

## COMMITTEE REPORT

**Date:** 10 December 2015      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 15/01709/OUTM

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

**For:** Outline application for erection of two buildings (Block G and Block H) to comprise either residential units (use class C3), residential institution/elderly accommodation (use class C2), or a mixture of the two and flexible commercial uses (within use classes A1, A2, A3, A4, A5, B1 or D2) and associated infrastructure works.  
Full application for erection of part 5/part 6/part 7 storey building (Block D) comprising 186 residential units; erection of part 5/part 6/part 7 storey building (Block F) comprising 101 residential units, community centre (use class D1) and multi-storey car park; development of new public spaces (St John's Square and Friar's Quay) and riverside walk and associated infrastructure works

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

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

**Target Date:** 29 January 2016

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

### 1.0 PROPOSAL

#### THE SITE

1.1 The application site covers an area of 1.98 ha, and comprises a cleared site of previously developed brownfield land located off Stonebow in the eastern part of the city centre. The site forms part of the wider Hungate regeneration site, part of which is already developed (and occupied), or under construction. The site is bound by the Stonebow to the north, Phases 1 (Blocks A, B & C) and 2 (Block E) of the Hungate development and the Hiscox scheme to the east, the River Foss and the recently developed student accommodation to the south and Garden place and the telephone exchange to the west.

1.2 The site lies just outside the Central Historic Core Conservation Area with the Conservation Area boundary following the northern bank of the Foss, directly adjacent to the recently built Block E (Phase 2) and the southern edge of the application site. Rowntree Wharf, a Grade II listed building is sited opposite the development on the south bank of the river.

## **PROPOSAL**

1.3 This planning application comprises a hybrid (part outline and part detailed) scheme for residential led development to include the erection of four apartment blocks alongside complementary commercial floorspace to accommodate flexible uses. The detailed elements of the scheme relate to Blocks D and F and to landscaping and public realm works to include the development of a new public square (St John's Square), new public space (Friar's Quay) and a riverside walk. The outline elements relate to Blocks G and H.

### **Detailed Elements of the Scheme**

1.4 Block D comprises a part 5 / part 6 / part 7 storey building providing 186 residential units. The building would accommodate the following housing mix:

97 No. 1 bed units;  
81 No. 2 bed units; and  
8 No. 3 bed units

1.5 It is proposed that the block would have a central courtyard providing private amenity space and a proportion of green roof. All apartments would have access to balconies/ground floor terraces. Car and cycle parking for Block D would be provided within a basement car park accessed from Dundas Street. The basement car park would provide 66 car parking spaces. A further 25 spaces are already reserved for use by Block D below Block A (already constructed), providing Block D with 91 car parking spaces in total. Four electric vehicle charging points would be provided within the basement car park together with 228 cycle parking spaces and provision for refuse storage and plant.

1.6 Block F comprises a predominantly part 5 /part 6 /part 7 storey building providing 101 residential units, a community centre (use Class D1) and a multi-storey car park. It is proposed that the block would have a central courtyard providing private amenity space and would incorporate a proportion of green roof. All apartments would have access to balconies or terraces. The building would accommodate the following housing mix:

- 52 No. 1 bed units;
- 35 No. 2 bed units; and
- 14 No. 3 bed units

1.7 It is proposed that a community centre providing 240 square metres of floorspace would be provided on the ground floor of Block F, accessed off St. John's Square. This space would include a glazed entrance area that could be adapted to any future user of the community centre.

1.8 The car park would provide 119 spaces for use by residents of Blocks F and G (Block G will not have its own provision) with eight electric vehicle charging points provided. 120 No. cycle spaces and refuse stores are located on the ground floor accessed directly from the courtyard of Block F.

### **Outline Elements - Blocks G and H**

1.9 The key principles of the development of Blocks G and H are detailed on the illustrative masterplan which demonstrates how these blocks could be developed to provide up to 375 residential apartments, or up to 32,210 sq.m (GEA) (use class C3) or residential institution / elderly accommodation (use class C2), or a mixture of the two. This would be alongside up to 1,660sqm (GEA) commercial floorspace to accommodate flexible use within use classes A1, A2, A3, A4, A5 or B1 or D2. The precise quantum and location of the non-residential floorspace would be determined at Reserved Matters Stage and is not proposed to be restricted by the outline planning permission to provide flexibility to the developer in the future although the number of residential units would be to a maximum of 375 and the commercial floorspace would be conditioned to a minimum level of 1,265sqm. .

1.10 A series of parameter plans have been submitted which establish an envelope within which the future detailed design of the two blocks would be brought forward. These indicate building heights of up to seven storeys, or a maximum of 32.7m AOD, an underground car park (below Block H) and on street car parking/servicing, internal courtyards, public realm improvements and landscaping. If approved, the outline planning permission is proposed to be conditioned that any reserved matters are in accordance with the parameter plan relating to height of buildings.(Condition 5)

### **PLANNING HISTORY**

1.11 Outline planning permission was originally granted for the Hungate site in July 2006 and renewed in December 2012 for the development of the site for 720 residential units together with shops, offices, leisure uses and community facilities. This outline permission remains extant and provides an established fall back position for the remaining phases of the scheme that could be implemented following the submission and approval of Reserved Matters.

1.12 A Reserved Matters application was granted in February 2007 for the development of Blocks A, B and C (Phase 1) (06/02384/REMM). This phase of the development is now complete.

1.13 A new full planning application for the development of Block E (Phase 2) was granted in June 2014 (13/03015/FULM). This phase is under construction.

1.14 The application submission explains that "*revisions to the remaining phases of the Hungate scheme have been required to address current market demand and demographic factors, as well as the updated development context. The revised scheme is similar to that previously approved, albeit with a greater number of residential units and less non-residential floorspace, and with community uses incorporated within a combined apartment block alongside a revised landscape strategy*".

## **PRE-APPLICATION CONSULTATION**

1.15 A statement of community involvement has been submitted with the application which details that since September 2014, the revised masterplan has been developed through a series of pre-application meetings with Officers at the Council, statutory consultees including Historic England and the Environment Agency, community consultation with local residents and interested parties, and detailed assessment associated with the EIA.

1.16 The local community, members of the planning committee and stakeholders were consulted on the masterplan through a public consultation event in November 2014. The event was held at the Hungate marketing suite and was publicised in a variety of ways including letters to all existing Hungate residents and residents/businesses in Rowntree Wharf and through media coverage. The consultation event was supported by a dedicated website specifically created to allow members of the community and other stakeholders, to view and comment on the proposals online. The public exhibition was attended by 60 people over the two days and since the website went live in November 2014, it has been visited 286 times in total and viewed by 196 unique users.

1.17 Following the consultation event, the proposals were also presented to the Guildhall Resident's Trust and to the Hungate Community Development Trust and a presentation to Members was given in July 2015.

## **ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS**

1.18 The proposed development falls within part 10(b) (Infrastructure Projects) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment ("EIA") Regulations 2011. Part 10(b) relates to "urban development projects" where the size of the site exceeds 0.5 hectares / the development includes more than 150 dwellings. For such developments, an Environmental Impact Assessment (EIA) is required in situations where the development could give rise to significant environmental effects. This is deemed to be the case with the proposed development and accordingly, a comprehensive Environmental Statement (ES) accompanies this application.

## **STATUTORY DUTY : HUMAN RIGHTS**

1.19 The Human Rights Act 1998 requires the local planning authority to have regard to the need to balance the rights of individuals with the wider public interest. Where a planning proposal has a material impact upon the rights of an individual the Act will be engaged. Article 8 provides that :

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Article 1 of Protocol 1 states :

- 1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- 2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

1.20 Your Officers have considered the impact on individual existing residents, and have concluded that whilst there is some impact, it would be reasonable and proportionate in all the circumstances to grant planning permission having regard to the wider public interests.

## **STATUTORY DUTY : SETTING OF LISTED BUILDING**

1.20 Planning (Listed Buildings and Conservation Areas) Act 1990  
Section 66 states that the local planning authority shall have special regard to the desirability of preserving the setting which the listed building possesses.

## 2.0 POLICY CONTEXT

### 2.1 Policies:

1. National Planning Policy Framework (March 2012)
2. 2005 Draft York Local Plan (4<sup>th</sup> set of changes). Relevant policies include:
  - CYSP7b – York City Centre and Central Shopping Area
  - CYSP9 – Action Areas
  - CYGP1 – Design
  - CYGP3 – Planning against crime
  - CYGP4A – Sustainability
  - CYGP4B – Air Quality
  - CYGP6 – Contaminated Land
  - CYGP9 – Landscaping
  - CYGP15A – Development and Flood Risk
  - CYHE2 – Development in Historic Locations
  - CYT4 – Cycle parking standards
  - CYH1 – Housing Allocation
  - CYH2A – Affordable Housing
  - CYH3C – Mix of Dwellings
  - CYH5A – Residential Density
  - CYED4 – Developer Contributions towards Education
  - CYL1C – Provision of New Open Space in Development

3. Draft York Local Plan (2014) Publication Draft – relevant policies include:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- DP4 – Approach to Development Management
- SS1 – Delivering Sustainable Growth for York
- SS4 – York City Centre
- EC1 – Provision of Employment Land
- EC2 – Economic Growth in the Health and Social Care Sectors
- R1 – Retail Hierarchy and Sequential Approach
- R3 – York City Centre Retail
- CF1 – Community Facilities
- H3 – Balancing the Housing Market
- H4 – Housing Mix
- H9 – Affordable Housing
- ED6 – Preschool, Primary and Secondary Education
- D1 – Landscape and Setting
- D2 – Placemaking
- D4 – Conservation Areas
- CC2 – Sustainable Design and Construction
- ENV1 – Air Quality
- ENV2 – Managing Environmental Quality
- ENV3 – Land Contamination

- ENV4 – Flood Risk
- ENV5 – Sustainable Drainage
- T1 – Sustainable Access
- DM1 – Infrastructure and Developer Contributions

## **3.0 CONSULTATIONS**

### INTERNAL

#### PLANNING AND ENVIRONMENTAL MANAGEMENT (FORWARD PLANNING)

3.1 The revised masterplan for this site involves a reduction in office space and change to a predominately residential led mixed use development. The key policy test for the revised masterplan for this important mixed use site is the impact on the provision of employment land in the city. Changes in market conditions, economic drivers and demand and viability for the various uses proposed since the development brief was written and the original permission was granted are acknowledged. The changing circumstances of the site and developer aspirations are noted and there is no policy objection, subject to comments from colleagues in Strategy and Policy (Economy and Place) . Whilst it is noted that the revised masterplan does not anticipate further office development at the site in line with current market demand, given the flexible non-residential uses applied for as part of the outline element of the application, this would still allow for small scale inclusion of B1 floorspace should there be a future demand which is encouraged to help meet the city's employment land needs.

3.2 The principle of residential use in this location is supported, including an increase in the provision, subject to detailed site specific considerations including the mix of dwellings proposed, the provision of affordable housing and consideration of the site's location adjacent to a conservation area and listed buildings.

3.3 There is no objection to the other proposed commercial uses, community floorspace and landscaping/public realm elements of the proposals, subject to detailed consideration from colleagues in design and conservation and other comments made in this advice.



## HOUSING STRATEGY AND DEVELOPMENT

3.4 Following a detailed independent viability appraisal the level of affordable housing has been agreed at 17% based on a 60:40 split between social rent and Discount Sale. The detailed provision including unit types and pepper-potting is to be agreed, but will follow the principles set out in the Section 106 agreement and reflected in previous phases. The Housing Development Team support this application.

## STRATEGY AND POLICY (ECONOMY AND PLACE)

3.5 There is clear demonstrable evidence in the Hiscox development that there is market demand for B1a in this location. There are other start up businesses looking to locate temporarily in the Hiscox offices also supporting this. Through agglomeration benefits, the presence of Hiscox around Hungate, rather than reducing viability, will in fact enhance the market demand for office space in this area of the city. Taking a hyper-local approach to analysing B1a use class provision is therefore inappropriate in this case; and if a broader picture is considered of the provision of new good quality city centre B1a over the period since the original, only under-provision could be argued.

3.6 While it is accepted that proposed allocation at Hungate for office space in the emerging local plan includes that provided by the Hiscox development if anything demand and lack of supply grade A city centre office accommodation is greater than in 2005 due to the lack of progress (to date) on major (employment) sites such as York Central. It is acknowledged that one of the key issues for the city is the quality of office stock, rather than pure quantum and with a new a development there is the opportunity for grade A office space. As such, from an economic perspective, the reduction in office allocation in the application directly opposes the economic ambitions of the city to create high value jobs and reverse declining wages; aspirations which are currently restricted through the availability of the right commercial space, and specifically grade A office space (see appraisal at paragraphs 4.17-4.23).

## ENVIRONMENTAL MANAGEMENT (DESIGN)

3.7 (Summary) Overall the proposal makes a positive design contribution. The negative impact of the design of massing along the Stonebow is viewed as being countered by other positive aspects of the proposal and my views are tempered for consistency purposes with the (slightly more modest) proposal of the consented 2004 application. This is with the caveat that a condition should be sought to limit absolute maximum massing of the Stonebow elevation. This condition should be viewed as an absolute maximum which will not be expected to be built up to in all instances and any design creep should not be considered immaterial.

3.8 The comments of the Council's Architect have been covered in detail in paragraphs 4.42 to 4.67 of the report.

#### ENVIRONMENTAL MANAGEMENT (LANDSCAPE)

3.9 Despite the omission of Friar's Quay as a proposed public space associated with a community centre, the proposed 'full' development presents an acceptable continuation of the riverside walkway. St. John's Square is suitably detailed as both an urban square and a much needed area of open space for the dense residential that is proposed. It is questionable whether the site provides sufficient open space, especially given the limited size of the central courtyards, in particular Block F. This aside, the landscape detailing creates an attractive, urban, tree-lined, public realm. For more detailed comments please refer to paragraphs 4.68 to 4.73 of the report.

#### ENVIRONMENTAL MANAGEMENT (ECOLOGY)

3.10 States that otter spraints have been recorded on the north and south ledges of the Fossgate bridge and an otter holt was recorded under the footbridge at Garden Place multi-storey car park/Rowntree Wharf, at the western end of Block F of the development. There are existing records of otter using King's Pool, immediately east of the site. It is understood that no works to the banks of the River Foss are being undertaken at this stage. It is imperative that any works to the banks are undertaken following advice from a suitably qualified ecologist due to the presence of otters and other species such as kingfisher.

3.11 The Block F soft works drawing shows the location of bird and bat boxes to be installed. A condition is recommended to require the provision of a minimum of four habitat features for bats and four bird nest boxes to be installed/constructed in accordance with guidance from an ecologist.

3.12 Block D and Block F are to support green roofs of sedum, wildlife plug plants and habitat features that will be a positive enhancement for biodiversity. An interesting addition could be the installation of a peregrine nest box here or on one of the other flat roof surfaces.

3.13 Additional conditions relating to a Construction Environmental Management Plan (Biodiversity) and a Sensitive Lighting Scheme are recommended.

#### ENVIRONMENTAL MANAGEMENT (ARCHAEOLOGY)

3.14 There remains a considerable amount of archaeological work that has not been completed and which was covered within the S106 Agreement covering development on this site.

3.15 All of the mitigation measures set out in the Environmental Statement and enlarged upon for Block G together with the uncompleted work from the original S106 Agreement that is not amended in the revised ES must be included within a new S106 Agreement for this application. The archaeological work carried out to date at Hungate has been an outstanding success. It is essential that this success is carried forward when and if this revised masterplan is implemented.

## HIGHWAY NETWORK MANAGEMENT

3.16 No objections are raised subject to S106 requirements and conditions. For detailed comments, please refer to paragraphs 4.76 to 4.97

## ENVIRONMENTAL PROTECTION UNIT

### Air Quality and Emissions

3.17 The City of York Council's existing nitrogen dioxide roadside diffusion tube data to the north west of the site (outside Stonebow House) has exhibited breaches of the health based nitrogen dioxide objective for over 5 years. Monitoring work undertaken by the applicant's consultant also suggests current potential breaches of the annual mean NO<sub>2</sub> concentration further along Stonebow, in front of the proposed development.

3.18 Modelling undertaken suggests that the development itself would not lead to any "new" exceedances of the air quality objectives due to operational traffic arising specifically from the site.

3.19 Given that there have been breaches of the health based nitrogen dioxide objective, a precautionary approach is recommended to ensure that future residents of blocks G and H are not exposed to concentrations of pollution above health based standards. A condition is therefore recommended to ensure that unless informed by further, site specific diffusion tube monitoring, residential premises facing the Stonebow/Peasholme Green facade shall be fitted with fixed windows that cannot be opened and provided with alternative means of mechanical ventilation. Such premises should not be provided with balconies or any other form of outdoor area.

3.20 In line with the Council's Low Emission Strategy and the NPPF, a condition relating to electric vehicle recharge points is also requested.

### Noise

3.21 Blocks G and H are located directly adjacent to Stonebow and consequently noise results presented in the submitted noise assessment indicate that noise levels along the northern facades of the proposed building will be elevated above levels

elsewhere. However internal noise levels as detailed in BS8233 and the World Health Organisation guidelines on community noise will most likely be complied with through attenuation provided by the building structure and windows. A condition is recommended to ensure that the required levels are achieved.

3.22 In terms of noise associated with the operation of the proposed commercial/retail units and delivery vehicles accessing the site, the noise assessment indicates that there is the potential for minor adverse impact, although no details are known about the proposed deliveries. It is also assumed that a Servicing Delivery Plan will be implemented. Conditions requiring the submission of a Service Delivery Plan, to the hours of delivery to and from the commercial units, to the hours of operation for the commercial units and to the requirement for noise insulation for premises put to commercial uses that adjoin residential premises, are therefore recommended.

3.23 Due to the potential for odour associated with restaurants and cafes, a condition relating to extraction is also requested and with regards to noise and vibration associated with the construction and demolition phases of the development, it is requested that the same conditions as previously applied to other new developments in Hungate relating to hours of construction works and a Construction Environmental Management Plan (CEMP), be applied.

### Land Contamination

3.24 The Hungate site has a number of past industrial uses including a gas works, warehouses, garages and timber works. Previous ground investigations have revealed that land contamination is present at the site and remediation work has already been carried out on parts of the site. Different parts of the site therefore require different amounts of work to make them safe and suitable for their proposed use. Conditions are recommended.

### FLOOD RISK MANAGEMENT

3.25 No objections in principle subject to conditions.

### CHILDREN'S SERVICES, EDUCATION AND SKILLS

3.26 The development is unlikely to generate a significant number of primary and secondary pupils. Based on other flatted developments of a similar nature we would expect pupil yield ratios of 0.01 and 0.005 per dwelling for primary and secondary pupils respectively. This equates to 3 primary pupils and 2 secondary pupils, based on the number and type of dwellings detailed in the application.

3.27 Pupil number projections indicate that, based on existing capacity and impact from extant permissions elsewhere in the area, there will be no places available at any of the three primary schools. A contribution equivalent to that towards the cost of provision of three additional primary school places is therefore sought, which amounts to £36,441 based on current cost multipliers.

3.28 The primary provision based Section 106 funding will be spent on conversion of an existing IT suite into a general classroom at Fishergate Primary school, plus some investment in mobile IT solutions to compensate for the resulting the lack of dedicated IT suite provision.

3.29 At secondary level, the Hungate development is served by Fulford Secondary school. This school is currently over capacity and is predicted to remain so for the foreseeable future due to its popularity with parents. A contribution will therefore be sought equivalent to that for 2 additional places at the school, costing £30,368 based on current cost multipliers.

3.30 The secondary provision based funding will be used as part of a wider project to expand and upgrade kitchen and dining facilities at the school, in order to meet the increasing demand for hot school meals brought about by increasing pupil numbers.

3.31 A contribution towards preschool / early education will not be required due to the limited impact predicted.

3.32 In summary a contribution totalling £66,809 (index linked) is sought for this development.

## PUBLIC REALM

3.33 There is not sufficient on site public open space within the development to cater for the needs of the new residents, accordingly off site contributions are required for amenity space, play provision and sports pitches in order to comply with Policy L1c of the 2005 Draft York Local Plan. Contributions have been calculated in accordance with the City of York Commuted Sums Payments for Open Space in New Developments – A Guide for Developers (Approved 26/4/07. Updated 1/6/14).

3.34 The payments required are;

Amenity open space £69,649. This will be used at the following schemes which are within a 20 minute walking catchment ;

- Tower Gardens Phase 2 – river frontage improvements including seating
- Monkbridge Gardens – access and footpath upgrade

Play £171,844. This will be used at the following schemes which are within a 10 – 15 minute walking distance

- Museum Gardens - children's themed educational planting and interactive activities
- St Nicholas Fields – woodland and beck side adventure and educational play
- Foss Islands Path – children / teenager skills and challenge course

Sport £218,325. This will be used at the following schemes which are within a 15 – 20 minute walking or 20 minutes on public transport catchment;

- Burnholme Community Health Hub, changing and ancillary facility improvements and additional sports facilities.
- Heworth Rugby Club, club house and ancillary facility improvements.

## EXTERNAL

### YORKSHIRE WATER

3.35 If permission is to be granted, Yorkshire Water recommend conditions requiring no construction of buildings/structures until measures to divert/close sewers and water mains have been agreed, separate systems of drainage for foul and surface water on and off site, no piped discharge of surface water and surface water from vehicle parking and hardstanding areas to be passed through an interceptor of adequate capacity prior to discharge.

### ENVIRONMENT AGENCY

3.36 The development will only meet the NPPF's requirements if a planning condition requiring that the development is carried out in accordance with the submitted flood risk assessment (and the mitigation measures detailed within) is secured.

3.37 In terms of Emergency Planning, it is noted that the applicant will be producing a flood management plan, post planning, that will consider an anticipated event (where a warning is provided) and a rapid inundation event in the case of an asset failure (e.g. the Foss Barrier).

### NATURAL ENGLAND

3.38 Based upon the information provided, Natural England advises that the proposal is unlikely to affect any statutorily protected sites.

## HISTORIC ENGLAND

3.39 Previously accepted the principle of the development of the Hungate area, within the parameters set out in the 2005 Design Code. Historic England does not consider the increased heights constitute a substantial deviation from what was previously consented. The Council should carefully consider whether the proposed layout, scale, massing and architectural design of the development enhances or better reveals the significance of the York Central Historic Core Conservation Area and the city's wider historic environment. Any degree of additional harm to the setting of the Conservation Area should be considered as minimal and should be balanced against the public benefits which the wider scheme may deliver, as required by paragraphs 132 and 134 of the National Planning Policy Framework.

## CONSERVATION AREAS ADVISORY PANEL

3.40 The Panel was concerned about the increase in height of the proposed buildings, particularly those along Stonebow and the brick to be used. Concern was also expressed that there appeared to be no firm proposals for the riverside walkway.

## YORK CIVIC TRUST

3.41 The Trust objects to the application on the grounds that this is a significant overdevelopment of the site in its context. Concerns are summarised as:-

- Development within the medieval walls must show regard for the scale and massing of its neighbours, in particular the effect upon the York Central Historic Core Conservation Area and the city's wider historic environment.
- The application does not analyse and assess the effect on sight lines of the proposals in the same rigorous way to all the same criteria used previously. Where the same criteria have been addressed, the mass of development has been pushed to the very limits of the previously acceptable arguments. The planning authority should give very rigorous scrutiny to the cumulative effect of increased massing.
- The greater number of residential units and the reduction in public and amenity spaces result in a cramped and awkward design which is not the high quality urban design which this important site deserves.
- The greater number of residents and other users will have an effect on the existing transport networks, including the availability of parking, and the strain upon existing public transport.

Other concerns to do with the construction materials in the development; the lack of readability of each building's function from outside; the effect of greater density of development on existing businesses; the effect of more residents upon the operation of public services; and the provision of green landscaping.

## SAFER YORK PARTNERSHIP

3.42 It has been intimated by the scheme's architects that both Block D and Block F will acquire full Secure by Design status. Having been consulted throughout the design process in respect of Block E, any security concerns relating to Blocks D and F will be addressed.

3.43 Concerns relate to the proposed public open spaces of St. Johns Square and Friar's Quay. The need to provide public spaces such as these are appreciated but it is a design feature, which in this location, will unfortunately generate crime and anti-social behaviour regardless of whether there is a management plan in place or the fact that it will be directly overlooked by residents. Of rear concern is the proposal to site a children's play area in Friars Quay, immediately next to the river. Caution is expressed against the placing of any seating along the riverside walkway or any features which could be used for seating.

3.44 CCTV could be one solution but problems still persist elsewhere despite its presence. The only answer is to design the spaces out, which is probably unrealistic.

## PUBLICITY

3.45 The application was publicised by site notice, press notice and letters of neighbour notification. Three letters of objection have been received, two of which are from residents of Rowntree Wharf and one from a resident of Peasholme Court. The letters of objection raise the following points;

### Impact on Peasholme Court

- Loss of sunlight and privacy are inevitable through the size of Block H but would ask that at worst, the building does not exceed the height of the Hiscox building. Would prefer something to scale with existing buildings, or at least with a stepped upper frontage to minimise the Brutalist effect.
- No objection to commercial use of the section of Block H adjoining the Stonebow if there is provision for off-road unloading otherwise we have fears of constant congestion by the users of these new blocks.
- When the commercial units are built, request no more bars/ public houses as there is enough night-time noise.



### Impact on Rowntree Wharf

- The scheme disregards the listed building status of Rowntree Wharf by ensuring that it will no longer be visible from The Stonebow as it will be completely blocked out by the massing and scale of the proposed development.
- The riverside walk, public spaces and multi-storey car park proposed will be directly opposite Rowntree Wharf which has only single glazing. The proposal lacks measures or initiatives to deal with crime, anti-social behaviour and noise which will be intensified with the inclusion of open spaces, access to the river bank and a multi-storey car park.
- The height of Block's F and Block D exceeds that of existing buildings and is higher than Rowntree Wharf. For residents who face directly onto the Hungate site, this means that all natural light will be blocked out and they will look onto an array of windows, balconies and walls with no breaks whatsoever. This compromises the privacy and amenity of the north facing residents of Rowntree Wharf.
- Rowntree Wharf is single glazed and the existence of balconies metres away is likely to create nuisance particularly in the summer months. The design will also give rise to wind tunnel issues already causing problems on the south side of Rowntree Wharf since Grays Wharf was built.
- Complaints from Rowntree Wharf residents were made during Phases 1 & 2 and during the building of St. John Central about out of hours working, intrusive lighting left on overnight and unacceptable levels of noise from the site but no enforcement action was ever taken by CYC. Request a clear, transparent and enforceable noise impact and community management plan (CEMP) in place between CYC and the developer which is not simply ignored or treated as unenforceable when concerns are raised.
- The severe noise and nuisance impacts on residents daily life, has placed a significant stress and strain on domestic life and health. This is compounded with the practices of insensitive and uncooperative developers working out of hours and being in occupation of the site out of hours, as well as the stress this causes when interacting with CYC about enforcement.
- The scheme includes a multi storey car park which appears to conflict with CYC policy to reduce congestion and car usage in the city centre.

- The increase in residential density is a concern in terms of the impact of the local community. The proposal represents over development and is unconvincing in terms of sustainability and future proofing.
- Lack of consultation with local community about this phase of development. Would like to see the planning authority insist that well publicised, meaningful, specific and targeted community engagement events are arranged.
- The documents are inconsistent with the provisions of Article 8 of the Human Rights Act. Can written assurances be provided that legal advice has been received on this matter and that relevant risk assessments carried out in relation to existing residents wellbeing and measures implemented to ensure that this proposed development does not breach Article 8 of the HRA 1998? Without such assurances and relevant risk assessments any decision made by the planning committee in relation to this application will be subject to challenge under the provisions of Article 8.

## **4.0 APPRAISAL**

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

- Principle of residential-led, mixed use development / Loss of commercial space
- Housing need and the proposed housing mix
- Affordable Housing / Viability Issues
- Design and External Appearance
- Impact on Heritage Assets
- Landscaping
- Ecology
- Archaeology
- Transport and Access
- Sustainability
- Flood Risk and Drainage
- Residential Amenity

## **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 At paragraph 20, the NPPF states that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century and at paragraph 22 states that "policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

4.6 Section 2 of the NPPF "Ensuring the vitality of town centres" seeks to promote competitive town centre environments and at paragraph 23 states that planning policies should set out policies for the management and growth of centres over the local plan. It includes the need for local planning authorities to recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.

4.7 Section 6 of the NPPF 'Delivering a wide choice of high quality homes' seeks to boost the supply of housing. Paragraph 49 states that housing applications should be considered in the context of presumption in favour of sustainable development. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, paragraph 50 states that local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and where it has been

identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

4.8 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).

4.9 Section 10 'Meeting the challenge of climate change, flooding and coastal change offers advice on locating new development to avoid increased flood risk.

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

4.10 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.

4.11 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 listed in section 2.1 above. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are SP9 (Action Areas), SP7b (York City Centre and Central Shopping Area), 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

4.12 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

## PRINCIPLE OF DEVELOPMENT

4.13 The application site has extant planning permission for a mix of uses incorporating residential (720 units), Class B1 business (total floorspace 12,062 sq. m), Class A1 retail, A3/A4/A5 food/drink uses (total 6,392 sq.m) together with a focal building and a central square. This permission could be implemented at any point up to 2022 subject to the granting of reserved matters.

4.14 Within this context and given the site's policy allocation, Officers recognise that the principle of the development of the site for a mix of uses has been established.

4.15 Since the submission of the outline planning application over 12 years ago, the applicant notes that market conditions and economic drivers have changed considerably, and the demand and viability for various uses in the city has also altered. As a consequence, the masterplan has been reviewed such that a predominantly residential based scheme is now proposed.

## REDUCTION IN OFFICE SPACE

4.16 A key change in the revised masterplan is the shift away from the provision of large scale employment uses on the Hungate site. Only within the flexible non-residential uses applied for as part of the outline elements of the scheme (Blocks G and H) is there the scope for the small scale inclusion of B1 floorspace should there be future demand.

4.17 The principle of providing office development on the site complies with the Hungate Development Brief and Policy SP9 of the Draft Local Plan and has been established through the extant outline planning permission. Emerging Local Plan Policy EC1 identifies Hungate as a suitable location for up to 12,000sqm of B1a office space.

4.18 As a site with planning consent, Hungate was removed from the emerging local plan site selection process. Accordingly there is no analysis of the site for residential or employment use in the Site Selection Paper (2013). The applicant submitted representations to the Further Sites Consultation in July 2014 seeking a consolidation of residential uses on the site rather than the proposed allocation for B1a office floorspace. This was sought to better reflect market conditions, be more viable and deliverable and assist in delivering housing requirement in early years on a brownfield site. The evidence was considered by Strategy and Policy / Economy and Place (formerly known as the Economic Development Unit) who concluded in the Site Selection Paper Addendum (2014) that Hungate is a city centre location which offers significant potential for further office use and would not like to see this diluted. It was concluded that the site should be retained as a B1a allocation in the Local Plan for 12,000 sq.m as per the existing outline consent and the Preferred

Options position. Accordingly, the current iteration of the emerging local plan continues to identify Hungate as a suitable location for this level of office space.

4.19 The applicant contends that the recently granted Hiscox permission achieves the Council's aspiration for securing a major office development in this part of the city, and could provide up to 10,400 sqm of B1(a) office space. This comprises over 86% of the requirement currently identified within the Preferred Options Local Plan, and 112% of the amount of that originally identified within the Hungate Development Brief.

4.20 Further to this and in line with their representations submitted to the Further Site Consultation, the applicant contends that the planning policy framework, including the extant outline planning permission which forms the basis of Hungate's emerging Local Plan allocation under Policy EC1, is out of date stating that the outline planning permission was conceived during a very different economic climate.

4.21 Strategy and Policy (Economy and Place) in responding to this application confirm their view, as evidenced in the Site Selection Paper Addendum (2014), that there is market demand for B1a use and note that through agglomeration benefits, the presence of Hiscox will enhance the market demand for office space in this area of the city.

4.22 The economic ambitions of the city to create high value jobs through providing Grade A office space are recognised. However, these ambitions are balanced against the need to provide housing and decisions have to be made in the context of the developer's aspirations for this site. In the submission, the applicant states that "there is no reasonable prospect for the development of further large scale employment uses as part of the Hungate allocation".

4.23 As detailed in paragraph 4.4 of this report, the NPPF advises that land allocations should be regularly reviewed, and that the long term allocation of sites for employment use should be avoided where there is no reasonable prospect of a site being used for that purpose. With this in mind and in the context of the limited weight which should be afforded to Policy EC1 of the emerging plan given that it is subject to objections and in the context of the Hiscox development adjacent to the site, which could provide up to 10,400sqm of office space, Officers accept that the proposed allocation for office space at Hungate in the emerging local has been superseded by the revised masterplan and developer aspirations for a predominately residential led mixed use site.

4.24 With regard to the other commercial uses proposed, namely use class A1, A2, A3, A4, A5 and D2, these uses are already established through the original permission for the site and as such, remain supported in this location in recognition of the contribution they can make to the vitality and viability of the city centre. The outline application seeks planning permission for up to 1,660sqm of floorspace to

come forward on a flexible basis within use classes A1- A5, B1 or D2 compared to the previous 6,392 sq.m of A1, A3, A4 and A5 uses. As such, given the reduction in potential retail floorspace there is not considered to be any conflict with the advice from the Retail Study Update which concluded that the site is unlikely to absorb potential future retail capacity as originally envisaged at the site.

## HOUSING NEED

4.25 Significant weight must be given to the need to supply housing in sustainable locations, considering policy established within the NPPF which requires LPAs to "boost significantly the supply of housing"(paragraph 47) whilst delivering a wide choice of high quality homes in order to widen opportunities for home ownership and the creation of sustainable, inclusive and mixed communities (paragraph 50).

4.26 As the factors determining the calculation have not yet been set e.g. the level of assumed windfall dwellings per annum, a five year housing land supply cannot be clearly demonstrated at this time and the City has under delivered in terms of its housing requirements in recent years. The application facilitates the use of brownfield land in a sustainable location within the settlement limit of York and with good access to public transport and local services. There is therefore strong planning justification for accepting the principle of the increased number of residential units at the site, which is demonstrably in need in the city and on this basis Officers raise no objections to the principle of the increase in the number of units.

## HOUSING MIX

4.27 2005 Draft Local Plan Policy H3c and emerging 2014 Local Plan Policy H4 require residential developments to provide a mix of house types, sizes and tenures appropriate to the location and nature of the development.

4.28 The proposed housing mix for the detailed elements of the scheme comprises 52% one bed units, 40% two bed units and 8% three bed units, which is similar to that envisaged by the approved outline scheme. Such a mix responds to housing demand as identified within the North Yorkshire and York SHMA (2011) which concludes that demand is particularly high for smaller properties.

4.29 The overall mix to be delivered by the outline elements would be determined at the reserved matters stage but it is anticipated that the housing mix is likely to reflect the mix as proposed for blocks D and F. Should the provision of elderly care housing (Use Class C2) be progressed, this would address housing needs associated with York's ageing population, as identified within the North Yorkshire SHMA.

## VIABILITY ISSUES / AFFORDABLE HOUSING

4.30 The Homes & Communities Agency advises Local Planning Authorities (LPA's) to work collaboratively with developers in order to understand the economics of their proposed developments. The NPPF also promotes this approach, stressing that LPA's should take account of changes in market conditions over time and wherever appropriate be sufficiently flexible to prevent planned development from being stalled (para 205).

4.31 The Hungate scheme agreed 20.3% affordable housing at outline approval in 2009. Since then local affordable housing targets have been lowered to 20%, and Phase 1 of the development was agreed and built out at that 20% level.

4.32 Phase 2, approved in 2013 and due for completion in 2016, agreed a reduced level of 16% affordable housing following detailed re-appraisal of viability which concluded that increasing (projected) revenues were not quite keeping up with increasing development costs.

4.33 The current application, if implemented instead of the remainder of the extant permission, would result in an increase in total apartments on the whole of the Hungate Regeneration site from 720 to a maximum of 1025 and includes detailed proposals for Blocks D and F, as set out in this report. The scheme viability has been considered having regard to both the elements of the extant permission already built (or in progress), and the new application, and has shifted as unit numbers have increased, together with development costs and projected revenues.

4.34 Following a detailed re-appraisal of the remaining phases of the scheme in recent months, and collaborative working with the developer Lend Lease and independent District Valuation Service (DVS), a 17% proportion of affordable housing has been agreed as a recommended way forward. CYC Officers and the DVS are supportive of this level of provision.

4.35 Section 106 contributions for education, sports/ recreation, community provision and transport have also been agreed following detailed assessment and negotiation. The contributions are considered to meet the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) regulations. Specific off-site projects have been identified for which the commuted sum payments will be used, which do not fall foul of the pooling restrictions set out in Regulation 123, as not more than 5 obligations have contributed to the projects since April 2010. For greater detail on the contributions relating to education and sports / recreation, please refer to paragraphs 3.26 to 3.34.



## COMMUNITY FLOORSPACE

4.36 The revised masterplan incorporates a community facility within Block F which would provide 240 sq.m of flexible space with access from St. John's Square, including a glazed area that can be adapted to any future user of the community centre. The extent of community floorspace proposed is significantly less than the stand alone focal building established by the extant permission. In response to this reduction, the applicant states that "the amount of community floorspace envisaged by the outline scheme is not considered to be viable and there are no identified community groups or organisations with a requirement to take over the management of such a facility".

4.37 In the context of the extant permission, the increase in the number of the units and Policy CF1 of the emerging Local Plan, which recognises that the expansion of existing community facilities is expected to meet the needs arising from new homes being provided, an off site commuted sum of £100K to the adjacent Central Methodist Chapel on St. Saviourgate has been negotiated. The Church is developing ambitious plans to refurbish and redevelop their building in order to provide more and better quality space for community use, and further secure its longer term use. There are already a number of groups using the various church rooms, and this will be developed much further in consultation with community groups, the Hungate Community Development Trust (HCDDT), and City of York Council.

4.38 The HCDDT was set up in 2002 (as the Hungate Community Trust) in order to understand and reflect the needs and aspirations of the local community. They have continued to consult and work with other city-based organisations such as York Unifying Multicultural Initiative (YUMI), York Womens Group KYRA and the disability group York People First.

4.39 Through these discussions there appears to be an opportunity to optimise the use and management of both spaces for not only Hungate residents but the wider York community. Potential uses include children's play, youth services, family support and counselling, adult learning, community cafe, office space, enterprise support programmes, and art/ cinema/ theatre/ performance/ exhibition space. As an additional benefit, the two centre operation would help to bridge the gap between the city centre and new Hungate community.

## DESIGN AND EXTERNAL APPEARANCE

4.40 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

4.41 The revised masterplan has developed through a series of pre-application meetings, the framework for which has been provided by a number of key architectural and urban design sensitivities. The following section of the report tests these key sensitivities against the proposed scheme and is based on comments provided by the Council's Architect.

4.42 The revised masterplan has involved a shift away from a mix of uses to a residential led scheme and consequently attention has been paid to ensuring that the dilution of the mix of the uses does not impact negatively on the vibrancy and sense of place.

4.43 The treatment of public spaces is important in making a place that is inviting to the public and Officers consider that the revised masterplan has taken successfully account of this evidenced by;

- the retention of a network of public spaces that promotes permeability along primary routes and degrees of enclosures that correspond to needs of privacy;
- the proposed use of high quality materials in the public realm;
- the inclusion of public open spaces, for example, St. Johns Square, Friars Quay and the tree lined pedestrian route between Blocks G and H;
- the inclusion of public access to the riverside and;
- the general limiting of vehicular movement to ensure it is a pedestrian focused place

4.44 In terms of the ground floor uses, the mixed uses (office/retail/restaurant) are appropriately focussed on the Stonebow frontage which has the highest casual footfall and the public uses (the cafe and community centre) with its associated outdoor tables and chairs, fronting the new public St Johns square. To make a direct connection with the square and engender a community feel, the main entrance to Block D is located on the square with direct stepped access from some of the ground floor apartments (over basement); and shallow balconies overlooking it from the upper floors.

4.45 Elsewhere, with the exception of the multi storey car park, ground floor use would be residential apartments. If designed poorly, blocks of apartments can create sterile public environments but it is considered that this scheme manages to overcome such design challenges by;

- The ability to control the level of the external ground when new road/squares are built. This has meant that flood control has been handled sensitively and in most places the ground floor level of buildings relates closely to the street level
- In some instances, a separation in level has been used to create desirable buffer spaces for residents such as a soft landscape strip;
- Level control informally guides degrees of permeability through out the masterplan and reinforces the primary public routes
- Individual entrances to apartments are encouraged and residential buildings are designed with cluster core principles increasing the likelihood of knowing your neighbour.

4.46 A key change from the 2004 scheme has been the reduction in the community function of Block F which has led to the adoption of a fundamentally different approach. Block F now incorporates the Focal Building and creates an urban block with a frontage to St Johns Square. In some ways, Officers consider this to be an improvement as the approved Block F is a standard width apartment building located adjacent to the side of the Shambles car park with the western elevation having the potential for little daylight.

4.47 It is noted however, that the previously approved scheme had the community use running through the full length of the ground floor of block F thus making a connection between St. John's Square and the riverside and 'Friar's quay", a publicly accessible riverside garden facing Rowntree Wharf across the river. When Block F was envisaged as a community focal building, this space had more resonance as a public square but this has been diluted to a semi private terrace. Whilst this certainly represents a loss of significant space by the river, it still has some positive characteristics in that it gives necessary relief to the waters edge and serves as an expressive function in terminating the route along the Foss with a change in scale of open space that signals a change in direction to the route beyond which is back out to St. John's Square.

4.48 Other footprints are similar to the 2004 masterplan. However a new inclusion of a narrowing of the carriageway of Stonebow resulting in wider footpaths and the offer of street trees is welcomed.

4.49 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.

4.50 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.

4.51 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).

4.52 The site lies just outside the Central Historic Core Conservation Area as described at paragraph 1.2 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.

4.53 The proposed development will be perceived to be 3 to 7 storeys in height when viewed from ground level. The 2004 masterplan adopted a methodology for acceptable maximum height through the drawing of an imaginary "sloping line" from the ridge of Rowntree Wharf sloping down to the ridge of Peasholme (House).

4.54 This application seeks permission for buildings taller than the "sloping line" and the applicant has been required to demonstrate the appropriateness of such height increases through new analysis. It has been considered important to treat the site edges as points of key sensitivities with the potential for greater acceptance of height increases towards the centre. In assessing increases in height, it is noted that the architectural language of the 2004 masterplan generally included pitched roofs, whereas the current application tends to detail flat roof forms; this means absolute height alone is not accurate in measuring apparent height.

4.55 One of the proposed increases in the height of this scheme is in the middle of the development facing St John's Square from a generally 6 storey plus pitched roof to a generally 7 storey flat roof form. As detailed above, Officers consider this central part of the site to be less sensitive and whilst acknowledging that this will be a new type of public space in York, consider that it represents a positive element to

the scheme. This element of the scheme would cause no harm to the character and appearance of the conservation area.

4.56 In considering the 2004 masterplan, a significant area of debate related to the River Foss frontage of the scheme, and in particular the relationship to Rowntree Wharf, a Grade II listed building. The approach adopted, evidenced in Block E which is currently under construction, was to reflect the wharf-like characteristics across the river by including buildings of a similar but slightly lower height to Rowntree Wharf and creating a walkway along the river frontage together with a landscaped space adjacent to the community/focal building.

4.57 The Committee report at the time noted, *“it could be argued that Navigation Wharf should remain as the dominant landmark building within this locality and should therefore be surrounded by buildings much lower in height and a reduced scale. Equally however, it would be valid as is proposed to take the opportunity to balance the scale of development on both sides of the Foss to reflect the character of the still dominant listed building and provide an open space across the river to which Navigation Wharf would form a backdrop, allowing its scale and significance to be more readily appreciated from a public space”*.

4.58 In the context of the extant outline permission, an established fall back for the remaining phases of the scheme, it is considered that Block F, the remaining block to face the river (which also faces St. Johns Square) has responded positively to the sensitivity of the development site. Key parts of the building have been articulated in height with the taller elements on to St. Johns and on the corner facing Hungate with the height decreasing to six and part 5 storey to the River Foss side. This is considered to complement the adjacent Block E and would be sufficient to prevent any significant impact on the setting of the Grade II listed Rowntree Wharf building on the opposite side of the River through over dominance. Any harm to the setting of the listed building is assessed as minor but the statutory duty under s.66 gives rise to a strong presumption against planning permission being granted. Any harm must be given considerable importance and weight in the planning balance, even where it is minor.

4.59 This application proposes a general increase in height for the Stonebow elevation (Blocks G and H) from 4 and part 5 storey plus pitched roof blocks to 5 and part 6 storey flat roof blocks. 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.

4.60 The harm to the setting of the Conservation Area, which is a heritage asset is assessed as minor but in these circumstances the NPPF requires great weight to be given to such harm in the planning balance, despite it being minor.

4.61 The principle of dramatic massing on Stonebow had been accepted in the 2004 masterplan albeit these blocks were a storey lower but with a pitched roof, 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. In the context of the extant approval, Officers accept the proposal for the blocks to Stonebow on the basis that the submitted parameter plans represent the absolute maximum massing of the Stonebow elevation, that there will be no scope for upward movement of this at reserved matters stage. Any outline permission would be subject to condition accordingly.

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

4.63 A second element of the scheme relating to massing that has given rise to concern, albeit not in relation to the impact on heritage assets, is the height of Block G in relation to the St. John's Central student building. The submitted scheme had detailed the Carmelite Street elevation of Block G to be 7 storey's in height, which whilst similar to the approved scheme, 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 has addressed these concerns and has submitted an amended plan to indicate that a maximum of 50% of this elevation will be 7 storeys. This would give sufficient flexibility to address the impact of Block G upon Carmelite Street at reserved matters stage, and would be subject to appropriate conditions.

4.64 The flat roof forms, in conjunction with a more contemporary architectural language, are considered to look appropriate for this scale of building. In addition, there is a general approach to break up the top floor plate, which helps to provide some variety to the skyline. It is considered that the addition of green roofs will also soften the roofline of any views from above.

4.65 A detailed scheme has been provided with respects to Blocks D and F, the proposed design and materials of which are considered to make a positive contribution to the scheme.

#### Block D

4.66 The main elevation to St. Johns Square has a formal composition; it is symmetrical and unified with an overlaid wide grid form in brick setting up space for recessed balconies and is considered appropriate for its setting. Other elevations appear slightly quirkier and represent rhythmic slices of a giant terrace form, which help to break up the skyline. The predominant palette of brick with a different treatment of the top floor "pod" is supported.

## Block F

4.67 The elevation to St Johns Square articulates the ground floor communal use in an appropriately glazed form projecting out slightly from the brick elevation and leading to an external terrace. The rear elevation to the Foss is also considered to be successful. A roof top sculptural form of terrace dividers is considered to appropriately hint at industrial waterside lifting apparatus and makes visual references to similar devices in Blocks A, B and C. As with Block D, the predominant palette of brick is supported.

## LANDSCAPING

4.68 It is considered that the landscape masterplan successfully presents a clear sequence of outdoor events from improvements to Stonebow, to the treed enticement of Hungate, to St. John's square, which is given an ordered treatment incorporating grassed terraces, trees and seating. The paving design plays down the vehicular routes and junctions, resulting in a comfortable pedestrian realm.

4.69 Street trees are to be provided on Dundas Street and along the centre of Hungate (which would be pedestrian and cycle access only) which has the potential to provide a suitably attractive approach to the heart of the development and St. John's square, whilst acting as a small linear open space in itself.

4.70 St John's Square would act as an urban square and as public open space and its design provides a good balance between hard and soft landscape. It has been given a formality but with a slightly asymmetrical approach which the Council's Landscape Architect notes, gives it a "degree of simplicity and calm whilst keeping the eye engaged". Informal landscape features on the grass provide for informal play and seating and a paved space has been created at the junction with Palmer Lane. The higher quality material of York stone has been appropriately reserved for St. John's Square.

4.71 With reference to the detailed elements of the scheme, the rear courtyard of block D is suitably designed to provide semi-private space for the ground floor flats together with a lawned communal space with trees and the potential for seating and informal play in the centre.

4.72 The rear courtyard garden for Block F is relatively small compared to the other blocks within the Hungate scheme and given the proposed building height of this block; this will lead to a heavily shaded central space. However, the design of the courtyard manages to sufficiently accommodate pedestrian movement, informal play on a lawn, and significant tree planting; features that are also provided within the riverside space, which is more generous and intimate than the spaces adjacent to the river in front of block 2 (phase 2). On the southern elevation of Block F, terraces and balconies assist the relationship with the river and those apartments not facing

the river or St. John's square, are mostly dual aspect. Furthermore, ground floor apartments have a degree of private space, and upper floors have a small balcony. The sixth floor and roof plan incorporate a significant area of accessible green roof which is welcomed.

4.73 The green roofs on Blocks D and Block F (including the block F cycle store) are planted with a wide range of flowers and grasses and supplemented with small log piles, small bunds and insect boxes. This is the most valuable approach to planting a bio-diverse living roof, which is also low maintenance.

## ARCHAEOLOGY

4.74 The initial outline application for the Hungate site was accompanied by a set of detailed documentation including an Archaeological Scheme of Investigation (WSI) which detailed the archaeological mitigation measures. The applicant has subsequently implemented much of the on-site works detailed by the WSI and the post-excavation analysis and publication work is in progress. However, a significant amount of archaeological work contained within the WSI and covered by the original S106 Agreement has yet to be completed.

4.75 The archaeological work carried out since 2006 has produced substantial new environmental information in the form of archaeological data, which the revised Environmental Statement (ES) accompanying this hybrid application, has taken into consideration. The revised ES puts forward a revised assessment of significance and proposes a series of mitigation measures to deal with adverse impacts on these significances. The mitigation measures together with the uncompleted work from the original S106 that is not amended in the revised ES would be included in either the new Section 106 agreement or if acceptable be further secured by planning condition.

## HIGHWAY ISSUES

### Traffic Generation/Highway Impact

4.76 The level of traffic that could be expected to be generated by the proposed application has been calculated using the same trip rates and methodology applied to the original outline planning consent for the site which is still considered to be valid.

4.77 As the level of traffic generated by the current proposals is less than that previously considered and approved at the outline stage no further junction/highway analysis has been undertaken.

### Access (Vehicular)



4.78 Vehicular access to the development is to be restricted to be from two main points; Dundas Street and Garden Place. Measures will be introduced at the junctions of Dundas Street/Black Horse Lane, Black Horse Lane/Palmer Street, Peasholme Green/Hungate and Carmelite Street/Hungate to prevent vehicular access into/through the development.

4.79 The main central core area of the development (St Johns Square) is proposed to be pedestrianised, save for necessary servicing and emergency vehicle access. Vehicular access to/along Hungate will be prevented by design measures in order to provide a traffic free ped/cycle boulevard linking the site to Stonebow.

#### Access (Non Vehicular)

4.80 The site is bisected by and adjacent to two strategic cycle routes – The Way of the Roses which runs North/South from the city centre via Aldwark, Dundas Street and the new Foss Bridge and to the East of York, A CYC strategic cross city cycle route linking Blossom Street to Heworth.

4.81 Through the adjacent Hiscox application, the Way of the Roses route has been diverted from Dundas Street onto a 4m wide traffic free route adjacent to the Hiscox building. Cyclists travelling along this route will have a predominantly traffic free route from Navigation Road, along Palmer Street to Peasholme Green if heading to the Minster/North of the city centre. For cyclists heading to the South of the city centre a traffic free route is provided through the development from Palmer Street via St Johns Square and Hungate towards Stonebow.

#### Parking

4.82 Car parking is being provided in underground car parks beneath some of the residential blocks with a new Multi Story Car Park being included. Access into the undercroft car park areas will be designed as dropped vehicular crossings with priority retained for pedestrians.

4.83 The access into the Multi Storey Car Park is designed to be low key and operate as single flow on a priority system supplemented by a traffic light system. Forward visibility is in accordance with the relevant standards, speeds will be low and traffic patterns mean that the likelihood of opposing vehicles meeting will be very low.

4.84 A summary of the numbers of car parking and blocks that they serve are attached.

<b>Block</b>	<b>Access From</b>	<b>No.Spaces</b>
D	Black Horse Lane	91
F	New Multi Story Car Park	45
G	New Multi Story Car Park	74
H	Dundas Street	96

4.85 On-street parking for casual callers and servicing traffic will be provided within the highways around the development site. These will be managed through the provision of a package of Traffic Regulation Order`s (funded by the developer) which could take the form of a controlled parking zone.

4.86 Overall the level of car parking being provided is consistent with the ratios/level of provision approved through the original outline consent.

#### Cycle Parking

4.87 Cycle parking is to be provided in accordance with the CYC Annex E minimum standards. The detail of the actual design/provision of the cycle parking has yet to be agreed but will be covered by a suitably worded condition.

#### Highways Works/Street Improvements

4.88 The internal layout will be designed and constructed to CYC standards and offered for adoption as public highway. The design of the internal areas will include street lighting to the appropriate standards and the provision of CCTV.

4.89 A series of cross sectional drawings have been supplied and will be secured through the granting of planning consent which set out the basic design principles of highway design within the development.

- Dundas Street, Black Horse Lane and Garden Place will take the form of traditional (footway/carriageway) construction.
- Carmelite Street will be designed as a grade shared space with managed areas of on-street parking and street trees. Design features will ensure vehicle speeds are below 20mph.

## Peasholme Green

4.90 The development will improve the public realm along the Peasholme Green frontage. These works continue the principles and materials established through the recently completed Hiscox works and ensure a cohesive approach.

4.91 Works along the frontage will consist of widening of the current footway by reducing the carriageway width to approximately 6.5m with localised widening where appropriate. Trial runs undertaken as part of the Hiscox works have identified that two buses can pass within this width.

4.92 The increased width of public realm to the building frontage will enable enhanced pedestrian facilities to be provided to accommodate the additional footfall generated by the development, enable street trees to be provided and areas of managed on-street parking/servicing facilities.

## Stonebow/Peasholme Green

4.93 It is proposed to remove the mini roundabout at this junction. The works will broadly comprise of;

- a) Realignment of kerbs, signing and surface material changes in order to reinforce the Stonebow restricted access restriction
- b) Provision of a priority system/throttle in order to provide enhanced crossing and pedestrian facilities between the site and adjacent bus stops
- c) Provision of the appropriate technology to support the access restriction.

## Bus Stops

4.94 The existing bus stop that is currently located outside of the Marketing Suite on Peasholme Green will be reprovided through the public realm improvements along Peasholme Green. The bus stop works will be to CYC standard specifications.

4.95 Officers have also sought improvements to the existing inbound and outbound stops at Jewbury (outside of the Defra Kings Pool building) consisting of kassell kerbs, shelters, BLISS real time displays, lighting, seating where necessary/appropriate.

## SUSTAINABILITY

4.96 The site is in a sustainable location close to the city centre and other local facilities and is well served by a number of high frequency public transport routes. In order to promote and incentivise sustainable travel whilst also reducing dependence on the private car, first residents will be offered a choice of free bus pass or cycle/cycle accessories and membership and free drive time for the city car club

(secured through the S106). Car club vehicles will be located within the development

4.97 The sustainability strategy across the site will incorporate a number of measures to reduce energy usage across the site. The submitted sustainability statement covers core elements of Policy GP4a (Sustainability) and includes the use of code for Sustainable Homes as a benchmark, fabric first approach, community heating system, heat recovery via mechanical ventilation and the proposal for SuDs and Green Roofs.

## FLOOD RISK AND DRAINAGE

4.98 The site is allocated for development in the Draft Local Plan (2005) and a draft allocation in the emerging local plan and benefits from extant outline permission for the development of a mix of uses such that an argument may be put forward that it is not necessary to apply the Sequential Test, ordinarily required given the location of the site within Flood Zone 3a. Despite this, the applicants have given consideration to the potential to locate the development proposals within an area of lower flood risk.

4.99 Paragraph 101 of the NPPF sets out that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If, following application of the Sequential Test, it is not possible to locate development in Flood Zones with a lower probability of flooding, Paragraph 102 of the NPPF sets out the Exception Test which will be passed where a development provides wider sustainability benefits to the community that outweigh flood risk, providing that the development will be safe for its lifetime taking account of the vulnerability of its users, and without increasing flood risk elsewhere.

4.100 Both elements of the Exceptions Test must be passed for development to be allocated or permitted and only in cases where it can be demonstrated that the development is appropriately flood resilient and resistant and that residual flood risk can be safely managed (Paragraph 103).

4.101 In terms of whether there are alternative sites which could reasonably accommodate the type of development proposed, Environment Agency guidance advises that the geographic area of search over which the sequential test is to be applied will usually be the whole of the local planning authority area. Approximately 800 parcels of land have been considered through the Site Selection process following the Call for Sites process undertaken in 2012. These sites have all been assessed through the Site Selection Methodology and those that are considered suitable, available and deliverable, as required by NPPF, have been included as draft allocations within the emerging Local Plan.

4.102 In line with the spatial strategy of the Local Plan, areas of high flood risk (flood zone 3b and Greenfield land within zone 3a) have been excluded from consideration or the developable area reduced to exclude this area of land as part of the site selection criteria. Technical officer comments have also been gathered for all sites through the process including comments relating to flood risk and drainage.

4.103 Whilst there are other major development sites within York, for example York Central, which have a lower flood risk classification (zones 1 and 2) than this site, it is considered that there is insufficient land with a lower risk of flooding that also meets the other tests (i.e. suitable, available and deliverable) when assessed against the Site Selection methodology to meet the identified housing requirement for years 1-5 of the Plan. As detailed earlier in this report, the Council cannot at this point clearly demonstrate a five year housing land supply. Whilst there may be other sites that are at lower risk of flooding, there are not enough such sites to address the 5-year supply. The site at Hungate is required in order to meet that supply.

4.104 In terms of the Exception Test, the submitted Flood Risk Assessment (FRA) identifies a number of wider sustainability benefits to the community that outweigh flood risk including the efficient use of brownfield land; improving the quality of the built environment and the integration, and encouragement, of travel by non car means. The report also details the way in which the development would be appropriately flood resistant and resilient confirming that the finished floor levels of residential uses are located 300mm above the design flood level. Less vulnerable uses would be provided at lower floor level, but with flood defences up to this level and basement car park entrances would be protected to the same level through the use of flood barriers. Across the site, the FRA also describes how safe routes to lower flood risk area would be made available for site users to use in the event of a flood. Furthermore, the FRA confirms that surface water runoff from the Site can be managed sustainably to ensure that flood risk is decreased elsewhere. Taking into account the above considerations, Officers agree that the Exception Test is passed.

4.105 To comply with the requirement of the Environment Agency and the Council's Flood Risk Management Team that the surface water runoff be reduced by 30% from the existing rate, the submitted Drainage Plan detail measures to include the use of sustainable drainage systems including living roofs, mini swales and bio-retention basins, permeable paving and attenuation tanks. Foul sewage is proposed to be discharged to the existing mains drainage sewer and whilst foul drainage would increase from pre-development levels, given the likely reductions in surface water discharge, the combined foul and surface water discharges from the site into the public water sewers would be less than that of the previously developed site and can be accommodated.

4.106 The Environment Agency raises no objections to the proposal subject to a condition requiring compliance with the submitted FRA. Yorkshire Water and the Council's Flood Risk Management Team raise no objections subject to additional conditions to cover permitted surface water discharge rates and the details of the drainage proposals. As a result, the development is considered to be acceptable in planning terms, subject to conditions.

## IMPACT ON THE AMENITY OF SURROUNDING OCCUPIERS

4.107 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.

4.108 A number of issues have been raised by some residents of Rowntree Wharf in respect of residential amenity, including a potential reduction in natural light, a loss of privacy resulting from increased overlooking and increased noise associated with the riverside walk, new public spaces and the proposed multi storey car park.

4.109 With respects to daylight and sunlight, the applicant has assessed the impact of the proposed development in the context of BRE Guidance - Site Layout Planning for Daylight and Sunlight (2011). The conclusions drawn are that the current proposals would have a comparable effect to the extant scheme on the natural light conditions experienced by residential occupants of Rowntree Wharf and are well below the BREs recommended standard. Due to the layout of the proposed development differing from the approved scheme in its southern building line, the relative daylight effects of the current proposal will vary in relation to different sections of accommodation within Rowntree Wharf and as such, certain units within Rowntree Wharf will be less affected by the current proposal compared to the earlier scheme whereas other units will be slightly more affected. This however is in the context of the findings that the proposed development will not cause a materially noticeable effect in terms of daylight experienced by residential accommodation within Rowntree Wharf overall.

4.110 The development would have no effect on the sunlight levels experienced within Rowntree Wharf given that Rowntree Wharf is to the south of the site, such that the elevation from which any light would be lost is north facing and for much of the day is in shadow.

4.111 In terms of issues relating to privacy, the general location of the residential blocks in relation to Rowntree Wharf was established by the 2004 Masterplan. As with daylight issues, the layout of the revised scheme varies from the extant approval such that part of the scheme lies closer to Rowntree Wharf and part is further away. Overall effects on privacy and overlooking however are considered to

be comparable to the approved scheme when taken as a whole. The distance between Rowntree Wharf and the previously approved Block F (at its nearest point to the river) was 38.9m. The proposed development is in excess of this at all points. Given the distances involved, it is considered that the proposals would not result in a significant loss of privacy for the existing residents.

4.112 The Environmental Impact Assessment has considered the noise impacts at Rowntree Wharf and concludes that noise effects associated with the development would be negligible at this location given the distance separation from the development.

4.113 The comments from the Safer York Partnership with respects to St. Johns Square and Friar's Quay and the potential for these public open spaces to generate crime and anti-social behaviour is noted. However, as the comments acknowledge, to design out these areas such that there would be no areas of public space within this scheme is not considered realistic. The areas will be directly overlooked by residents and CCTV will be provided across the site.

4.114 In terms of the impact on the residents of Peasholme Court (a three storey residential block located opposite Block H), it is acknowledged that the part of Block H opposite Peasholme Court would be six storey (with flat roof) in height. However in this city centre location and in the context of the extant outline approval, the Hiscox development and the measures to narrow the carriageway of Stonebow resulting in wider footpaths resulting in the distance between the facades measuring approximately 18 metres, it is not considered that the proposed development would be unduly detrimental to the residential amenities of these occupants.

## RESIDENTIAL AMENITY OF OCCUPANTS OF THE PROPOSED DWELLINGS

4.115 Considering the context, there are no objections on amenity grounds. Conditions are proposed to reasonably control activity which can cause noise and to mitigate the impact of the commercial unit on nearby residential units. The conditions would cover hours of operation and hours of delivery for the commercial unit, a scheme of noise insulation for the residential units adjoining the commercial unit, details of plant and machinery, the building envelope and extraction equipment.

## 5.0 CONCLUSION

5.1 This application comprises a part outline and part detailed scheme to include the erection of four apartment blocks alongside complementary commercial floorspace to accommodate flexible uses. The application is considered in the context of an extant outline permission which provides an established fall back position that could be implemented at any point up to 2022 subject to the granting of reserved matters.

5.2 The key difference between this proposal and the extant permission is the shift to a predominantly residential led scheme which would deliver up to an additional 305 dwellings (above the 720 units envisaged in 2006), a reduction of office and other commercial floorspace and a reduction in community floorspace.

5.3 The ambitions of the city to create high value jobs through providing Grade A office space are balanced against the needs to provide housing and decisions have to be made in the context of the developer's aspirations for this site. In the context of the NPPF which advises that the long term allocation of sites for employment uses should be avoided where there is no reasonable prospect of a site being used for that purpose and given that the Hiscox development has largely met the Council's 2004 aspirations for a major office development in this part of the city, this shift to a predominantly residential led scheme is accepted.

5.4 The application facilitates the use of brownfield land in a sustainable location within the settlement limit of York and with good access to public transport and local services. Officers therefore recognise that there is strong planning justification for accepting the principle of the increased number of residential units at the site, which is demonstrably in need in the city and on this basis; no objections are raised to the principle of the increase.

5.5 In terms of a community facility, although 240 sq.m of community space would be provided within Block F, this is significantly less than would have been provided within the focal building as detailed in the extant scheme. This however has been appropriately compensated for through the negotiation of an off-site commuted sum to the nearby Central Methodist Chapel on St. Saviourgate which would bring other benefits over and above one larger community space at Hungate

5.6 Following a detailed re-appraisal of the remaining phases of the scheme, a 17% proportion of affordable housing based on a 60:40 split between social rent and discount sale has been agreed. Officers consider this to be a reasonable offer which acknowledges the relatively high costs of site development and other contributions relating to education, sports / recreation and transport.

5.7 Vehicular access to the development would be restricted to be from two main points with the main central core of the development pedestrianised and vehicular access along Hungate prevented to provide a traffic free pedestrian /cycle boulevard linking the site to Stonebow. The landscape masterplan complements this by presenting a clear sequence of outdoor events from improvements to Stonebow, to the treed enticement of Hungate, to St. John's square, which is given an ordered treatment incorporating grassed terraces, trees and seating. The paving design plays down the vehicular routes and junctions, resulting in a comfortable pedestrian realm.



5.8 With respects to comparisons between the design / external appearance of this proposal and the extant permission, building footprints are largely similar (with the exception of Block F and the focal building), massing is generally slightly increased particularly towards the less sensitive centre of the scheme and architectural language is, on the whole, more contemporary.

5.9 Overall the scheme is considered to make a positive design contribution and 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. Whilst the harm is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance. Some minor and less than substantial harm to the setting of Rowntree Wharf has also been identified and afforded considerable weight in the planning assessment. The outcome of the assessment is that the benefits to the scheme as described above, including the provision of much needed additional dwellings in the City, outweigh the less than substantial harm identified.

5.10 The application has been accompanied by an Environmental Statement which demonstrates that would not have significant adverse impacts on the environment or other amenity considerations. The development would fulfil the roles of sustainable development outlined in the NPPF and would otherwise accord with national and local planning policy. Subject to conditions, as set out below, it is recommended that the application be approved. Any approval is subject to the signing of a Section 106 Agreement to secure the following:

Affordable Housing:

- Provision at 17% based on a 60:40 split between social rent and discount sale.

Open Space:

- Amenity Space £69,649
- Children's Play £171,844
- Sports - £218,325

Education:

- Financial contribution of £36,441 towards foundation stage provision at Fishergate Primary
- Financial contribution of £30,368 towards expansion and upgrade of kitchen and dining facilities Fulford Secondary School

Highways:

- Bus pass (or cycle) £264,800
- Stonebow/Hungate Highways / Street Improvement works £307,000
- Car Club £132,400

- CCTV £60,000
- Amendments to Traffic Regulation Orders £40,000

Community Facilities:

- £100k commuted payment towards provision of community facilities at Central Methodist Chapel on St. Saviourgate
- Transfer of completed on site community space to the Hungate Development Community Trust or an appropriate organisation as agreed by City of York Council

**6.0 RECOMMENDATION:**

(i) Defer pending satisfactory completion of a Section 106 Agreement to secure the following in accordance with paragraph 5.10 of the Report:

(a) Affordable Housing

(b) Open Space

(c) Highway Works and Sustainable Transport measures

(d) Community Facilities,

and if not otherwise secured by way condition, any required archaeological works and

(ii) On completion of the S106 Agreement delegated authority be given to the Acting Director of City and Environmental Services to GRANT permission subject to any necessary conditions including those set out below:

The development shall be begun not later than the expiration of three years from the date of this permission.

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 H: within 3 years of this planning permission

Block G: within 4 years of this planning permission

Development of each block shall commence within 2 years of the approval of the reserved matters.

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:-

*To be reported at Committee*

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 development, 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, the maximum roof parapet heights of Blocks G and H shall not exceed the references to the top levels on Dwg No: 00344\_MP-003 Rev A received 18.11.15 ( Parameter Plan -Building Heights)

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

6. In relation to Blocks G and H, a maximum of 375 residential units 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

7. Removal of PD rights for change of use

8. Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the relevant part of the development 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.

Application Reference Number: 15/01709/OUTM

Item No: 4a

- (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 at least 1½ brick deep 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 E and F
- (iv) Car park vents (with particular reference to ground floor level)
- (v) Edge of building buffer zone treatment such as private external terraces including soft and hard landscape

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

9. Large scale workmanship sample panels shall be erected on site for:

- (i) Brickwork: 2m x 2m sample panel of brickwork (to be used on blocks D and F) shall be erected on site, and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of the development of each block. The panels shall be retained until a minimum of 2 square metres of wall of the approved block has been completed in accordance with the approved sample.
- (ii) Seamed cladding: 3 seams wide sample panel shall be provided prior to the construction of each block so as to understand the proposed jointing type and method

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.

10. Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials at a sufficient size and presented in an appropriate combination to each other in the chosen finish, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of each block. The development shall 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.

11. Details of the lighting to the buildings including the roof shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of 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.

12. Details of the location and type of any fixed equipment proposed for access and maintenance shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of 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.

13. Details of ancillary protrusions above the roof plane required for servicing such as ducts, chimneys and access hatches except those less than 1m high and over 2m from the edge of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of 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. Full details of the proposals relating to multi storey car park cladding shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of block F 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. The approved landscaping scheme as per Drawing's....., to include the substantial completion of St Johns Square, shall be implemented within a period of six months of the completion of Blocks D and F. 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.

16. The phasing for the development shall be in accordance with the phasing plan detailed in the Design and Access Statement dated July 2015 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order that the impact of the phasing of the development can be properly assessed and to ensure appropriate infrastructure development.

17. Prior to the commencement of the development of each of Blocks G and H, a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of tree pits and compatibility with utilities and shall be implemented within a period of six months of the completion of each of the blocks. Any trees or plants which within a period of five years from the completion of the 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 alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

18. Notwithstanding the submitted plans, prior to the first occupation of block F, an ecological scheme of enhancement to comprise of a minimum of (two per block) 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, shall be installed/constructed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

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

19. Prior to each block of the development commencing, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. 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.

20. Prior to first occupation of each block of development, the design and materials of roads, footpaths and other adoptable spaces, including street-lighting, 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.

21. 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 submitted drawing(s), 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.

22. Prior to each block of development commencing, details of the secure cycle parking areas, including means of enclosure, position, design, materials and finishes thereof, 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 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.

24. 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.

25. 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.

26. The development shall make provision for the linkage of the Foss Walkway adjacent to the Shambles car park with the proposed pedestrian and cycle route within the site. Details of the treatment of the boundary at this south west corner of the site and site levels at the boundary shall be submitted to approved in writing by the Local Planning Authority prior to the commencement of Block F. Thereafter the agreed treatment shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the future provision of a continuous route along the north bank of the Foss at this point, in accordance with the objectives of the Foss Walkway Strategy.

27. Prior to the commencement of any block of the development hereby permitted a phased programme of works as set out in the Street Sections dated 25/11/2015 Revision ?, 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 in accordance with the Street Section Drawings as set out below;



D0205\_008\_Street Section 1 of 6 rev *(to be updated at Committee)*  
D0205\_009\_Street Section 2 of 6 rev *(to be updated at Committee)*  
D0205\_010\_Street Section 3 of 6 rev *(to be updated at Committee)*  
D0205\_011\_Street Section 4 of 6 rev *(to be updated at Committee)*  
D0205\_012\_Street Section 5 of 6 rev *(to be updated at Committee)*  
D0205\_013\_Street Section 6 of 6 rev *(to be updated at Committee)*  
3236 SK001 14  
D0205\_001\_W

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 25/11/2015, 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 these 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 block 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. 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.

31. 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.

32. 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

33. The hours of operation for the commercial units shall be approved in writing by the local planning authority. Once approved, the agreed hours shall be complied with at all times, unless agreed otherwise in writing by the local planning authority.

Reason: To protect the amenity of local residents.

34. 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.

35. 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.

36. 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.

37. 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.

38.. 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 the accommodation, 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.

39. The applicant shall undertake further site specific nitrogen dioxide diffusion tube monitoring for a minimum period of 6 months. The monitoring strategy and locations shall be agreed in advance with the Local Planning Authority. This monitoring shall

be used to inform the need, if any, for residential premises facing The Stonebow/Peasholme Green to be fitted with fixed windows that cannot be opened and associated mechanical ventilation required for any habitable rooms (bedrooms / living areas etc) facing onto The Stonebow / Peasholme Green. Where shown to be necessary, residential premises facing onto the Stonebow / Peasholme Green shall not be provided with balconies or any other form of outdoor area. The residential premises to which this condition applies shall be agreed in writing with the local planning authority.

A mechanical ventilation strategy shall be prepared for those residential properties where the monitoring study has shown mechanical ventilation to be required and shall include details of the proposed mechanical ventilation and the location (away from the road) from which to draw clean air.. Any continuous mechanical supply and extract ventilation system shall incorporate heat recovery (MVHR), and shall be designed to meet current Building Regulations with respect to the provision of fresh air and the extraction of stale air. The mechanical ventilation strategy shall be agreed in writing with the Local Planning Authority.'

Reason: To allow the monitoring and assessment of local air quality, in the interests of the amenity of future occupants.

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, 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, 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. 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:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,

- o ecological systems,
- o 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. 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, 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 commencement of the development, a Construction Environmental Management Plan (CEMP) 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. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To 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. Prior to each block of development commencing, details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. 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.

Please note that the maximum discharge to proposed River Foss outfall - 131.4



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. Unless otherwise agreed in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert or otherwise formally close the sewers and water mains that are laid within the site 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 should 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 and agreed with the Local Planning Authority prior to the occupation of block F.

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

## **7.0 INFORMATIVES:**

Application Reference Number: 15/01709/OUTM

Item No: 4a

## 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:

### 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 6 (six) 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 contact the officer named:

Adoption of highway - Section 38 – Michael Kitchen (01904) 551336

Works within public highway Section 278 – Michael Kitchen (01904) 551336

Permission for work in the highway – Section 171 – Stuart Partington(01904) 551361

#### 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.

Application Reference Number: 15/01709/OUTM

Item No: 4a

## 6. MACHINERY, PLANT AND EQUIPMENT (Condition 27)

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 33)

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.

## 8. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (Condition 48)

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 would be expected to 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 had 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.

**Author:** Rachel Tyas Development Management Officer (Wed - Fri)  
**Tel No:** 01904 551610