworks D0248\_009

Landscape St.John's Square Hard & Softworks D0248\_010\_ D  
St.John's Square Sections D0248\_012  
Landscape Block F Roof Plan Softworks D0248\_013\_ B

#### Parameter Plans

Foundation Levels A2766 154 Rev R22  
Access and Parking A2766 155 Rev R22  
Public Realm A2766 153 Rev R22  
Maximum Heights A2766 150 Rev R23  
Layout Plan A2766 151 Rev R22  
Landscape Principles and Drainage A2766 152 Rev R22

#### Highways Sections

D0205\_008\_B Street Section 1 of 6  
D0205\_009\_B Street Section 2 of 6  
D0205\_010\_C Street Section 3 of 6  
D0205\_011\_B Street Section 4 of 6  
D0205\_012\_B Street Section 5 of 6  
D0205\_013\_C Street Section 6 of 6

#### Illustrative Plans

Illustrative Masterplan - OPTION1 00344\_MP-001 Rev P02  
Illustrative Landscape Masterplan DO205\_001\_AD

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

4 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those parts of the development permitted in outline, and the development shall be carried out in accordance with such details:

Details to be submitted: access, appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

5 Notwithstanding the reference to +/-1m deviation on the Parameter Plan - Maximum Heights (Dwg No: A2766 150 Rev R23), the maximum roof parapet heights of Blocks G and H shall not exceed the references to the top levels as shown on that plan.

Reason: To assist the development being integrated into the area.

6 The submission of details and reserved matters applications submitted in respect of the approved outline planning permission shall be in substantial accordance with the following approved parameter plans.

Foundation Levels A2766 154 Rev R22  
Access and Parking A2766 155 Rev R22  
Public Realm A2766 153 Rev R22  
Maximum Heights A2766 150 Rev R23  
Layout Plan A2766 151 Rev R22  
Landscape Principles and Drainage A2766 152 Rev R22

Any amendment to the parameter plans must be agreed in writing by the Local Planning Authority, and shall not be approved unless it satisfies the following requirements:

- a) It is accompanied by sufficient information as will enable the Local Planning Authority to consider the terms and likely impacts of the proposed changes;
- b) It ensures that the development hereby permitted and as amended remains; and
- c) It strictly adheres to the provision of condition 5 which imposes a limit of overall development heights.

No amendment to the approved parameter plans will be approved unless the Local Planning Authority first determines in writing that there is not likely to be any significant environmental effect arising from the proposed amendments in comparison with the plans already subjected to environmental impact assessment and approved by this permission, or the submission for amendment is accompanied by a supplementary Environmental Impact Assessment assessing the likely environmental effects of the amendments proposed in comparison with the plans already subjected to environmental impact assessment.

Reason: To ensure that the development is carried out in accordance with the parameters assessed in the Environmental Statement, and that any acceptable changes to the scheme do not give rise to unanticipated significant environmental effects.

7 No advance infrastructure and enabling works (including, but not limited to, any works of demolition) shall commence until details of the proposed Advance Infrastructure and Enabling Works have been submitted to and approved in writing by the Local Planning Authority.

The Advance Infrastructure and Enabling Works shall be carried out in accordance with those approved details. For the avoidance of doubt, the approved Advance Infrastructure and Enabling Works may be undertaken prior to the submission or approval of Reserved Matters Applications but are subject to those conditions requiring details to be agreed prior to the approved works being undertaken relating to: a programme of works (condition 21) and submission of a Construction and Environmental Management Plan (condition 53) relevant to the Advance Infrastructure and Enabling Works.

8 There shall be no more than 662 residential units within the site. Within Blocks G and H combined there shall be no more than 375 residential units in total and a minimum of 1,265 sq.m of commercial floorspace to accommodate flexible use within use classes A1, A2, A3, A4, A5 or B1 or D2, shall be provided.

Reason: In the interests of the vitality of the scheme.

9 Prior to the construction of any works above the ground floor slab for each of Blocks D and F, large scale detailed drawings of the items listed below relating to that Block shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

(i) Building sections and part (i.e. single bay) elevations through different key fenestration types. This should include sufficient information to understand the proposal so should include, for example: (windows) look-a-like glazing & window opener types; (cladding panels) types & joint positions; (sheet cladding) seam width & laying direction.

(ii) Component details to include (windows) vertical and horizontal sections through window reveals, heads and sills; (soffits) underside treatments to overhanging roofs or tunnels; (balconies) plan, elevation & section to projecting or inset types.

Note: Brick window reveals should be typically 150mm to 215mm (reveal from window frame to building face) in accordance with established site-wide design principles for Block E and punch-hole windows in cladding will be expected to be similar reveal depths.

(iii) Detailed studies of the primary entranceways into the courtyards of Blocks D and F.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

10 Prior to the construction of the external walls of any Block, details relating to that Block of large scale workmanship sample panels to be erected on site to include;

(i) Brickwork: 2m x 2m sample panel of brickwork (to be used on blocks D and F) to illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and

(ii) Seamed cladding: 3 seams wide sample panels so as to understand the proposed jointing type and method, shall be submitted to the Local Planning Authority for approval. The approved panels for that Block shall be erected on site prior to the construction of the external walls for that Block and shall be retained until a minimum of 2 square metres of wall of that Block has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works so as to achieve a visually cohesive appearance.

11 Prior to the construction of any works above the ground floor slab (the superstructures), details of the RSL kiosks (interactive way finding totems) to include details of height, width, design, specification and location, and a programme for their implementation, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

12 Prior to the construction of any works above the ground floor slab (the superstructures) of any Block, notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials for that Block, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please

make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

13 Prior to the construction of any works above the ground floor slab of any Block, details of the lighting to that Block including the roof, shall be submitted to and approved in writing by the Local Planning Authority in advance of the lighting installation for each block and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

14 Prior to the construction of any works above the ground floor slab of any Block, details of the location and type of any fixed equipment proposed for access and maintenance to that Block shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

15 Prior to the construction of any works above the ground floor slab of any Block, details relating to that Block of ancillary protrusions above the roof plane required for servicing such as ducts, chimneys and access hatches except those less than 1.1m high and over 2m from the edge of the building shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

16 Prior to the construction of any works above foundation level (the superstructure) of the multi storey car park the subject of this permission, full details of the proposals relating to the multi storey car park cladding shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details and thereafter retained.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

17 Prior to the construction of the external walls of each of Blocks D and F, a Landscaping Scheme shall be submitted to and agreed in writing by the Local Planning Authority and such Scheme shall include and provide for;

(i) A timetable for the carrying out of all the hard and soft landscaping works related to that Block, such works to commence not later than six months after the substantial completion of that Block and in accordance with the landscaping plans for that Block listed in condition 3. This will include details of the requirement for an interim landscaping scheme for St John's Square to be provided in the event that the commencement of construction of Block H is delayed beyond 2 years of the first occupation of either Blocks D or F, whichever is the later.

(ii) Edge of building buffer zone treatment such as private external terraces including soft and hard landscape

(iii) updated soft and hard works details at the corner of Black Horse Lane and Dundas Street.

(iv) The final approved landscaping scheme in relation to St. Johns Square, as detailed on Drawing No's D0248\_010\_D and D0248\_012, shall be implemented within a period of six months of the completion of the final Block and completed within six months of the substantial completion of the development.

Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: The landscape scheme is integral to the amenity of the development. The development is large scale and will take years to build out. The constraints of the site mean that the final approved landscaping scheme cannot be implemented until the final Block has been completed, as part of the area will be required to be used as a site compound during construction. An interim landscaping scheme is required to be in place for those occupants of completed blocks in the interests of visual amenity.

18 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the construction of the external walls of any of the blocks hereby approved, details of tree planting including preparation of tree pits, root cells, means of watering, and support shall be submitted and approved in writing by the Local Planning Authority. Tree planting shall then be carried out in accordance with the approved details.

Reason: To ensure appropriate details are implemented to support the successful establishment and growth of trees that are integral to the quality of the development.

19 Notwithstanding the submitted plans, prior to the first occupation of Block F, an Ecological Scheme of Enhancement shall be submitted to and agreed in writing by the Local Planning Authority which shall comprise of a minimum of four habitat features for bats on site such as crevice bat boxes and/or integral bat bricks, and a minimum of four bird nest boxes, to be installed/constructed prior to first occupation of Block F in accordance with the approved details and thereafter retained.

Reason: To take account of and to enhance the habitat for a protected species.

20 The development hereby approved shall not be occupied until the areas for vehicle parking associated with the block that they serve have been constructed and laid out in accordance with the approved plans, or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority. Such areas shall thereafter be retained in perpetuity for the sole purpose of parking vehicles.

The operation and management of the apartment block car parks shall be undertaken in accordance with car park management schemes which shall previously have been submitted to and agreed in writing with the Local Planning Authority for each phase of the development, and shall not be revised without the prior written approval of the LPA.

Reason: In order to ensure the efficient operation of these facilities, in the interests of the safety and convenience of highway users.

21 Prior to the commencement of development of each Block and any advance infrastructure and enabling works approved under condition 7 being undertaken, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works for that Block or the approved advance infrastructure and enabling works as the case may be, shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include at least the following information;

- measures to prevent the egress of mud and other detritus onto the adjacent public highway
- a dilapidation survey jointly undertaken with the local highway authority

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- a scheme for signing the promoted construction traffic routing
- where materials will be stored within the site

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

22 Prior to the construction of any works above the ground floor slab of any of the blocks hereby approved, details of the secure cycle parking areas, including means of enclosure, position, design, materials and finishes thereof for that Block, shall be approved in writing by the Local Planning Authority. The building or buildings within that block shall not be occupied until the cycle parking areas and means of enclosure (including the public cycle parking areas within that block) have been provided in accordance with the approved details, and these areas shall not be used for any purpose other than the parking of cycles. Cycle parking shall be in accordance with the Residential Cycle Parking Schedule dated 12/11/2015.

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

23 Prior to first occupation of each block of development, the design and materials of roads, footpaths and other adoptable spaces, including streetlighting, to which it fronts, is adjacent to or gains access from, shall have been constructed in accordance with details which have been approved in writing by the Local Planning Authority.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of future occupants.

24 Prior to the commencement of the use hereby approved in each block of development, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

25 No gate/door/window shall be fitted so as to open outwards over the adjacent public highway, or in the case of garage doors to protrude forward of the face of the garage.

Reason: In the interests of highway safety and to prevent inconvenience and obstruction to other highway users.

26 Full details of the proposed CCTV facilities within the site and lighting for car parking areas and cycle routes shall be submitted to and approved in writing by the LPA, prior to any part of the development being brought into use.

Reason: In the interests of safety and visual amenity.

27 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the construction of the external walls of any Block of the development hereby permitted, a phased programme of works to deliver the Street Sections dated 07/12/15, shall be submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same. These works shall be implemented in accordance with the aforementioned agreed phasing programme, the Street Section Drawings and in general accordance with the illustrative landscape plan as set out below;

D0205\_008\_B Street Section 1 of 6

D0205\_009\_B Street Section 2 of 6

D0205\_010\_C Street Section 3 of 6

D0205\_011\_B Street Section 4 of 6

D0205\_012\_B Street Section 5 of 6

D0205\_013\_C Street Section 6 of 6

3236/SK001/14A Site Access Arrangements Stonebow/Garden Place

D0205\_002\_X Illustrative Landscape Plan

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport.

28 A full 4 stage road safety audit carried out in accordance with guidance set out in the DMRB HD19/03 and guidance issued by the council, will be required for the works detailed within the hereby approved Street Sections dated 07/12/15, or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority. Stage 1 of said audit must be submitted to and confirmed in writing by the LPA prior to any of the Street Section works commencing on site.

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

29 No block of the development hereby approved shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines and the submitted Travel Plan dated 22/07/2015. The blocks shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

30 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the construction of the external walls of any block of the development hereby permitted, a phased programme of Bus Stop Improvement works, shall be submitted to and approved in writing by the Local Planning Authority. The Bus Stop Improvement works shall consist of the following works;

- o Upgrading of the existing inbound/outbound bus stops on Peasholme Green consisting of BLISS real time display, Kassel kerbs, shelters, seating and lighting
- o Provision of an inbound bus stop along the frontage of Block G, exact location to be agreed, consisting of BLISS real time display, Kassel kerbs, shelters, seating and lighting

The Bus Stop Improvement works shall then be implemented in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport.

31 The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels of 30 dB LAeq 8 hour (23:00-07:00) and 45 dB LA Max (23:00 - 07:00) in bedrooms and 35 dB LAeq 16 hour (07:00 - 23:00) in all other habitable rooms. These noise levels

are with windows shut and other means of acoustic ventilation provided. A detailed scheme for each block shall be approved in writing by the local planning authority and fully implemented before the occupation of each respective block.

Reason: To protect the amenity of residents.

32 Details of all fixed machinery, plant and equipment to be installed in or located on any of the commercial uses hereby permitted, which is audible at any noise sensitive location, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of the locality.

33 During the development of the site, all demolition and construction works and ancillary operations, including deliveries to and dispatch from the site, shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays

Reason: To protect the amenity of the locality

34 Prior to the commencement of the use of any of the commercial units hereby approved, details of the hours of operation shall be submitted to and agreed in writing by the local planning authority. The commercial units shall operate in accordance with the approved opening hours unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of local residents.

35 The hours of delivery to and dispatch from the commercial units, to include Use Classes A1, A2, A3, A4, A5, B1 and D2, shall be confined to the following times, unless otherwise approved in writing by the local planning authority:

Monday - Friday 08:00 - 18:00

Saturday, Sunday & Bank Holidays 09:00 - 18:00

Reason: To protect the amenity of local residents.

36 Prior to any use of the commercial units, to include Use Classes A1, A2, A3, A4, A5, B1 and D2, a service delivery plan shall be submitted to and approved in writing by the Local Planning Authority. The service delivery plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise resulting from deliveries to commercial premises. Once approved, the service delivery plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of local residents.

37 Premises put to Class A1, A3, A4 or A5 use that adjoin a residential premises, shall be noise insulated in accordance with a scheme to be approved in writing by the local planning authority. The noise insulation scheme shall be fully implemented prior to occupation. No alterations to the external walls, facades, windows, doors, roof or any openings in the building(s) shall be undertaken (including the closing up or removal of openings) without the prior written approval of the local planning authority.

Reason: To protect the amenity of local residents.

38 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Reason: To protect the amenity of the locality.

39 Four electric vehicle recharge points shall be provided in relation to block D and eight electric vehicle recharge points shall be provided in relation to block F. Such recharge points should be installed prior to first occupation of the blocks. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority. Prior to the first occupation of Blocks D and F, the applicant will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for each electric vehicle recharging point for a period of 10

years which will ensure the points are fit for the purpose of charging electric vehicles.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

40 Prior to first occupation or use of Block D, the approved remediation scheme (entitled: Development Phases 2 & 3 Remediation Strategy, ref: EN6250-R-7.1.4-RA, dated: October 2007) must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

41 In the event that previously unidentified contamination is found at any time when carrying out the development of block D, or during any advance infrastructure and enabling works approved under condition 7 being undertaken, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

42 Prior to the first occupation or use of Block F, the approved remediation scheme (ref: EN6250-R-17-1-4-NS and letter ref: EN6250-C-058-RT-BAO) must be completed in accordance with its terms and an additional verification report submitted that demonstrates the effectiveness of the remediation carried out, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

43 In the event that previously unidentified contamination is found at any time when carrying out the development of block F, or during any advance infrastructure and enabling works approved under condition 7 being undertaken, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

44 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the commencement of development of block G, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock,
- pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

45 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the commencement of the development of block G, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

46 Prior to the first occupation or use of block G, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

47 In the event that previously unidentified contamination is found at any time when carrying out the development of block G, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

48 Prior to the commencement of the development of block H, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of the potential for ground gas. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) Determination of the ground gas regime at the site;
- (ii) an assessment of the potential risks to:
  - o human health from ground gas;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from ground gas to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

49 Prior to the commencement of the development of block H, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the

development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

50 Prior to the first occupation or use of block H, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

51 In the event that previously unidentified contamination is found at any time when carrying out the development of block H, or during any advance infrastructure and enabling works approved under condition 7 being undertaken, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

52 Prior to the commencement of each Block and any advance infrastructure and enabling works approved pursuant to Condition 7 being undertaken, a Construction Environmental Management Plan (CEMP) in respect of that Block (or approved advance infrastructure and enabling works as the case may be) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

For noise, details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring

may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration, details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

For dust, details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition it is anticipated that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

For lighting, details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above, the CEMP shall provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint has been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. The complaints procedure shall also include the provision of a complaints overview update to the LPA on a monthly basis detailing the number and nature of complaints and their date of resolution and action taken as a result.

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

Reason: This information is required to safeguard the amenity of local residents and covers all elements of the development at all stages of the development process.

53 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the commencement of the construction of each of the blocks hereby approved, details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, shall be submitted to and approved by the Local Planning Authority for that Block. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

The agreed permitted discharge rates are as follows:

Block D - 26.4 l/sec unrestricted to phase 1 drainage and restricted to 6.2 l/sec to proposed drainage to River Foss outfall.

Block F - Restricted to 53.9 l/sec to proposed drainage to River Foss outfall.

Block G - Restricted to 28.4 l/sec to Yorkshire Water sewer in Carmelite Street.

Block H - Restricted to 38.2 l/sec to proposed drainage to River Foss outfall.

Dundas Street and Palmer Lane - Restricted to 17.2 l/sec to proposed drainage to River Foss outfall

Please note that the maximum discharge to proposed River Foss outfall when all stages are complete -148.6 l/sec.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDs). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided to discount the use of SuDs.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

54 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7 and unless otherwise agreed in writing by the local planning authority, no construction of superstructures of any Block of the development shall take place until measures to divert or otherwise formally close the sewers and water mains that are laid within the site in association with that Block have been implemented in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage and to maintain the public water supply.

55 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

56 Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage shall not be passed through any interceptor.

Reason: In the interest of satisfactory drainage.

57 A scheme of works for the restoration of the Foss Riverbank/wall, excluding the Kings Pool site, shall be submitted to and agreed by the Local Planning Authority prior to the occupation of block F. The scheme shall be implemented in accordance with the approved details and completed within six months of the substantial completion of the development.

Reason: In the interests of the visual amenities of locality, flood defence and ecology along the Foss corridor.

58 Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 7, prior to the commencement of each of blocks G and H, a Sustainability Statement shall be submitted for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason; To ensure that the development of blocks G and H comply with the principles of sustainable development and are in accordance with Policy GP4a of the City of York Draft Local Plan (2005).

## **Notes to Applicant**

### **1. LEGAL AGREEMENT**

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

## 2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: pre-application advice and the use of conditions.

## 3. DRAINAGE

**EXISTING INFRASTRUCTURE** - On the Statutory Sewer Map, there are 300/450/600/450x500 Circular/470x610 Brick Egg/590x620 mm Brick Circular diameter public combined, 150/310 mm diameter public foul and 150/225 and 300 mm diameter public surface water sewers recorded to cross the site. The presence of the pipes may affect the layout of the site and as such may be a material consideration in the determination of the application.

A developer may, where it is reasonable to do so, require a sewerage undertaker to alter or remove a pipe where it is necessary to enable that person to carry out a proposed improvement of land. This provision is contained in section 185 of the Water Industry Act 1991 that also requires the developer to pay the full cost of carrying out the necessary works.

Owing to the repeal of Section 18 of the Building Act 1984, in this instance, Yorkshire Water feels that appropriate planning conditions are necessary to adequately protect the pipes from being built over or near to. It is perceived that this will also be in the interests of future occupiers who may otherwise be dissatisfied. In this instance:

With regards to the 150 mm diameter public foul and 150/225 mm diameter public surface water sewers, YWS would look for this matter to be controlled by Requirement H4 of the Building Regulations 2000.

A stand-off distance of 3 (three) metres is required at each side of the 300 mm surface water and combined sewer centre-lines.

A stand-off distance of 3.5 (three point five) metres is required at each side of the 450 mm combined sewer centre-line.

A stand-off distance of 4 (four) metres is required at each side of the 310x360 foul/ 450x500 and 590x620 mm combined sewer centre-lines.

A stand-off distance of 5 (five) metres is required at each side of the 470x610 and 600 mm combined sewer centre-lines.

Further, there are 310x360mm/ 470x610mm and 500x640mm Brick Egg abandoned sewers located within the site. The Applicant / Developer is advised to survey the site / area and thoroughly investigate the situation and take adequate precautionary measures prior to building-over and / or building in close proximity.

No new trees planting within 5 metres either side of company infrastructure.

Foul water domestic waste should discharge to the 600 mm diameter public combined water sewer crossing the site.

Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc must pass through a fat and grease trap of adequate design before any discharge to the public sewer network.

**SURFACE WATER** - The Phase 2 Site Investigation and Environmental Risk Assessment (prepared by Waterman - Report EN6250/R/1.1.7/JR dated January 2008) confirms; Sub-soil conditions do not support the use of soakaways.

The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.

#### 4. HIGHWAY WORKS

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please email [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)

#### 5. UTILITIES

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

#### 6. MACHINERY, PLANT AND EQUIPMENT (Condition 32)

The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 0dB(A) below the background

noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, this being the design criteria adopted by Public Protection, including any acoustic correction for noises which contain a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.); noise which contain distinct impulses (bangs, clicks, clatters, or thumps); or noise which is irregular enough to attract attention.

#### 7. TREATMENT AND EXTRACTION OF COOKING ODOURS (Condition 38)

It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

#### **Contact details:**

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