

## COMMITTEE REPORT

**Date:** 16.01.2025                      **Ward:** Guildhall  
**Team:** East Area                      **Parish:** Guildhall Planning Panel

**Reference:** 21/00280/FULM  
**Application at:** Hungate Development Site Hungate York  
**For:** Erection of an apartment block to comprise residential units (Use Class C3) together with flexible commercial uses (Use Class E and F2), landscaping and associated works (Block H)  
**By:** Hungate (York) Regeneration Limited  
**Application Type:** Major Full Application  
**Target Date:** 15 March 2024  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

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

1.2 This application seeks full planning permission for Block H, which comprises development of a residential apartment building (five to seven storeys) providing 221 residential apartments (Use Class C3), 329 square metres (GEA) of flexible ground floor space (Use Class E commercial and F2 community uses), landscaping and associated works.

1.3 The plans have been revised since submission with a key change being the decision to take Block H forward on a build to rent basis. Build to rent is defined in the NPPF as “purpose-built housing that is typically 100% rented out ... Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control”.

1.4 As part of this build to rent scheme, communal residential amenity spaces would be provided within the courtyard, at rooftop level and internally at ground floor level

along the Stonebow and on the southern corner of the block facing St Johns Square.

1.5 Other revisions made since the application was originally submitted include -

- Removal of a proposed 8<sup>th</sup> storey.
- Small extension to the 7<sup>th</sup> storey element along Dundas Street to incorporate an extra unit.
- Re-allocation of part of the Stonebow ground floor from commercial/retail to residential amenity.
- Creation of a more prominent main entrance from Stonebow and relocation of the external courtyard link to the back of the main entrance core, closer to Stonebow.

1.6 The key changes in this application to the outline parameters approved under 15/01709/OUTM are summarised as follows -

- An increase of 52 residential units (from 169 to 221).
- Removal of the basement car park and relocation of plant.
- Refuse and cycle storage relocated to ground floor.
- Minor amendments to the building footprint.
- An increase to the extent of the seventh floor.

## **THE SITE**

1.7 The application site relates to Block H only and extends to an area of 0.5 hectares. The site is within the wider Hungate development site (a housing allocation in the Draft Local Plan 2018) and is located off Stonebow, just outside the Central Historic Core Conservation Area with the Conservation Area boundary following the north-eastern side of the Stonebow and the northern bank of the Foss. The site borders Character Area 8, Aldwark of the York Central Historic Core Conservation Area Appraisal (YCHCCAA) and there are multiple listed buildings in close proximity on the opposite side of Stonebow including early Georgian houses of St Saviourgate (Grade II / II\*), Lady Hewley's Almshouses (Grade II), Peasholme House (Grade II\*) and St Anthony's Hall (Grade I).

1.8 The site of Block H is bound by -

- The Stonebow to the north and north-west.
- The Hiscox building to the north-east with the Moxy Hotel beyond.

- Block D of the Hungate Urban Neighbourhood to the east (not yet constructed), beyond which lies Blocks A, B and C of the Hungate scheme.
- St Johns Square to the south-east, beyond which lies the completed Block E.
- St John Central student accommodation to the south with the existing multi storey car park beyond.
- Block G to the south-west (not yet constructed).

1.9 The delivery of the Hungate Urban Neighbourhood is well advanced. Blocks A, B, C, E and F are built and occupied alongside the new library / cafe, a pedestrian footbridge over the River Foss and the Kings pool Nature Reserve. Enabling works are complete on Blocks G and D. The planning permissions for the remaining blocks are subject to conditions to secure the delivery of St Johns Square.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

1.10 The Council issued a formal Screening Opinion in December 2020 confirming that the proposal would not result in any significant environmental effects and that the scheme does not constitute EIA development. An Environmental Compliance Statement has been submitted with the application to provide contextual information on likely environmental effects arising from the development, which demonstrates via a number of documents and assessments, that significant effects are unlikely. There have been no relevant changes to policy or site conditions and it remains the case that an EIA is not required.

## **2.0 POLICY CONTEXT**

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

### National Planning Policy Framework

2.2 Central Government guidance is contained in the National Planning Policy Framework published December 2024 (NPPF) and is a material consideration in the determination of this application. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking.

### Key relevant sections of the NPPF

Section 4 – Decision Making  
Section 5 – Delivering a sufficient supply of homes  
Section 7 – Ensuring the vitality of town centres  
Section 11 – Making effective use of land  
Section 12 – Achieving well-designed places

### Draft Local Plan 2018 (DLP 2018)

2.3 The Draft Local Plan was submitted for examination on 25<sup>th</sup> May 2018. It has now been subject to examination and is expected to be adopted in 2025. The draft policies can be afforded weight in accordance with paragraph 49 of the NPPF.

### Key relevant policies of the Draft Local Plan 2018 (DLP 2018)

DM1 – Infrastructure and Developer Contributions  
DP2 – Sustainable Development  
DP3 – Sustainable Communities  
SS1 – Delivering Sustainable Growth for York  
SS3 – York City Centre  
SS17 - Hungate  
H1 – Housing Allocations  
H2 - Density of Residential Development  
H3 – Balancing the Housing Market  
H10 – Affordable Housing  
HW2 – New Community Facilities  
HW3 – Built Sport Facilities  
HW4 – Childcare Provision  
HW7 – Healthy Places  
D1 – Placemaking  
D2 – Landscape and Setting  
D4 – Conservation Areas  
D6 – Archaeology  
D7 – The Significance of Non-Designated Heritage Assets  
GI6 – New Open Space Provision  
ENV1 – Air Quality  
ENV2 – Managing Environmental Quality  
ENV3 – Land Contamination  
ENV4 – Flood Risk

ENV5 – Sustainable Drainage

T1 – Sustainable Access

DM1 – Infrastructure and Developer Contributions

CC1 - Renewable and Low Carbon Energy Generation and Storage

CC2 - Sustainable Design and Construction of New Development

2.4 The evidence base underpinning the DLP 2018 is capable of being a material consideration in the determination of planning applications. The directly relevant evidence base comprises –

- Local Housing Needs Assessment (LHNA)
- Open Space and Green Infrastructure Update 2017

### **3.0 CONSULTATIONS**

#### **INTERNAL**

#### **DESIGN & CONSERVATION (DESIGN)**

3.1 No objection. Officers has raised issue with the overall building height and the reduction in balconies. The excessive height would have made the building unduly oppressive and enclosing over public spaces and out of character with the townscape; the lack of balconies would have reduced visual interest. Issues were addressed in revised plans, with the omission of 8<sup>th</sup> floor and addition of a reasonable number of balconies. The building massing is now consistent with the existing consented parameters for Hungate.

#### **Proposed Site Layout and Architectural Approach**

3.2 Architecturally, the ground floor is now more occupied by service spaces than before (previously in the basement). Their main street impact is on Dundas Street, which is already a service street and so acceptable. Hungate and St Johns Square would have a desirable proportion of commercial space. Some sort of non-residential use is vital for the ground floor amination facing Stonebow (given the character of the street) .

3.3 Direct ground floor access is provided to some apartments which is good design practice providing individualism, activation and sense of greater ownership to the street scene. Some flat roofs would add desirable additional communal private

open space. Elsewhere flat roofs are green; desirable for ecology/surface water run off rate reasons.

### Architectural Design

3.4 The design follows an established approach of building in brick with aluminium windows, and metal balconies. Care should be given to avoid illogical/artificial changes in brick choice, which can be controlled by condition.

3.5 The Hungate elevation successfully models building massing to avoid blandness and accommodate recessed balconies. Commercial fenestration is designed with complexity and feels appropriate to a city of interesting shop fronts. Corner balconies project and are given an art-like treatment to guarding.

3.6 Building height - the proposal is now roughly in accordance with the height limits and floor area of the permitted outline scheme. Non-accordance is an extension of the two wings at 7th floor by approx. 6 metres and removal, in places, of the slight set back of the permitted scheme at this level. Whilst a fully compliant scheme would be preferable, on balance (as a whole architectural design), this volume increase is not objected to.

### **DESIGN & CONSERVATION (LANDSCAPE ARCHITECT)**

3.7 No objection to revised scheme.

- The seating and play equipment within the central courtyard has been revised. This now includes more appealing play equipment, which also provides a greater range of activities. Seating has also been re-located around the perimeter of the play space against the planting. The courtyard scheme includes a good depth, range, and scale of planting.
- Tree pit details for The Stonebow have been provided and show the correct detail and level of detail.
- The building has been brought down in height. This slightly improves the relationship between the height of the building relative to the footprint of the courtyard and hence the quality of the environment, in particular in relation to the domineering effect of the surrounding building, and the extent of direct sunlight reaching the courtyard space, as well as the ground floor apartments.

### **DESIGN & CONSERVATION (ECOLOGIST)**

3.8 No objection subject to conditions.

- Nesting Birds - Precaution methods will need to be undertaken to ensure active nests are not destroyed during any required vegetation clearance works.
- Landscape and Ecological Management Plan (LEMP). Recommendations for biodiversity enhancements have been set out in the PEA report which include the provision of native planting, where possible and the installation of bird nesting features, with numbers and box types provided. A LEMP should be used to detail how these enhancements are to be installed, managed and maintained.
- Construction Environmental Management Plan (CEMP) - The need for a CEMP is highlighted within the Environmental Compliance Statement, to ensure the protection of significant ecological features (including the river Foss).

## **DESIGN & CONSERVATION (ARCHAEOLOGIST)**

No objection subject to conditions.

3.9 Previous works saw the removal of the large majority of the archaeological resource within the curtilage of Block H in two phases. However, an apron of unexcavated archaeology remains in-situ around the perimeter of the site. The southern extent for the current Block H proposal encroaches into Palmer Lane which has also not been excavated.

3.10 It is expected that the archaeology that remains will contain elements of the post-medieval Cordwainers Hall, 10<sup>th</sup> century domestic buildings and Roman burials. Any groundworks relating to the installation of foundations for the new buildings and provision of utilities within the unexcavated areas will disturb archaeological features and deposits.

3.11 A watching brief and excavation where relevant (on human remains and 10<sup>th</sup> century archaeology) will be required during ground reduction / enabling works related to the piling areas. A sample of piles will be monitored which will be devised on location and potential impact (which may or may not be more than 25%). A watching brief will also be required during any additional ground disturbing works in non-excavated areas and along the edge of the site fronting onto St John's Square.

## HOUSING STRATEGY TEAM

3.12 Recent applications at Hungate have included an off-site affordable housing contribution in accordance with the 2017 Section 106 Agreement, which specified a contribution of 17% of the total homes from the proposed application. The value of such has been taken as the benchmark for determining the affordable housing provision on-site for this scheme.

3.13 As the scheme is proposed to be build-to-rent and the policy expectation is for affordable provision on-site officers have advised on the discount rates required to ensure units are locally affordable. The amounts specified are informed by the Local Housing Needs Assessment 2022. Officers preferred discount, based on the applicants forecasted rent rates is a blended 41.6% discount. Based on the applicants forecasted rent rates the agreed provision of affordable units would be -

1-bed (15 units) discount 38% - rent £693 per month.

2-bed (7 units) discount 50% - rent £864 per month.

## PUBLIC PROTECTION

### Noise / Odour

3.14 Conditions which require the following details are recommended -

- The building envelope of all residential accommodation to be constructed to achieve certain internal noise levels.
- Noise insulation scheme for commercial premises that adjoin / are beneath residential premises to protect the residential accommodation from noise internally generated by the proposed commercial uses (officer note this is not necessary as it is a requirement under Building Regulations).
- Details of machinery, plant and equipment for commercial areas.
- Hours of delivery to and despatch from the commercial units and details of measures to manage noise from deliveries.
- Hours of operation of the commercial units.

### Contaminated Land

3.15 The site has 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. The applicant has submitted an assessment and the conclusions that the soils are suitable for the proposed use are accepted. However, the applicant will be required to carry out a ground investigation to ensure that the ground gas risk is suitably assessed. Contaminated land conditions are recommended.

### Air Quality

3.16 There are no relevant significant changes to the previously approved baseline or potential air quality impacts associated with the latest proposals. The conclusions of the previously approved air quality assessment reports are still considered valid.

3.17 The Traffic Assessment submitted in support of the current application states that the traffic flows associated with the development / additional units will not result in a significant impact in terms of the operation of the local road network. In line with CYC's draft Low Emission Planning Guidance, the predicted increases in traffic would not necessitate further air quality assessment.

3.18 No new parking spaces will be provided with residents of Block H allocated spaces from the spare parking capacity that remains within the earlier phases of the Hungate development. Public Protection understands there are already electric vehicle charging facilities located within the multi-storey car park attached to Block F and these will be available to new residents.

3.19 Construction related activities are likely to lead to an increase in rates of dust soiling at nearby receptors, adjacent to the site boundary. It is considered that any adverse impacts can be controlled/managed via good working practice and site-specific mitigation. These should be outlined in a Construction Environmental Management Plan (CEMP).

### Lighting

3.20 A condition requiring details of any external lighting is recommended to ensure that lighting from the development is considered and does not cause any adverse impact on proposed and existing residential properties.

## **HIGHWAY NETWORK MANAGEMENT**

3.21 Data included in the Transport Statement (TS) suggests car parking demand would be around 70 car parking spaces for Block H. The proposal is for 48 car parking spaces to be allocated. This approach is supported, subject to a contribution towards parking management measures around the site. Although parking restrictions are already in place in the vicinity of the site, overspill parking could take place on streets within a 1km walking distance of the site. Some of these areas are not currently within controlled parking (ResPark) zones. A contribution of £15,000 is requested to be used for parking management measures within a 1km radius of the site.

## EDUCATION

3.21 Education contributions (to be secured through legal agreement) are requested as follows -

	Number of places	Schools	Amount
Primary	7	Fishergate/St Oswalds	£132,832
Secondary	3	Fulford	£78,378
Early Years	9	Within 1.5km	£170,784

Total: £381,994

## FLOOD RISK MANAGEMENT

3.22 No objection provided the development is carried out in accordance with the submitted flood risk assessment (FRA) as amended by the Flood Risk Addendum and the following mitigation measures it details -

- Provision of safe route(s) at a minimum of 10.0m Above Ordnance Datum (AOD) into and out of the site,
- Finished floor levels are set no lower than 11.02m AOD for 'More Vulnerable' (residential uses) and between 9.8m AOD and 10.47m AOD for the 'Less Vulnerable' (commercial uses).
- The temporary flood defence/proofing measures (raised entrances and flood gates).

(Officer note - the proposed ground floor plan shows the internal courtyard and ground floor apartments set at 11.07 AOD)

## SPORT AND ACTIVE LEISURE

3.23 An off-site contribution is required for off-site play, amenity and sport (as per the previous applications for the development). For amenity and play space the contributions required are £43,941 and £36,820 respectively to be used in the locality.

3.24 Sport - a contribution of £61,983 is required towards the following schemes which are within 15 - 20-minute walking distance or within 20 minutes on public transport of the Development -

- Clubhouse and ancillary facility improvements at Heworth Rugby Club.
- Multi-use games area within Heworth Without.
- Improvements to Hull Road Park and Glen Gardens or
- another suitable sports project at the time of the payment.

## **WASTE MANAGEMENT**

3.25 Officers have raised issue with the scheme because a designated collection point was requested within the boundary of the development and within 10m of the highway. (Officer note – the proposals are that a management company will provide the bins for collection and return to bin stores when they are over 10m from the highway. A condition is proposed to secure such).

3.26 Previous concerns raised regarding the calculation used to establish the amount of waste bins at the site have been addressed by the applicant such that the revised total number of bins to be provided for the 226 dwellings is acceptable. Commercial waste should be stored separately to the residential waste as this would not be subject to the Council collection service.

## **CARBON REDUCTION TEAM**

3.27 The heating solution proposed – communal heating system using ASHP technology and storage indicates compliance with the climate change policies in the Draft Local Plan.

## **EXTERNAL**

### **HISTORIC ENGLAND**

3.28 No comments. Suggest officers seek the views of the Council's specialist

conservation and archaeological advisers, as relevant.

## **ENVIRONMENT AGENCY**

3.29 No objections to the proposed development provided it is built in accordance with the Flood Risk Assessment and FRA Addendum.

## **YORKSHIRE WATER**

3.30 YW records indicate a water main (sewer) crosses the red line site boundary (officer note – this relates to the wider Hungate site and sewers follow roads rather than the land where block H is proposed). The presence of the main may affect the layout and therefore is a material consideration. The matter can be dealt with by a condition to protect the water main at the southern end of the proposed development. The location of the main will require determining by survey and trial hole by the developer prior to any construction work and a suitable standoff of 3m to the centre line of the main, and any associated fittings, maintained.

## **SAFER YORK PARTNERSHIP**

3.31 The application follows the “Secured by Design” ethos of the previous blocks in the Hungate Development site. It is to be commended, in particular the compartmentation of the cycle stores and the layered approach to security.

## **CONSERVATION AREAS ADVISORY PANEL**

3.32 It is proposed the building (original, now superseded scheme) will be six storeys fronting Stonebow rising to eight storeys to the rear of the site. It was noted that it would overreach the adjacent Hiscox building by two storeys. The Panel considered that the proposal is overdevelopment, the building would overpower Stonebow, creating a canyon in the street and should, in fact, step down in height and reduce towards Stonebow. The character of the street would be adversely affected.

## **GUILDHALL PLANNING PANEL**

3.33 Object (to superseded scheme)

- Height.

- Lack of off road (and pavement) service areas.
- Overdevelopment of site – lack of any green public areas and our dismay that the green area for Hungate residents has shrunk in the course of the developments.
- Balcony railing may lead to unsightly windbreaks being added – glass may be preferable.

## **4.0 REPRESENTATIONS**

4.1 The application has been advertised via site notice, local press notice and neighbour notification letter. 24 third party representations were received raising the following comments / objections -

### 4.2 Height / Skyline

- Eight storeys in height excessive and unsightly. These extra storeys would impinge on the nearby streets, skyline and views in this City as a whole.
- With the Conservation Area boundary along Stonebow, the proposed development is a marked step up in height impacting City views and the skyline. The pavement view of Stonebow is going to become characterless and bland.

### 4.3 Light / Overbearing / Loss of View / Privacy

- The eighth floor will affect the quality of the light from the west which is the only remaining aspect for the sun to reach St Johns Square and elevations facing north. South facing properties are also disadvantaged by ever rising levels.
- The proposed building has material differences to the sales and marketing scale model that was a prime consideration to residents in their decision to buy property at Hungate. Apartments were priced according to the view which would be taken away if this application were to prevail and will have a negative impact on value as well as quality of living, privacy and well-being.
- Residents will have zero privacy and will be badly overlooked.
- Recommend that the committee conduct a site meeting on Leetham Lane, from which the loss of light (causing the planting to die), and the lack of privacy for residents on either side of the Lane will be clear.

### 4.4 Lack of open space

- The roof top spaces miss the point that people need and feel better in more open and social green spaces. Residents need more than tiny courtyards.

#### 4.5 Sustainability

- The development could be more sustainable. Solar panels in place of unused parking spaces could have contributed towards service charges and reduced the developments carbon footprint.

#### 4.6 Construction Process

- Concerns in relation to the level of noise, dust, construction techniques and general traffic levels when construction work starts. There must be strict hours of operation in force and a detailed dust management plan in operation.

#### 4.7 Built as investments not homes

- Building new homes is needed but Hungate Marketing Suite are promoting properties as investment properties for short term lets and private holiday homes. 50% of properties exist as long-term investments instead of homes. Delivering long term community benefit is the most outcome for any project, ahead of short-term financial gain.

#### 4.8 Secured by Design / Security of Bellerby Court

- The changes to heights and open green public spaces are contrary to the current urgent need to create welcoming and safer spaces for women. Making the building higher will make the walkway between Block H and Bellerby Court darker which poses a nighttime security issue unless it is well lit.

#### 4.9 Maintenance of green roof

- The currently contracted estate gardeners have refused to maintain the green roof in Block F due to health and safety issues. This would need to be addressed for all Block H bio-diverse roofs.

#### 4.10 Opening hours of commercial units

- The commercial units of Block H should have restrictions imposed on their opening hours as this is a residential area. (officer note – condition 27 recommends restricted opening hours).

#### 4.11 Pedestrianisation of Hungate (not material to this application as a subject of the outline permission for the wider Hungate)

- Concerned that Hungate is to be pedestrianised as this will cause a build-up of traffic trying to access the Block F car park and the Q Park car park, causing congestion. On numerous occasions, visitors to the Q Park have led to cars queuing the whole of Garden Place and sometimes backing up onto The Stonebow. Hungate should remain open to give access to the residents car park. This also creates problems for emergency vehicle access.
- If Hungate is to be pedestrianised, measures need to be taken about the pressure on Carmelite Street and lack of visibility. Traffic is forced into one lane and the turn into Garden Place is blind and there is no pavement for pedestrians on one side. There is no room for manoeuvre and cars have to reverse a long way when they meet another head on. This area is well used by students and parent parking at the beginning and end of term times.

Officer note - block H proposals have no material effect on Carmelite Street or Garden Place which are adjacent block G which has planning permission (the scheme for block G would have a footpath around and on-street car parking within the highway).

#### 4.12 Bin stores

- Bin stores are to be on the ground floor towards Dundas Street. Given experience of how the bin stores are in Leetham House (and how they are gathered at the back of the Moxy hotel ahead of collection), concern that this will turn Dundas street into a "back ally" with large bins obstructing the street and also result in people dumping items outside of the bin room doors.
- External access should be given to the bin stores for waste collections so industrial waste receptacles are not left on the roadside as they are now with Bellerby Court. Not only are they unsightly they smell and attract vermin, especially being so closely located to the river Foss. (Officer note – Waste services have confirmed they would access the largest bin store to collect bins. They would require an access code).

- The bin provision for existing apartments is inadequate; they habitually overflow before each collection date. Stating that large amounts of waste, and bulky waste, should be taken to a council tip does not result in compliance. The development should provide around 50% more bins than would be the case for a residential street, provide bins for large items such as mattresses.

(Officer note – condition 33 requires management of bins so they are not left on the highway following waste collection).

#### 4.13 Electric charging points

- The developer should be required to provide an adequate number of EV charging points that are available to all residents in the Hungate development, both existing and proposed.

#### 4.14 Service vehicles / Dundas Street congestion

- The proposed plan allows for a couple of small lay-bys on Dundas Street for refuse collection and the car rental scheme. This is insufficient as Dundas Street's current congestion at times will only increase with the addition of a new block. The proposed changes to the width of The Stonebow may also impact the traffic flow if reasonable accommodation is not available.

#### 4.15 Amount of commercial space

- The area of commercial space appears high in the light of an increasing trend towards empty retail units across the City. The proposed broad permitted usage, Class E and F2, could have a detrimental effect on the area. Impact of commercial traffic appears to have been excluded from the planning assumptions.

#### 4.16 Cycle Parking

- Experience from Leetham House is that cycle parking will be over-subscribed and that one space per apartment is just not enough. There is no provision for any additional publicly cycle parking on the Hungate site, leaving the few cycle spaces outside Bellerby Court to service the whole of the Hungate site. Officer note – there are 6 visitor spaces for this block in the courtyard.

#### 4.17 Traffic on Stonebow

- Combining the existing heavy volume of traffic plus the impact of the additional residents, will further increase noise, vibrations and volume of traffic along the soon to be narrowed Stonebow. Calming measures and / or appropriate speed restrictions are needed.

#### 4.18 Parking Issues

- The multi-storey car park is sparsely occupied due to inflated prices.
- The developers cannot claim that there is "spare car parking capacity". Parking space have been offered for purchase to those originally buying off-plan. If the original purchaser declined to buy, then these spaces have been left empty (and held by the developers). There are currently 44 spaces underneath Phase One which are not available for sale to residents. The "lack of demand" for parking is then used by the developers to remove the need for more parking (and the cost of basement work).
- The plan to allocate 48 spaces to cater for the 226 units planned for Block H is risible, when demand exists for existing spaces, but no spaces are made available to supply that demand. It is also not realistic to imagine that so many residents will abandon car ownership. One Car Club car parked on Dundas Street will not resolve the issue. The result will be empty units inevitably then used for tourist / Air BnB type alternatives.
- There is no visitor parking on site, and no disabled parking available (the marked bays are arbitrary and have been assigned to properties rather than kept free for disabled visitors) so there is no general disabled parking provision for residents within the development. As the nearest public parking is some way away from the entrances to the buildings, it is very difficult for disabled visitors to access the buildings at all. ( Officer note - the parking bays along Dundas Street are marked as disabled parking spaces).

#### 4.19 Impact on residents of Peasholme Court / Stonebow

- Concerned at who can trade in the commercial space and what noise, smells and traffic that may potentially bring. We would object to a fast-food takeaway particularly if they are to open late in terms of increased volume of people, noise and smells.
- Concern regarding advertisements and illumination in commercial units, especially at night with regards to light pollution.
- Concerns in relation to the drop-off zones as without any restrictions / hours of

operation, there could be lorries / traffic outside our neighbouring property at all times.

- The frontage onto Stonebow appears to be double the height of the residential buildings directly opposite. Concerned that the block will dramatically reduce the natural light on the ground, first and second floors of property. Rights of light assessments and assess impact on natural daylight to occupants of Peasholme Court are required.
- The proposed building appears to be closer than the existing marketing suite and therefore concerns of overlooking into our property. Ask that the balconies be reduced / omitted and redesigned as Juliet balconies and consideration given to the use of opaque glass.
- Object to the Level 5 roof terrace due to impact on privacy and reasons of noise / nuisance. Needs to be management procedures to ensure area can only be used at certain times of the day and that there is an agreed noise rating at certain points on Stonebow that cannot be exceeded. Will be difficult to control.
- Concerned in relation to noise and privacy issues if the green roofs at level 6 would be made available to residents.

#### 4.20 Wind tunnel

- Council should undertake a wind speed assessment to ensure Stonebow will not end up being a wind tunnel.

#### 4.21 Additional points raised further to receipt of revised plans -

- Statement within the Revised Travel Plan that any resident who purchases a parking space can use the electric charging points is inaccurate. As these spaces have been sold to specific residents as their own private space. Lendlease should make them communal spaces and would also ask that electrical supply charging infrastructure is put in so that existing parking space owners can install their own chargers.
- Acknowledge that Lendlease have acted on the various concerns about security in the Bellerby Court car park and access into the courtyard from the car park is now fob only.
- Encouraging to see a reduction to seven floors, this should be decreased to the original six storeys. The extension of the proposed level 6 along Dundas Street is likely to also restrict light, so this too is unwelcome. The original application was for 169 units so whilst acknowledging the reduction from 230 to 221, the proposal is still an increase of 52 units (31%).

- The managing agent will have to bring 68 bins out onto Dundas Street every week on the day prior to bin collection, creating a line of bins of around 70m long, creating a visual intrusion. The bin men will probably not be overly tidy in replacing the bins to the Collection Point, and, after the bin collection, the emptied bins will need to be returned to the store. So, there will be 68 bins out on Dundas Street for two days every week. This is not acceptable for many environmental reasons. Propose that the swing doors are replaced by roller shutters and that the bin men return the bins directly to the bin store.

## **5.0 APPRAISAL**

### **KEY ISSUES**

5.1 The key issues are as follows -

- Principle of development
- Housing (Density and Mix)
- Design and External Appearance (layout, design, height and massing)
- Impact on Heritage Assets (setting to Conservation Area / nearby Listed Buildings and Archaeology)
- Landscaping
- Ecology
- Impact on Residential Amenity
- Highways
- Flood Risk and Drainage
- Sustainable design and construction
- Planning Obligations (Education, Open Space, Affordable Housing)

### **PRINCIPLE OF DEVELOPMENT**

5.2 Policy H1 of the DLP 2018, identifies the Hungate site as a Strategic Housing Site (reference ST32). Policy SS17 for the strategic allocation requires that in addition to complying with Local Plan policies, Hungate/ST32 must be of the highest quality which adds to the vitality and viability of the city centre, is safe and secure, and which promotes sustainable development. Priority should be given to pedestrians, people with mobility impairments, cyclists and public transport. The background text states when fully complete the Hungate development will provide around 1,050 new city centre apartments together with commercial and community space, as well as high quality public spaces and landscaping.

5.3 The site is in the city centre as defined on the DLP 2018 proposals maps. Policy SS3: York city centre advises that the city centre is the economic, social and cultural heart of York. The policy advises that any retail use outside the primary shopping area be subject to the sequential and impact tests apply (other class E / commercial uses are acceptable in principle). It goes on to state that a principle of the policy is to –

- Enhance the gateway streets (the Stonebow / Peasholme Green being one of these) leading into the city centre to give a better sense of arrival.
- Retain and add to the city centre's retail offer and retain and strengthen independent shops.
- Provide community and recreational facilities to encourage healthy, active lifestyles.

5.4 The composition of uses; the most practical amount of commercial / community and communal uses at ground floor level and residential above are compliant with strategic policies SS3 for the city centre and SS17 for Hungate. The variation from previous applications at Hungate to omit basement car parking is wholly compliant with policy SS17 which requires a scheme that promotes sustainable development and encourages sustainable modes of travel. It is also aligned with policy SS1: Delivering Sustainable Growth for York in respect of the spatial principle of preventing unacceptable levels of congestion, pollution and/or air quality.

## **HOUSING DENSITY**

5.5 The application site falls within the city centre as identified in the DLP 2018. Policy H2: Density of Residential Development states that housing developments within the city centre will be expected to achieve a net density of 100 units per hectare. Policy H2 also states that higher density will be supported for sites within 400m of a high frequency public transport corridor, where it complies with other plan objectives. NPPF paragraph 125 states “planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land”.

5.6 221 residential units are proposed on a site approximately 0.5ha in size, equating to a density of 442 dwellings per hectare. The location of the site and its proximity to infrastructure and transport links means it is one where the DLP 2018 policies and the NPPF support a higher density, making optimal use of the site. The density is also broadly consistent with the density of development at the Hungate site. The principle of high density is appropriate in this location. Whether the amount of development proposed is acceptable for the site, considering local character, the setting of heritage assets, the need to promote regeneration and the importance of good design, is assessed in the following sections.

## **HOUSING MIX**

5.7 221 residential units are proposed consisting of 5No. 1 bed studios (2.3%), 147No. 1 bedroomed apartments (66.5%), 68No. 2 bedroomed apartments (30.7%) and 1No. 3 bedroomed apartment (0.5%).

5.8 DLP 2018 Policy H3 states that the Council will expect developers to provide housing solutions that contribute to meeting York's housing needs, as identified in the latest Local Housing Needs Assessment (LHNA) and in any other appropriate local evidence. New residential development should therefore maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. Policy H3 is consistent with the NPPF to use the Local Housing Needs Assessment (LHNA) to inform judgements on appropriate mix of housing and the LHNA is material to decision making.

5.9 The scheme generally provides 1 and 2 bed apartments. The LHNA identifies most need for 2 and 3 bedroom sized houses although it recognises that the range of housing delivered will vary by site and is influenced by site-specific circumstances. The LHNA does not discuss need for the build to rent sector, which is the tenure type in this scheme. The proposed housing mix is similar to that previously approved within other blocks across the Hungate site. This site is within an urban context within the city centre and therefore is compatible with higher density living and accordingly it will be apartment led. Delivering higher density apartment living on this site can, to a degree, be balanced with the provision of a suitable proportion of 3-bed homes on the strategic housing sites identified in the plan, out of the city centre, where such a development type (and lower densities) is more appropriate within its setting. The scheme provides much needed housing in an appropriate sustainable location and is beneficial to the vitality and viability of the

city centre. The housing mix proposed is reasonable for this urban site and regarded to be policy compliant overall.

## **DESIGN AND EXTERNAL APPEARANCE**

5.10 The assessment of design takes into account the local context, the impact on heritage assets and the form and function of the scheme. The following sections of the DLP 2018 and NPPF are relevant in this respect.

- In relation to previously-developed land, the NPPF advises that policies should promote an effective use of land, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 125).
- Paragraph 135 of the NPPF states that planning decisions should aim to ensure that developments will function well and add to the overall quality of an area, be visually attractive through good architecture, layout and appropriate landscaping, be sympathetic to local character and history, establish a strong sense of place, optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space), support local facilities and transport networks, and create safe, inclusive and accessible environments.

5.11 Policy D1 (Placemaking) of the DLP 2018 advises that schemes will be supported where they improve poor existing urban and natural environments, enhance York's special qualities, and better reveal the significances of the historic environment.

### Site Layout

5.12 The building is formed around a central landscaped residents' courtyard and would sit within the same general footprint as previously approved for Block H (17/02019/OUTM).

5.13 This revised scheme proposes 329m<sup>2</sup> commercial floorspace within Use Class E (commercial, business and service) and F2 (local community use) at ground floor level along Stonebow, which is less than the previously consented amount of commercial floorspace. Floorspace detailed as commercial in the previous application has been re-allocated to residential amenity space, to reflect the Built to Rent model now proposed for this block. Concentrating the commercial and communal uses, with associated active frontage, on the Stonebow elevation is an

appropriate design response due to the amount of activity and character of the street. Away from the Stonebow elevation land uses are all associated with residential use of the building.

5.14 Service activity (plant/cycle parking provision/refuse) is at ground floor. It is acknowledged that ground floors in general should maximise positive street activity/use rather than accommodate "dead" service uses which, in large amounts, can have a negative impact on the character of the ground floor. However requirements for ancillary bin and cycle storage are significant and these have to be convenient to use, and safe and the internal courtyard provides valuable external amenity space for residents and direct access from apartments is beneficial. The scheme provides an appropriate balance between desires to animate the street, especially Stonebow and St John's Square (it does so with communal / commercial spaces and dwellings with front doors accessed from the street), provide amenity for residents and ensure a functional development overall.

### Architectural Design

5.15 The scheme in its articulation, scale, massing and composition of uses adheres to the NPPF guidance in paragraph 135; being sympathetic of to the vernacular of the wider Hungate development.

5.16 Although a single block, the elevational treatment for Block H has been designed to continue the varied building typologies and character of the broader Hungate site. The Stonebow elevation, as a main elevation facing a busy commercial road, follows similar principles to that of civic building facades that are characterised by strong horizontal elements with a consistent height. The elevations on Hungate and Dundas Street, being secondary elevations, form a tighter grain and are characterised by verticality and varied heights and external wall finishes. The elevation on St Johns Square, being a main elevation but facing a pedestrianised area, is a mixture of the two design principles and follows the architectural language of buildings around squares.

5.17 As with other blocks, the design follows an established approach of building in brick with aluminium windows and metal balconies. The palette of materials comprises red multi facing brick, brown facing brick and buff / cream coloured brick for the internal courtyard. Additional features include the use of local stone to mark the entrance to the courtyard, bronze/grey vertical metal cladding on the top storey, dark grey windows and balconies with perforated metal screens. Projecting

balconies are used to help articulate the grain of the plot widths, add visual interest and provide useable external amenity space for residents and have been encouraged by the Council's Design & Conservation team.

### Massing and Height

5.18 Given its relationship to the impact on heritage assets, consideration to the impact on townscape and views from the massing and height of the proposed buildings is provided in the following section regarding heritage assets.

## **IMPACT ON DESIGNATED HERITAGE ASSETS**

5.19 The application site fronts on to the Stonebow. It is not within a Conservation Area but borders Character Area 8 (Aldwark) of the York Central Historic Core Conservation Area Appraisal (YCHCAA). Character area 8 is ancient in origin with a complex and tight network of streets bisected by the mid-20<sup>th</sup> century Stonebow relief road beyond which lies Hungate. Immediately opposite the site, Stonebow is fronted by modern, low buildings but in close proximity, there are multiple listed buildings including early Georgian houses of St Saviourgate (Grade II or II\*), Lady Hewley's Almshouses (Grade II), Peasholme House (Grade II\*) and St Anthony's Hall (Grade I). Due to the close proximity of these listed buildings, the site of Block H is considered the most sensitive of all the plots within the Hungate Masterplan. The two existing larger 20<sup>th</sup> century office blocks in the Aldwark area are identified as detractors in the appraisal.

5.20 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local Planning Authority to have regard to preserving the setting of Listed Buildings or any features of special architectural or historic interest it possesses.

5.21 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Where a development proposal would lead to less than substantial harm to the significance of

the asset, this harm should be weighed against public benefits of the proposal. Policy D4 of DLP 2018 advises that harm to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

5.22 Approved scheme 15/01709/OUTM included a parameter plan of maximum building heights, which allowed a massing of 5 and 6 storey, stepping up to 7 storey on the St John's Square side of the building. This building scale, due to the width and height of the block facing The Stonebow, was deemed to cause a low level of harm to the setting of the conservation area.

5.23 The proposed building maintains the previously approved massing fronting The Stonebow. Since submission, revised plans have been issued which remove the initially proposed 8<sup>th</sup> storey element. This amendment has addressed officer concerns in relation to the impact on the setting of historic city roofscapes as seen from important elevated views such as the Minster and Cliffords Tower.

5.24 The revised scheme is now broadly in accordance with the height limits and floor areas of the permitted outline scheme (15/01709/OUTM) with the key differences relating to an extension of approximately 6 metres of the two wings at seventh floor and the removal, in places, of the slight set back of the permitted scheme at this level. Whilst these increases would be visible, their location towards the centre of the development would ensure that the visual impact resulting from the revisions relate to streets that form part of the Hungate masterplan development area ensuring that there would be no impact on the character and appearance of the conservation area or to the setting of listed buildings from this aspect of the scheme.

5.25 With reference to the Stonebow elevation, when assessing the 2015 outline application, officers considered that by virtue of the width and height of the block (which was taller than the first outline permission for the entire Hungate site), some harm would be caused to the setting of the conservation area. The affected context was considered Stonebow itself (compared to the scale and type of buildings opposite and in the immediate vicinity) rather than longer views to and from designated historic assets, which were not considered to be materially affected. The principle of the massing proposed along Stonebow was accepted in the 2015 scheme. Officers balanced the negative impact of the massing of the Stonebow elevation with other positive aspects such as the provision of much needed housing, in a sustainable location that would benefit the vitality and viability of the city centre and provision of an active frontage along The Stonebow. The massing was

accepted on the basis that the plans should represent the absolute maximum massing of the Stonebow elevation.

5.26 The building massing for the Stonebow elevation as proposed in this application for Block H (part 5 / part 6 storeys) is within the “maximum heights” parameter granted consent under the previous hybrid permission (15/01709/FULM). The harm to the setting of the adjacent Conservation Area, due to the massing of the Stonebow elevation, is assessed as at the lower end of “less than substantial”. The legal duty requires considerable importance and weight to be given to the desirability of avoiding such harm. The NPPF also requires great weight to be given to such harm in the planning balance, despite it being minor. The public benefits of the scheme - the provision of much needed housing in a sustainable location; re-use of previously developed land that has a negative effect on the townscape and provision of a neighbourhood which promotes walking and cycling; the associated benefit to the vitality and viability of the city centre through increasing its residential population and the provision of an active frontage along The Stonebow are all benefits aligned with strategic policies SS1: Delivering Sustainable Growth for York (in particular in respect of the spatial principle of preventing unacceptable levels of congestion, pollution and/or air quality), SS3 for the city centre and SS17 for Hungate and are deemed to outweigh the identified harm.

## **ARCHAEOLOGY**

5.27 Substantial archaeological investigations have been carried out in association with the Hungate development revealing regionally and locally significant archaeological features and deposits including Roman and medieval burials. These archaeological features and deposits are undesignated heritage assets that lie within the designated Area of Archaeological Importance.

5.28 Paragraph 216 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. DLP 2018 Policies D6 and D7 reflect national planning guidance and require an understanding of the archaeology affected to avoid substantial harm (preserve 95% of deposits) or where there would be harm, undertake adequate mitigation.

5.29 Previous works have seen the removal of the large majority of the archaeological resource within the curtilage of Block H in two phases. However, an apron of unexcavated archaeology (1-3m) remains in-situ around the perimeter of

the site. This was left in place for health and safety reasons during the main excavations. The southern extent for the current Block H proposal encroaches into Palmer Lane which has also not been excavated. It is expected that the remaining archaeology will contain elements of the post-medieval Cordwainers Hall, 10<sup>th</sup> century domestic buildings and Roman burials.

5.30 To mitigate against the impact on the remaining archaeology, there will be a requirement for a watching brief and excavation where relevant (on human remains and 10<sup>th</sup> century archaeology) during ground reduction / enabling works related to the piling areas. A watching brief will also be required during any additional ground disturbing works in non-excavated areas and along the edge of the site fronting onto St John's Square. St John's Square has been designed to ensure preservation in-situ of the medieval remains of St John the Baptist Church and graveyard.

5.31 The proposal will cause harm to locally significant archaeological resources. This harm is considered to be less than substantial, outweighed by the economic and social benefits of the development in terms of the provision of new housing and the opportunity it presents for regeneration in the area, and has been mitigated by the measures detailed in the Written Scheme of Investigation (WSI), including the provision of a record, archive and body of knowledge that will improve understanding of the development of this site. In the context of Paragraph 211 of the NPPF, the ability to record evidence has been considered as part of the planning balance in deciding whether the harm should be permitted but has not been a decisive factor. The proposals therefore remain in accordance with local and national planning policies including paragraph 216 of the NPPF and DLP 2018 Policies D6 and D7.

## **LANDSCAPING / ECOLOGY**

5.32 Policy D2 (Landscape and Setting) of the DLP 2018 states that proposals will be encouraged and supported where they conserve and enhance landscape quality and character. The scheme is compliant with policy D2. The key elements of the landscaping proposals are the communal courtyard garden and communal terrace. The courtyard for Block H is one of the largest courtyards on the Hungate development measuring approximately 21m x 32m with its length on the north to south axis such that more sunlight will reach the courtyard at ground floor level. It would provide a private leisure space for residents use and would include private terraced areas, defined by clipped formal hedgerows, a central lawned area, play equipment with a good range of activities and seating located around the perimeter

of the play space. The spaces will be greened with a good depth, range, and scale of planting.

5.33 The communal terrace at the fifth-floor level would provide an additional outdoor amenity space accessed from adjacent block corridors. The main area will be decked and defined by planting in containers, bench seating and picnic tables would be provided. Green roof areas will be provided on levels 5 to 8.

5.34 At street level, the landscape areas between the building and the pavement have been designed to provide defensible planting between the private accesses and ground floor units. Wall shrubs will be used to green the step structures with hedging along the St Johns Square elevations and 3 street trees (with appropriate details provided of tree pits) are detailed to the Stonebow.

5.35 The recommendations detailed within the ecological appraisal submitted with the application will have a beneficial impact on habitats and biodiversity in providing ecological enhancement. These recommendations will be adhered to through conditions such as the requirement for a Landscape Ecological Management Plan (LEMP) which will detail how biodiversity enhancements such as the installation of bird nesting features and the provision of native planting, will be installed, managed and maintained in this respect the scheme is compliant with NPPF paragraph 187 in respect of biodiversity.

## **IMPACT ON RESIDENTIAL AMENITY**

5.36 The NPPF (paragraph 135) states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The National Design guide advises external spaces are designed to respond to local character, as appropriate solutions will vary by the context, for example whether it is a town centre or suburb. It advises well-designed spaces are social spaces which are safe and secure and well-overlooked.

5.37 The site is within the defined city centre, where mixed use schemes and various commercial developments, including night-time uses are appropriate in principle; as defined in both national and local policy. With regards to town centres, NPPF policy is based on ensuring vitality and the need for 'town centre uses' to be accommodated. The strategic allocation for Hungate explains that the site will

accommodate commercial and community uses. The policy context is a material consideration when assessing the impact on surrounding residential uses.

5.38 The size of the apartments proposed within Block H is in line with previous phases across the Hungate development site. With respects to external public / private amenity space, 114 of the 221 apartments have either a balcony or terrace and 99 have a Juliette balcony. All residents have access to the central landscaped courtyard and residents lounge with terrace on the 6<sup>th</sup> floor (Level 5); spaces that are safe and accessible to all. There is also an external amenity space for residents provided at ground floor at the southern corner facing St Johns Square. Including both external and internal space there is 1,300 sqm of residential amenity space provided within the block, this equates to circa 6 sqm residential communal space per apartment (not including private amenity space provided by balconies where applicable). The amount and design of amenity space is regarded appropriate in this context when applying NPPF paragraph 135.

5.39 Conditions are proposed to reasonably control activity which can cause noise and to mitigate the impact of commercial units on nearby residential units. The conditions would restrict hours of operation for the commercial units and approve noise from plant and machinery and from externally generated noise. Public protection also recommended conditions regarding noise between commercial and residential premises and external lighting. Such conditions were not regarded necessary because noise between uses is a Building Regulations matter and external lighting in such an urban setting would not unduly affect amenity.

5.40 Other issues raised through the consultation process by residents of Peasholme Court (on the opposite side of The Stonebow) and existing residents within the Hungate development relate to loss of daylight, loss of privacy, the impact on amenity from the use of the outside terrace(s) and the impact of the construction process. In terms of overlooking and reduced natural light, the scheme has been amended to remove the eighth storey element. The revised proposal is no higher than the massing of the previously consented scheme with the exception of a relatively small increase in the extent of the seventh storey along Hungate and Dundas Street (i.e facing towards the Hiscox building and the plot of unbuilt block G); building heights are appropriate to the context and are therefore NPPF compliant in respect of making effective use of land and achieving well-designed places. The provision of external amenity space is appropriate for the type of development proposed and the city centre location; such amenities are promoted by National Design Guidance.

5.41 When considered in the context of the overall architectural design of the block, the revisions to the extent of the 7<sup>th</sup> floor are acceptable and this amended scheme would not have a materially noticeable effect in terms of the impact on daylight / sunlight and sense of over enclosure of main open spaces, or loss of privacy to nearby residents when compared to permitted scheme (15/01709/OUTM).

Furthermore, as Block H is located to the north of Block F and St Johns Square and building heights are not increasing in this area, there will be no material impact on sunlight into the café in Block F and St Johns Square beyond that of the previously approved scheme.

5.42 A Construction Environment Management Plan (CEMP) condition for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development, would be a requirement of the decision.

5.43 In relation to security and designing out crime, Safer York Partnership (SYP) note that the application follows the “Secured by Design” ethos of the previous blocks in the Hungate development and is to be commended, in particular for the compartmentation of the cycle stores and the layered approach to security. The agent has responded to concerns raised by residents of Block F that car owners from Block H will have unlimited access through their central communal area and confirm that they are in the process of implementing fob access to the Block F courtyard so that it remains accessible to Block F residents only.

## **HIGHWAYS AND ACCESS**

5.44 Paragraph 110 of the NPPF advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. DLP 2018 policy T1 (Sustainable Access) similarly supports development where it minimises the need to travel and maximises the use of more sustainable modes of transport.

5.45 The application is supported by a Transport Assessment which demonstrates that the proposed development can be safely accessed by pedestrians, cyclists, vehicles and residents with limited mobility. The site is in a sustainable location close to the city centre and other local facilities and is well served by high frequency public transport routes. To promote and incentivise sustainable travel whilst also helping to reduce dependence on the private car, Highway Officers are seeking a

contribution towards sustainable travel incentives (£400 per unit towards bus / cycle measures and £200 per unit to promote the car club). A £200 per dwelling contribution to encourage first occupants to use the car club is reasonable given the scheme is a low car development; aligned with the strategic allocation and the Council's aspirations for promoting sustainable travel, health and wellbeing, reducing pollution and addressing issues of air quality and the NPPF environmental objectives. Other contributions are considered not necessary in this location and not necessary to mitigate the impacts of the scheme.

### Parking Provision

5.46 One of the key revisions to the outline parameters approved under 15/01709/OUTM is the removal of the basement car park in Block H. Instead, 48 car spaces (which equates to 22% provision) located within the basement beneath Blocks A, B and C and the multi storey car park that forms part of Block F, will be allocated to residents of Block H from spare parking capacity which remains within the earlier phases of the Hungate scheme.

5.47 In response to residents questioning the notion of there being "spare capacity" and raising concerns that spaces are being held back rather than being leased for sale, the agent states -

*"The owners of the occupied blocks have all previously been provided with the opportunity to purchase a parking space for their property. Those who are renting apartments are not able to purchase parking spaces and would need to rent an apartment that comes with parking if a space is required. Spare parking capacity across the site has been identified and has now been allocated to each of the remaining blocks; 136 spaces remain available in Blocks A, B, C and F for the 613 units of Blocks G, D and H. The allocation of the 48 parking spaces to Block H utilises the spare parking capacity that remains within the earlier phases of the development".*

5.48 The scheme is for apartments within the inner ring road and other such developments have been permitted, and historically exist, with low or zero car parking provision; this is consistent with the draft local plan vision and development principles in respect of reduction carbon emissions and delivering a fundamental shift in travel patterns and the strategic policy for the Hungate site. A contribution to promote the car club is reasonable in this case. Any further off-site parking management measures (within 1km of the site) would not be reasonable, nor

necessary and could not evidentially be directly related to the development in such a city centre location. Also there are already various traffic restrictions and management measures in the locality.

### Accessible Parking / Electric Vehicle Charging

5.49 The applicants advise that 2 of the 48 spaces earmarked for the site would be accessible. A condition (condition 35) is proposed to ensure at least 3 of the parking spaces to be allocated to block H are for disabled parking (which would exceed 5% of the provision).

5.50 The applicant has provided eight electric vehicle recharge points within Block F and in doing so has complied with the relevant condition attached to the outline approval. No further car parking spaces are proposed in this application.

### Cycle parking

5.51 Cycle parking at a rate of 1 space per apartment is proposed, with access from the courtyard into 4 separate stores. The courtyard has access control, so this arrangement is beneficial as an extra layer of security. There are Sheffield type stands with an upper tier racking system above (the racking system is gas assisted which makes use easier). The provision includes 7 accessible parking spaces and washing / maintenance facilities. There are 6 spaces in the courtyard which could be used for visitors. These measures encourage frequent use of cycling as a transport option, while retaining appropriate levels of security and safety in line with the City of York Council's Cycle Parking Guidance v3 (Feb 2017). Whilst the amount of provision does not meet the LTN1/20 target of 1 cycle space per bedroom the provision is regarded acceptable in terms of promoting sustainable travel in this particular location (the Travel Plan for the site advises it expects the majority of trips will be on foot due to the location). The LTN 1/20 targets are recommendations only. 1 space per dwelling is considered reasonable given the location, the type of apartments proposed and taking into account what has been provided throughout the Hungate development. A condition is proposed for extra cycle parking spaces if the ongoing Travel Plan identifies demand (at the expense of car parking).

### Pedestrianisation of Hungate

5.52 In relation to the pedestrianisation of Hungate in terms of traffic congestion and safety issues in relation to the lack of visibility on Carmelite Street; this application

relates solely to Block H; therefore these issues are outside the scope of this application.

5.53 The strategic allocation for Hungate explains that priority should be given to pedestrians, people with mobility impairments, cyclists and public transport. Any requests for extra infrastructure to encourage private car travel are contrary to the strategic allocation and generally the DLP 2018 proposals for sustainable growth.

### Servicing and Waste Strategy

5.54 A loading / unloading bay is now proposed on Dundas Street which can be used for deliveries and taxi loading / unloading. No concerns have been raised by Highway Officers.

5.55 In terms of the waste strategy, the largest store has direct access from Dundas Street. Two smaller stores are accessed via the courtyard. The managing agent will move bins (once full) from the smaller stores to the communal refuse store on Dundas Street and replace with empty ones. The calculation for each type of waste and number of bins required has been approved by Council Waste Officers. The applicants propose that in line with the management structure of adjacent buildings, on an agreed day with the Council, the managing agent would place bins on Dundas Street and store in an agreed location for collection (a new service bay will be created on Dundas Street). Once emptied, the managing agent will return the bins to the respective bin stores. Alternatively, however, the Council's Waste Services have advised they would collect bins from the larger store facing Dundas Street. Either option would be acceptable in planning terms and an informative is proposed (following condition 33) to suggest the developer implements a strategy whereby bins are within the public realm for the least possible time.

### **FLOOD RISK**

5.56 Overall the scheme accords with NPPF section 14: Meeting the challenge of climate change, flooding and coastal change. Paragraph 170 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Policy ENV4 of the DLP 2018 reflects the advice of the NPPF.

5.57 As the application site is located entirely within Flood Zone 3a, a Sequential Test and, if applicable, the Exception Test are required. This is because whilst the site is allocated for development, the DLP 2018 is not yet adopted. A Sequential Test has been undertaken (and passed) which concludes that there are no alternative sites within lower flood risk zones on which to deliver this development opportunity. The site has an allocation for housing in the DLP 2108 and is previously developed land within a sustainable location. Development of the site has been determined as being most appropriate to meet the objectives of the DLP 2018 and adhere to the overarching definitions of sustainable development in the NPPF.

5.58 The development will be reasonably safe during its lifetime. It can be occupied safely in the event of fluvial flooding, and there is low risk from all other sources of flooding. There is no increased flood risk elsewhere. The Environment Agency raises no objections to the proposal subject to a condition requiring compliance with the submitted Flood Risk Assessment (FRA) and subsequent FRA addendum.

## **DRAINAGE**

5.59 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. DLP 2018 Policy ENV5 (Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

5.60 The surface water strategy includes measures to store rainfall and reduce the rate of run off from the site by 30% compared to the pre-development run off rate. Surface water attenuation would be provided through use of permeable paving and a geocellular attenuation tank and the proposed SuDS scheme includes the provision of green / biodiverse roofs. Yorkshire Water and the Council's Flood Risk Management Team raise no objections subject to conditions to cover permitted surface water discharge rates and the details of the drainage proposals. The development would accord with the provisions of the NPPF and Policy ENV5 of the DLP 2018.

## **SUSTAINABLE DESIGN AND CONSTRUCTION**

5.61 Policy CC2 of the DLP 2018 states this development should achieve on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19 % should come from

energy efficiency measures; and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations). Pending anticipated changes to Building Regulations, it should further aim to achieve up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) unless it is demonstrated that such reductions would not be feasible or viable. Any higher level of reductions required through Building Regulations or other legislation will supersede the above requirements. A condition is proposed to secure policy compliance.

## **PLANNING OBLIGATIONS**

5.62 Policy DM1 of the DLP 2018 states that the Council will seek contributions from developers to ensure that the necessary infrastructure is in place to support future development in York.

### Education

5.63 Paragraph 100 of the NPPF states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive, and collaborative approach to meeting this requirement. Policy ED6 of the 2018 DLP states that given the scale and location of future housing development and projected demographic changes in birth rates, the local plan must ensure there are sufficient modern early years and childcare, primary and secondary education facilities across the city. The policy seeks to provide the provision of sufficient modern education facilities to meet an identified need.

5.64 Education have identified that the development would generate the need for 7 primary, 3 secondary and 9 pre-school places. A financial contribution of £381,994 would therefore be required under Policy ED6 of the DLP 2018. The identified schools / projects are Fishergate, St Oswalds and Fulford School. The pre-school provision contribution would be spent within 2.5km of the Hungate development.

5.65 The required contribution of £381,994 which is based on the 221 units to be provided in Block H, is significantly greater than the contribution required at the time of the 2015 hybrid application, which amounted to £66,809 and which related to the residential units across all 4 remaining phases of the Hungate site (Blocks D, F, G and H). This increase is in part due to the requirement for a contribution towards pre-school places absent previously.

## Open Space

5.66 Policy GI6 of the DLP 2018 requires all residential development to contribute to the provision of open space for recreation and amenity. The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. The site is within the Guildhall Ward which has a surplus of parks and gardens but is deficient in natural / semi natural space, amenity green space, children's and young person's facilities, outdoor space and allotments based on the Open Space and Green Infrastructure Update (September 2017).

5.67 Based on the number of dwellings and number of bedrooms proposed, the off-site contributions required for amenity space, play provision and sports pitches (totalling £142,744) would be spent on new play equipment for Navigation Road (Rosemary Place), Glen Gardens or St Nicholas Fields with the amenity element of the contribution spent on enhancements to open spaces around the City Walls, Walmgate area or St Nicholas Fields. It has been identified that the Outdoor Sport Provision Payment could contribute towards clubhouse and ancillary facility improvements at Heworth Rugby Club, multi-use games area within Heworth Without and / or improvements to Hull Road Park and Glen Gardens.

## Affordable Housing

5.68 The national planning advice for the Build to Rent housing type is that affordable housing should be in the form of affordable private rent homes. 20% is described as a generally suitable benchmark for the proportion of affordable units and affordable rent at least 20% less than market rent. The guidance requires that the affordable units be provided at an agreed rate, in perpetuity, and controls over eligibility detailed in S106 agreements. The build-to-rent operator manages the "affordable" units in the same way as the remainder of the development.

5.69 Based on the developers expected rent rates, a suitable discount of 41.6% (blended) has been agreed to enable the "affordable" units to be attainable to the target market. The extent of the discount, and due to the level of affordable housing agreed across the Hungate site, means that 22 affordable units would be provided on-site.

## Highways

5.70 Paragraphs 109 to 118 of the NPPF requires that development should not have an unacceptable impact on the transport network and should prioritise sustainable travel modes. Policy T1 of the DLP 2018 supports the approach of the NPPF in promoting the use of sustainable travel modes and minimising the need to travel.

5.71 To provide alternatives to private car travel a contribution is sought of £200 per dwelling.

5.72 The above mentioned proposed s106 planning obligations are considered compliant with NPPF paragraphs 56 to 58 and the relevant CIL regulations.

## PUBLIC SECTOR EQUALITIES DUTY

5.73 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act,
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it,
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.74 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic,
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it,
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.75 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.76 Officers have given due regard to the equality implications of the proposals in making its recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

## **6.0 CONCLUSION**

6.1 This application seeks permission for revised proposals for Block H, which until April 2021 benefited from an extant outline approval. The time for submitting the reserved matters (of the extant approval) has expired. This proposal involves an increase of 52 units with other changes to the previously approved design parameters, the key ones being the removal of the basement car park and an increase to the extent of the seventh floor; the scheme under consideration has been submitted as a stand-alone, full application.

6.2 The building massing for the Stonebow elevation as proposed in this application is within the “maximum heights” parameter granted consent under the original hybrid permission and therefore a similar assessment of the impact on heritage assets has been applied with the same conclusions reached. In terms of the massing for the remaining parts of Block H, the revised scheme is broadly in accordance with the height limits and floor areas of the permitted outline scheme with the difference relating to a minor addition at seventh floor. Whilst this increase in the extent of the seventh floor would be visible, its location towards the centre of the development would ensure that the visual impact is not material.

6.3 The proposal, by virtue of the width and height of the Stonebow elevation, would result in less than substantial harm (at the lower end) to the setting of the Conservation Area. The excavation of an apron of unexcavated archaeology which remains around the perimeter of the site would result in harm to non-designated heritage assets. The identified harms are consistent with those identified previously under permitted application 15/01709/FULM.

6.4 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The harm is considered “less than substantial”. The NPPF requires that where a development proposal

would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.

6.5 It is considered that the identified harm to heritage assets has been mitigated by the measures detailed in the archaeology investigation and is outweighed by the environmental, social and economic benefits associated with the provision of new housing, for which there is identified need, and the sustainable regeneration of previously developed land. The development and consequent increased local population would bring regeneration and economic benefits to the city centre. As set out in section 5, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

## **7.0 RECOMMENDATION:**

**That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:**

- The completion of a Section 106 Agreement to secure the following planning obligations:
  - (i) Affordable housing – 9.8% of Build to Rent units (a total of 21.7 rounded up to 22) on-site to be discounted as follows –
    - 1-bed x 15 units with a discount of 38%
    - 2-bed x 7 units with a discount of 50%
  - (ii) Education - a contribution of £132,832 towards expansion at St Oswalds and / or Fishergate Primary school, £78,378 to Fulford School and £170,784 towards pre-school provision.
  - (iii) Off-site sports provision - Financial contribution of £61,983 towards clubhouse and ancillary facility improvements at Heworth Rugby Club, multi-use games area within Heworth Without and / or improvements to Hull Road Park and Glen Gardens or other suitable sports project identified at time of payment, within 15 - 20-minute walking distance or within 20 minutes on public transport of the Development.

- (iv) Off-site amenity and play space provision - Financial contribution of £80,761 new play equipment for Navigation Road (Rosemary Place), Glen Gardens or St Nicholas Fields with the amenity element of the contribution spent on enhancements to open spaces around the City Walls, Walmgate area or St Nicholas Fields.
- (v) £200 per dwelling to promote car club use = £44,200
- (vi) Monitoring fee £1,510.00 per item = £7,550

- The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.
- The Head of Planning and Development Services be given delegated authority to determine the final detail of the following planning conditions:

1 TIME2 Development start within three years

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

16156-HGH-WDN-D-0-DR-A-0701 PL02 (Redline Boundary Plan)  
 16156-HGH-WDN-D-0-DR-A-0702 PL03 (Proposed Site Plan)

16156-HGH-WDN-D-00-DR-A-1010 PL011 (GA Plans Ground Floor)  
 16156-HGH-WDN-D-01-DR-A-1011 PL08 (GA Plans Level 1)  
 16156-HGH-WDN-D-ZZ-DR-A-1012 PL08 (GA Plans Level 2)  
 16156-HGH-WDN-D-ZZ-DR-A-1013 PL02 (GA Plans Level 3)  
 16156-HGH-WDN-D-ZZ-DR-A-1014 PL02 (GA Plans Levels 4)  
 16156-HGH-WDN-D-05-DR-A-1015 PL08 (GA Plans Level 5)  
 16156-HGH-WDN-D-06-DR-A-1016 PL08 (GA Plans Level 6)  
 16156-HGH-WDN-D-07-DR-A-1017 PL06 (GA Plans Roof)

16156-HGH-WDN-D-XX-DR-A-1151 PL06 (GA Elevations NW The Stonebow)  
 16156-HGH-WDN-D-XX-DR-A-1152 PL06 (GA Elevations SW Hungate)  
 16156-HGH-WDN-D-XX-DR-A-1153 PL06 (GA Elevations SE St Johns Square)  
 16156-HGH-WDN-D-XX-DR-A-1154 PL06 (GA Elevations NE Dundas Street)  
 16156-HGH-WDN-D-XX-DR-A-1160 PL06 (GA Elevations Courtyard)  
 16156-HGH-WDN-D-XX-DR-A-1161 PL06 (GA Elevations Courtyard)

16156-HGH-WDN-D-ZZ-DR-A-2010 PL03 (Part Plans Refuse Store)  
 16156-HGH-WDN-D-ZZ-DR-A-2020 PL03 (Part Plans Cycle Stores)

D0402\_001 K (Landscape Block H Ground Floor Hardworks)  
D0402\_002 H (Landscape Block H Ground Floor Softworks)  
D0402\_003 C (Level 5 Community Terrace Hardworks and Softworks)  
GBU-GEN-HUYO-3001 A (Tree Pit System Installation in Hardscape Area)

WIB15079-112-R-4-5-1-FRA dated 21.7.21 (Flood Risk Assessment Addendum)  
Updated Travel Plan Version 1.4 (dated 21.7.21) prepared by Fore  
Transport Statement Version 1.4 (dated 4.8.21) prepared by Fore  
Preliminary Sustainability Statement Issue No.3 (dated 21.7.21)  
Preliminary Ecological Appraisal Report (July 2021)

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

### 3 HWAY40 Dilapidation survey

Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.

### 4 HWAY31 No mud on highway during construction

Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

### 5 Construction management (CMP)

Prior to commencement of the development, a Construction Management Plan (CMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall contain a complaints procedure which shall be followed in the event of a complaint being received about noise, dust, vibration and/or lighting. All works on site shall be

undertaken in accordance with the approved CMP.

For noise details on types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, shall be detailed within the CMP. Where particularly noisy activities are expected to take place then details should be provided on mitigation, maximum noise levels and noise monitoring.

For vibration details shall be provided on any activities which may result in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions shall be provided along with details of standards used for determining the acceptability of any vibration undertaken.

For dust the CMP must include a site-specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>.

For complaints, the 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 shall 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. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

Reason: In the interest of protecting amenity of surrounding occupants and in accordance with policy ENV2: Managing Environmental Quality.

## 6 NOISE7 Restricted hours of construction

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

## 7 CEMP (Ecology)

Prior to the commencement of development (including ground works and vegetation removal) a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include -

- a) Risk assessment of potentially damaging construction activities.
- b) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- c) The location and timing of sensitive works to avoid harm to biodiversity features.
- d) The times during construction when specialist ecologists need to be present on site to oversee works.
- e) Responsible persons and lines of communication.
- f) Use of protective fences, exclusion barriers and warning signs.

Reason: To ensure the protection of significant ecological features.

## 8 LEMP (ecology)

Prior to the commencement of development a LEMP (landscape ecological management plan) shall be submitted to approved in writing by, the local planning authority. The content of the LEMP shall include -

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 d) of the NPPF to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

## 9 Nesting Birds

No removal of vegetation on site shall take place between 1st March and 31st August

inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that active birds nest have been identified and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

Informative: The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

## 10 Tree planting

Prior to commencement of development (apart from any enabling works) all tree planting details to include: means of support, and irrigation; maintenance regime, and responsibilities; soil volumes, and structural soil cell systems where applicable, and the corresponding paving detail, and locations of underground utilities shall be submitted to and approved by the Local Planning Authority . Where trees are to be located within paved areas, the surface area of soil cell systems, soil volumes, and tree species, and any utilities shall also be shown on a tree planting plan. The development shall be carried out in accordance with the approved details.

Reason: The trees are a critical element of the approved landscape scheme which is integral to the amenity and setting of the development. Suitable detailing and maintenance will encourage the trees to survive and thrive.

## 11 LC1 Land contamination - Site investigation

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons. A written report of the findings shall be produced, submitted to and approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground

gases where appropriate);

- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall 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.

## 12 LC2 Land contamination - remediation scheme

Prior to development, 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) shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall 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.

## 13 Land contamination – verification of remediation works

Prior to first occupation or use, the approved remediation scheme for ground gas 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 ground gas to the future users of the land and neighbouring land are minimised, together with those to property and ecological systems.

14 In the event that unexpected contamination is found at any time when carrying out the approved development, 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.

#### 15 Archaeology

A programme of post-determination archaeological mitigation, specifically an archaeological watching brief and excavation is required on select areas of this site. The archaeological scheme comprises 3 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

a) No development within the area of unexcavated archaeology shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

b) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

c) A copy of a report on Block H shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF. The site is within the Central Area

of Archaeological Importance. The development will affect important archaeological deposits which must be recorded prior to destruction.

## 16 Drainage

Prior to commencement of development (apart from any enabling works) details of the proposed means of foul and surface water drainage, including details of any balancing works and off-site works, shall be submitted to and approved by the Local Planning Authority; the development shall be carried out in accordance with the approved details.

The surface water discharge rate (for Block H) shall not exceed 38.2 l/sec (with proposed drainage to River Foss outfall).

Reason: In accordance with DLP 2018 policy ENV5.

17 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.

## 18 External materials

Samples of all external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of any works above the ground floor slab. The development shall be carried out using the approved materials.

For clarity, this includes vision and any non-vision glazing, flat or pitched roofs. The samples provided shall be a sufficiently large size to be able to appropriately judge the material (including joints / fixings where an important part of the visual quality of the material) and shall be provided together where materials are seen together.

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 that the Local Planning Authority may be satisfied with the finished appearance of these details so as to achieve a visually cohesive appearance.

## 19 Large scale details

Prior to the construction of any works above the ground floor slab, large scale detailed drawings of the items listed below shall be submitted to and approved in writing by the Local Planning Authority; the works shall be carried out in accordance with the approved details.

a) 1:20 drawings of typical ground-to-roof bay in each wall material and their general variations, such as differing types of recessed feature planes (brick and metal), any wall ventilation grilles, guarding, wall interfaces at ground, projecting balconies, set back floor level, together with overall maximum height AOD.

b) 1:20 drawings of main entrance area including external or semi outdoor soffits and recessed walls.

c) On-site mock-up sample constructions - A mock up shall be 1:1 scale but shortened overall sizes of elements can be included. The contents and size of the mock-ups shall be agreed by the LPA in advance of their construction.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development. In accordance with section 12 of the NPPF.

## 20 Brickwork

Prior to the construction of any works above the ground floor slab, on site sample panels of bricks, in each type of bond, including chosen mortar and pointing, and including any special brick features, shall be constructed and submitted to the Local Planning Authority for approval. The sample panel shall be 2 x 1.2m minimum overall. If multiple combinations of brick and/or bond are proposed, each type shall be 1 x 1.2m. The development shall be completed in accordance with the approved sample/s. The agreed panel/s are also to represent a minimum standard for the quality of workmanship that the development should achieve, and the panel/s shall remain on site for the duration of the brickwork package.

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.

## 21 Window reveals

Brick window reveals shall be set back a minimum 200mm (approx. one full brick deep) before the plane of a window. Brick feature recessed wall planes shall be set back a minimum 100mm (approx. 1/2 brick deep) from the main wall plane.

Reason: To impart an overall high quality and robustness of construction systems and

to provide visual relief on a facade.

## 22 Plant rooms

Prior to the construction of any works above the floor slab of the development, 1:20 scale drawings in plan and elevation for any external plant room enclosures, shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details. This shall include a maximum height of any plant equipment within the enclosure.

(Note: for flat roofs, in situations without a solid roof parapet (defined as 1m or higher, as shown on the approved plans) service protrusions will not generally be allowed within 2m of any building edge. Permanent external wall fixed equipment or roof guarding used to service the building should generally be expected not to be permitted if obtrusive).

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

23 The dwellings shall achieve a reduction in carbon emissions of at least 31% compared to the target emission rate as required under Part L of the Building Regulations 2013 and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Should the dwellings not achieve a reduction in carbon emissions of 75%, compared to the target emission rate as required under Part L of the Building Regulations 2013, prior to construction a statement to demonstrate that such reductions would not be feasible or viable shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Publication Draft Local Plan 2018

## 24 Plant and machinery

Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, 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. 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.

Note: The combined rating level of any building service noise associated with plant or

equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

## 25 Cooking Odour

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 for any premises put to Class E use 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.

Note: It is recommended that the applicant refers to the updated Guidance produced by EMAQ in September 2018 titled "Control of Odour and Noise from Commercial Kitchen Exhaust Systems (September 2018)" 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 APPENDIX 3 of the EMAQ 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.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

## 26 Internal noise levels

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. A detailed scheme demonstrating how these internal noise levels are to be achieved, shall be approved in writing by the local planning authority and fully implemented prior to first occupation.

Reason: To protect the amenity of residents.

## 27 Hours of operation - commercial units.

The commercial units hereby permitted shall only be open during the hours of 07:00 and 23:00 each day of the week.

Reason: To protect the amenity of residents.

## 28 Landscaping

The approved landscape scheme for soft works (ref: D0402\_002 F Landscape Block H Ground Floor Softworks) shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which subsequently 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.

## 29 Travel Plan

The development shall be occupied in accordance with the aims, measures and outcomes of the submitted Travel Plan (Version 1.4, dated 21 July 2021). Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority. Results of yearly travel surveys shall then be submitted annually to the Local Planning Authority for approval. Should the Local Planning Authority determine that demand for additional cycle parking exists then such provision shall be provided instead of unallocated car parking.

Reason: To encourage sustainable travel in accordance with NPPF section 9.

## 30 St. Johns Square

The approved landscaping scheme in relation to St. Johns Square as detailed on approved drawing numbers D0248\_010\_D and D0248\_012 shall be implemented within six months of the substantial completion of the last block (either block D, G or H).

Reason: To ensure the delivery of public realm that is integral to the Hungate masterplan, in accordance with the social objectives of the NPPF.

## 31 Entrances

No doors or gates shall be fitted so they would open outwards over the adjacent public highway.

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

### 32 Flood Risk

The development shall be carried out in accordance with the submitted flood risk assessment (FRA) prepared by Waterman Infrastructure and Environment Ltd dated July 2015 (ref: CIV14928 ES 002) as amended by the Flood Risk Addendum also prepared by WI & E Ltd dated 11 June 2021 (ref: WIB15079-112-R-4-4-1-FRA). It shall also provide the finished floor levels as shown on the approved ground floor plan - drawing 16156-HGH-WDN-D-00-DR-A-1010 PL05.

The mitigation measures detailed shall be fully implemented prior to occupation. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk and impact of flooding to the proposed development and future occupants.

### 33 Waste collection

The managing agent of the site shall be responsible for rotating bins; to ensure full bins are relocated to the larger store on the Dundas Street side of the building and that empty bins are positioned in the smaller stores at all times.

Reason: In the interests of good design, visual and residential amenity and highway safety, and to ensure that waste can be collected by the Council.

INFORMATIVE - The placing of waste bins within the public realm / highway is harmful to visual amenity and potentially a safety issue. The Council's waste services have advised they would access the bin store fronting Dundas Street. It is recommended agreement is made with waste services, so they would collect waste from the store to resolve the aforementioned issues.

### 34 Drainage infrastructure

No building or other obstruction including landscape features shall be located over or within 3 (three) metres either side of the centre line of the water main, i.e. a protected strip width of 6 (six) metres, that enters the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.

Reason: To allow sufficient access for maintenance and repair work at all times.

## 35 Car parking

At least 3 of the car parking spaces allocated to the development hereby permitted shall be disabled parking bays.

Reason: In accordance with section 9 of the NPPF to address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

### **8.0 INFORMATIVES:**

#### **Notes to Applicant**

#### 1. 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 (paragraph 38) 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: negotiated a reduced scale of building; use of conditions and s106.

#### 2. 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.

#### **Contact details:**

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