

From: [REDACTED]
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To: localplan@york.gov.uk
Cc: [REDACTED]
Subject: CoYC CIL Draft Charging Schedule Consultation - Representation on behalf of Hungate (York) Regeneration Limited [LICH-DMS.FID580037]
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Good Afternoon,

On behalf of our client, Hungate (York) Regeneration Limited, Lichfields is pleased to submit a formal representation to the City of York (CoY) Community Infrastructure Levy (CIL) Draft Charging Schedule. This representation responds to the identification of Hungate as being liable to a CIL rate of £200 per sqm as part of the December 2023 update.

The representation comprises the attached report (prepared by Lichfields and dated January 2024).

I would be grateful if you could confirm receipt of this email and attached report.

If you have any questions or would like to discuss this representation in further detail, please do get in touch.

Many thanks,
[REDACTED]

[REDACTED]

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Hungate

**Representations to the revised
Community Infrastructure Levy
Draft Charging Schedule**

Hungate (York) Regeneration Ltd

31 January 2024

LICHFIELDS

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1.0 Introduction

Purpose

1.1 Lichfields has been instructed by Hungate (York) Regeneration Limited to review the revised City of York Community Infrastructure Levy (CIL) Draft Charging Schedule and provide this Representation.

1.2 Contact details for Lichfields are provided below:

Lichfields 3 rd Floor 15 St Paul's Street Leeds LS1 2JG 0113 397 1397 suzanne.yates@lichfields.uk

1.3 In the December 2022 version of the draft charging schedule, the Hungate strategic site (ST32) fell within the 'Residential dwellings within the City of York Local Plan Strategic Sites' category which incurred a charge of £100 per sqm. However, in the latest (December 2023) version of the schedule the proposed wording has been altered so this category only includes sites ST16 and ST36. Subsequently, Hungate would now fall within the 'Residential dwellings within the City of York' category and incur a CIL charge of £200 per sqm.

1.4 In this representation, we consider the evidence that underpins this CIL requirement, the justification for the change in the CIL requirement for Hungate (and numerous other strategic sites) and the viability implications arising from the increased CIL requirement for the Hungate strategic site.

1.5 No part of this report constitutes a valuation and this report should not be relied upon as such. The conclusions and recommendations of this report are based upon a range of information, estimates and figures drawn from a number of sources and based on reasonable assumptions, as set out. Uncertainty and risks mean outcomes may differ and Nathaniel Lichfield & Partners Ltd does not guarantee or warrant any estimates or projections contained in this report.

The Proposed Development

1.6 Hungate (York) Regeneration Limited is a development consortium focused on the delivery of Hungate (ST32). Hungate is recognised as a Strategic Site and is a key brownfield development scheme within York City Centre which has long been identified as an important regeneration opportunity. The site, which covers an area of 4.6ha, lies on the edge of the business and retail core of the city centre.

1.7 The site has planning permission for a mix of residential dwellings, shops, offices, leisure uses and community facilities which was granted in 2006 (application ref: 02/03741/OUT) and renewed in 2012 (application ref: 12/02282/OUTM).

- 1.8 Phase 1 (Blocks A, B and C) was developed under the original planning permission following the granting of Reserved Matters in February 2007 (application ref: 06/02384/REMM) (alongside various additional applications seeking amendments to the original scheme). This phase of the development is now complete and occupied.
- 1.9 Phase 2 (Block E) was developed under a separate, detailed planning application granted in 2014 (application ref: 13/03015/FULM) (and various non-material amendments). This block is also now complete and occupied.
- 1.10 Following this, a new hybrid planning permission was granted for the remaining phases of development (including Blocks D, F, G and H) in 2017 (application ref: 15/01709/OUTM). Block F was developed under this permission following the approval of a Section 73 application to approve reconfiguration of the multi-story car park and other minor changes (application ref: 17/01847/OUTM) and is now complete and occupied.
- 1.11 Blocks D and G have been implemented but are not complete or occupied. Block H has not been implemented and a new planning permission was submitted for Block H in February 2021 and is awaiting determination following the conclusion of viability discussions (ref: 21/00280/FULM). Depending on the timings of the grant of planning permission and introduction of CIL, any forthcoming permission to enable the delivery of Phase H could therefore be liable to CIL. Subsequently, this Representation seeks to test the application of CIL to Block H if it operated as Build to Rent (BTR) accommodation. Consideration is also given to future use of the site for Purpose Built Student Accommodation (PBSA).
- 1.12 When fully complete the Hungate development will provide approximately 1,050 new city centre apartments together with commercial and community space, as well as high quality public spaces and landscaping.
- 1.13 Whilst the focus of our viability assessment – as detailed in Section 4 – is Block H alone, this should be taken to represent a typology that can be extended to the wider Hungate site. Accordingly, the viability challenges that are identified in this report in respect of Block H are applicable to the wider and as yet undeveloped strategic site. As such, our conclusions regarding the inability of the Hungate strategic site to sustain a CIL charge should not be viewed as relating to Block H in isolation but should extend to ST32 in its entirety.

Scope

- 1.14 The revised Community Infrastructure Levy Draft Charging Schedule identifies the following CIL charges:
- 1 £0 per sqm for strategic sites including ST4, ST7, ST8, ST9, ST14, ST15, ST31 and ST33 to reflect revised viability.
 - 2 £100 per sqm for residential dwellings within the City of York Local Plan strategic sites ST16 and ST36.
 - 3 All other residential dwellings within the City of York (including other strategic sites not detailed above) are proposed to have a £200 CIL rate per sqm.
 - 4 Purpose Built Student Accommodation is proposed to have a CIL charge of £150 per sqm for off-campus accommodation and £0 per sqm for on-campus accommodation.

- 1.15 For the reasons outlined in this report, it is considered that Hungate is unable to support a CIL charge of £200 per sqm. It also cannot support the charge of £100 per sqm that was proposed by the 2022 Draft Charging Schedule.
- 1.16 The purpose of this representation is therefore to object to the application of CIL to Hungate.
- 1.17 The key issues and concerns are:
- 1 The lack of evidence to support the proposed CIL charge for Hungate and inconsistency between the Council's studies in 2017, 2018, 2022 and 2023; and,
 - 2 The viability of Hungate and its inability to support a CIL charge of £100 per sqm, and is therefore much less able to support a CIL charge of £200 per sqm.
- 1.18 The representatives are structured as follows:
- **Section 2:** outlines the policy position and required procedure for the establishment of CIL;
 - **Section 3:** sets out our review of the Council's evidence base;
 - **Section 4:** provides a viability analysis of Block H and its inability to support CIL; and,
 - **Section 5:** sets out our conclusions in terms of the ability of Hungate to provide for the proposed level of CIL.

2.0 Policy Position

2.1 Viability is critical to the delivery of housing sites and the successful implementation of local plan strategies. Having a scheme that functions from a financial perspective provides a sound basis for much-needed development to come forward. To ensure deliverability, it is essential that local plans and CIL charging schedules are drawn up with a comprehensive understanding of viability.

2.2 This section provides an overview of policy concerning viability and the process which charging authorities considering implementing CIL must follow.

NPPF (December 2023)

2.3 Paragraph 34 of the NPPF provides guidance on development contributions. It states that plans should set out the contributions expected from development, including setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Planning Practice Guidance

2.4 Section 25 of the Planning Practice Guidance (PPG) explains what the Community Infrastructure Levy (CIL) is and how it operates. Reference ID 25-001-20190509 describes CIL as:

“A charge which can be levied by local authorities on new development in their area. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.”

2.5 The PPG provides guidance on the approach that local planning authorities should take in the establishment of CIL, stating that:

“The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its levy rates and has published the schedule on its website.” (Reference ID 25-001-20190509)

2.6 When setting CIL rates, policy makers are not required to ensure that the CIL rate that is to be applied will maintain the viability of *all* future developments. It might be that some schemes are rendered unviable as a result of the implementation of CIL. However, the key consideration is to ensure that the selected CIL rates do not undermine the deliverability of the plan strategy. The PPG therefore recognises the need for charging authorities to strike an appropriate balance between additional investment to support development and the potential effect on development viability. This balance is recognised as the centre of the charge-setting process. Charging authorities should be able to show and explain how their proposed levy rates will contribute towards the implementation of their relevant plan and support development across their area (see regulation 14(1), as amended by the 2014 Regulations).

Assessing the type and cost of infrastructure to be funded by CIL

- 2.7 In seeking to identify the appropriate CIL rate, charging authorities should have regard to:
- 1 The actual and expected cost of infrastructure;
 - 2 The viability of development;
 - 3 Other actual or expected sources of funding for infrastructure; and,
 - 4 The actual and expected administrative expenses in connection with the levy (Paragraph: 016 Reference ID: 25-016-20190901).
- 2.8 Charging authorities are required to identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In so doing, they must consider what additional infrastructure is needed in their area and what other sources of funding are available (Reference ID: 25-017-20190901).
- 2.9 The PPG notes that from December 2020, Infrastructure Funding Statements should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used. This process will help charging authorities to identify the infrastructure funding gap and a levy funding target (Reference ID: 25-017-20190901).
- 2.10 Reference ID 25-176-20190901 confirms that Infrastructure Funding Statements should set out:
- 1 A report relating to the previous financial year on the Community Infrastructure Levy;
 - 2 A report relating to the previous financial year on section 106 planning obligations; and,
 - 3 A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).
- 2.11 The Infrastructure Funding Statements should set out the amount of levy or planning obligation expenditure where funds have been allocated. It is recommended that authorities report on estimated future income from developer contributions, where they are able to do so (Reference ID: 25-176-20190901).
- 2.12 The Infrastructure Funding Statement should also set out future spending priorities on infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations. This will not dictate how funds must be spent but will set out the local authority's intentions (Reference ID: 25-177-20190901).

Viability testing

- 2.13 In addition to providing evidence relating to the type and cost of infrastructure to be funded by CIL, charging authorities are required to provide evidence to demonstrate the extent to which the proposed CIL charges can be supported by development without undermining viability. The PPG states at Reference ID 25-019-20190901 that:

“Charging authorities will need to summarise their viability assessment. Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the [viability guidance](#). Viability assessments can be prepared jointly for the purposes of both plan making and preparing charging schedules.”

2.14 It is not expected that all individual sites will be subject to viability testing. The PPG states:

“Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable. Plan makers can use site typologies to determine viability at the plan making stage. Assessment of samples of sites may be helpful to support evidence. In some circumstances more detailed assessment may be necessary for particular areas or key sites on which the delivery of the plan relies.”
(Reference ID 10-003-20180724)

2.15 In order to achieve and maintain a proportionate approach to viability testing, charging authorities are encouraged to apply a typology approach. This is described as:

“a process plan makers can follow to ensure that they are creating realistic, deliverable policies based on the type of sites that are likely to come forward for development over the plan period.” (Reference ID 10-004-20190509)

2.16 It is clearly not possible to set out a ‘one size fits all’ primer for implementing a typology approach since the nature of applicable typologies will vary from one authority area to another. The PPG summarises this at Reference ID 10-004-20190509:

“The characteristics used to group sites should reflect the nature of typical sites that may be developed within the plan area and the type of development proposed for allocation in the plan.”

2.17 The purpose of a typology approach is to ensure that the policies are realistic and deliverable based on the type of sites that are likely to come forward for development over the plan period. Sites are grouped by shared characteristics such as location, status (brownfield/greenfield), size and nature. Average costs and values are used to make assumptions about the viability of each typology and plan makers can come to a view on what might be an appropriate benchmark land value and policy requirement for each typology.

2.18 Paragraph 026 (Reference ID: 25-026-20190901) refers to the treatment of strategic sites. The guidance states that charging authorities may wish to consider how zonal rates can ensure that the levy compliments plan policies for strategic sites. This may include setting specific rates for strategic sites that reflect the land value uplift created by development. Low or zero rates may be appropriate where plan policies require significant contributions towards housing or infrastructure through planning obligations and this is evidenced by an assessment of viability.

2.19 A hybrid approach of testing notional sites via a typology approach alongside a more bespoke assessment for strategic sites is therefore advocated by planning policy.

2.20 Hungate is both a strategic site and brownfield land which, once completed, will deliver 1,050 new city centre apartments. It is Lichfields’ opinion that strategic sites (such as this) that are individually fundamental to the delivery of the plan strategy, must be assessed for

viability on a site-by-site basis – not least that there may not be any other sites that would fit into the same broad typology. This position is reflected in the PPG.

2.21 The PPG notes that development costs should be taken into account when setting CIL rates, particularly those likely to be incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area (Reference ID: 25-021-20190901).

2.22 Paragraph 58 of the NPPF notes that “*all viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs*”, and should be made publicly available. This approach was endorsed by the High Court in the case of *Holborn Studios Ltd, R (on the application of) v London Borough of Hackney & Anor (2020)*¹. Dove J noted that “*in following the approach recommended in the Framework and the PPG, standardised inputs should be used*” (Paragraph 63). He went on to state in the same paragraph that the PPG “*makes clear [that] the preparation of a viability assessment ‘is not usually specific to that developer and thereby need not contain commercially sensitive data’.*” Despite the weight that is given the use of standardised inputs, neither the NPPF nor the PPG provides much by way of guidance on inputs that should be applied.

Application of differentiated rates

2.23 Drawing on from this analysis, the regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. Differential rates may be appropriate in relation to:

- 1 Geographical zones within the charging authority’s boundary;
- 2 Types of development;
- 3 Site characteristics; and/or,
- 4 Scales of development (Reference ID: 25-022-20230104).

2.24 This will flow from the typology approach. If properly evidenced, such an approach is perfectly proper and can ensure a higher level of CIL receipt to fund important infrastructure without jeopardising the viability of particular development types.

¹ EWHC 1509

3.0 Review of the Evidence

3.1 This section reviews the evidence base underpinning the draft CIL Charging Schedule for the City of York. It considers the nature of the evidence in terms of its robustness, how it has changed over time, and the implications of this for the CIL rate applied for Strategic Site ST32 (Hungate). In doing so, it specifically focuses on:

- 1 The Infrastructure Funding Statement and Infrastructure Funding Gap Assessment that identify the infrastructure projects and types that CIL revenue would be spent on;
- 2 The chronology of the viability assessments;
- 3 The assumptions informing the viability assessments;
- 4 How reference to the Hungate strategic site has changed over time; and,
- 5 The implications of the viability analysis for strategic sites in York, and particularly for the Hungate site.

Infrastructure Funding

Infrastructure Funding Statement

3.2 The City of York Infrastructure Funding Statement (IFS) 2022-23 was prepared in accordance with the Community Infrastructure Levy (Amendment) (England) (No.2) that requires an IFS to comprise of:

- 1 A statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL.
- 2 A report about CIL, in relation to the previous financial year.
- 3 A report about planning obligations in relation to the report year.

3.3 City of York Council did not require CIL contributions from developers in the year preceding 2023. As such, the IFS only relates to matter c) concerning planning obligations.

3.4 The reporting period for the IFS is the preceding financial year, i.e., April 2022 to March 2023. The IFS details the Section 106 contributions gathered and spent through the year and how these relate to different infrastructure types (sport, recreation and open space; transport, highways and sustainable travel; housing; and education). Table 3.1 summarises the total amount of Section 106 contributions reported through the year. It shows that c.£500,000 of contributions was spent during the reported year, and that the Council held c.£10 million at the end of the year.

Table 3.1 Summary of S106 contributions from 2021-22 to 2022-23

	Amount
Contributions held at the start of the reporting year	£9,353,705.53
Contributions secured during the reported year	£1,251,345
Contributions received during the report year	£372,743.99
Contributions spent during the reported year	£500,015.95
Contributions held at the end of the reported year	£10,345,590.85

Source: City of York Council Community Infrastructure Funding Statement 2022-23

3.5 The remainder of the IFS details monetary and non-monetary contributions obtained from planning permissions granted through the reported year and the infrastructure project/type that is projected to benefit from the contribution.

Infrastructure Funding Gap Assessment

3.6 The PPG requires local authorities to “report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy” (Reference ID: 25-176-20190901) within the IFS. City of York Council has prepared this piece of work separately to the IFS and it is contained within the CIL Infrastructure Funding Gap Assessment (IFGA) (December 2022). Whilst this approach is contrary to the PPG, it complies with the Community Infrastructure Levy (Amendment) (England) (No.2) and still contains the information required by the PPG. Lichfields considers that this approach is acceptable.

3.7 The IFGA was prepared to enable the City of York to demonstrate the need to introduce the CIL by identifying a “shortfall in funding between the expected total cost of infrastructure needed to support development in the authority over the plan period and the level of funding likely to be forthcoming from other sources of funding for infrastructure” (Page 7). It draws on the infrastructure assessment that was undertaken to inform the Local Plan and notes that this will be updated ahead of the CIL examination. The assessment only includes infrastructure projects that are eligible for CIL funding and that do not have sufficient funding identified.

3.8 The IFGA identifies the total cost of the planned infrastructure projects as £270.7 million. There is £21.7 million confirmed funding for these projects which leaves a funding gap of £249.0 million. The Assessment notes that other funding streams may also contribute to this.

3.9 Using the draft Charging Schedule rates and housing trajectory figures from EX/CYC/107/1², the IFGA estimates that c.£73 million of CIL could be generated over the Plan period, as shown below.

Table 3.2 Projected CIL income over the Plan Period

	No. units (dwellings)	Average unit size (sqm)	CIL rate psm	Total CIL	AH rate	Other reliefs	Total CIL after CIL reliefs
Strategic sites	1,155	91.8	£100	£10,598,561	28.2%	5.0%	£7,227,466
Housing allocation sites with 15 or more dwellings	1,601	88.4	£200	£28,311,600	25.0%	5.0%	£20,172,015
Windfall sites	2,591	88.4	£200	£45,818,461	0.0%	0.0%	£45,818,461
Total	5,347			£84,728,623			£73,327,942

Source: City of York Community Infrastructure Gap Assessment December 2022

3.10 The table indicates that CIL will be obtained from 1,155 dwellings delivered at strategic sites over the Plan Period – this equates to just 9.6% of the total number of dwellings proposed

² City of York Housing Trajectory Note – August 2022: <https://www.york.gov.uk/downloads/file/8415/ex-cyc-107-1-housing-trajectory-note-august-2022>

to be delivered at strategic sites over this period (total: 12,001 dwellings). Even after the strategic sites that are not liable for CIL (ST7, ST8, ST9, ST14 and ST15) are removed from this total, it is not clear which of the strategic sites are included in the 1,155 dwellings for which an allowance has been made. In a similar vein, the IFGA indicates that CIL will be applied to 4,192 dwellings on non-strategic allocations and windfall sites. The number of dwellings to be identified in the IFGA (5,347) equates to just 41.1% of the total number of dwellings required to be delivered over the Local Plan period.

- 3.11 The IFGA identifies a residual shortfall in funding of c.£176 million after accounting for the CIL revenue of c.£73 million.
- 3.12 The 2023 Sensitivity Test states that the proposed CIL rates were reviewed in response to concerns raised during the Spring 2023 CIL Draft Charging Schedule Consultation that the evidence base was out of date. A revised IFGA has not been prepared in the light of the updated charging schedule.

Viability Assessments

- 3.13 Table 3.3 lists the viability assessments, charging schedules and related documents that have been prepared to date to inform the Local Plan and CIL charging schedule.

Table 3.3 Chronology of Viability Assessments, charging schedules and related documents

Publication date	Report name	Author
Sep-17	City of York Local Plan & CIL Viability Final Report	Peter Brett Associates LLP
Apr-18	City of York Local Plan Viability Final Report	Porter Planning Economics
May-22	Phase 2 Infrastructure Note	City of York Council
Jul-22	Viability Assessment of ST7	Porter Planning Economics
Jul-22	Viability Assessment of ST14	Porter Planning Economics
Jul-22	Viability Assessment of ST15	Porter Planning Economics
Aug-22	Infrastructure Gantt Chart Revised August	City of York Council
Dec-22	CIL Viability Study	Porter Planning Economics
Dec-22	CIL Funding Gap Assessment	City of York Council
Dec-22	CIL Draft Charging Schedule	City of York Council
Dec-22	CIL Draft Charging Schedule - Additional Mapping	City of York Council
Feb-23	CIL Draft Charging Schedule - Consultation Information Booklet	City of York Council
Nov-23	CIL Viability Study Addendum (Sensitivity Test)	Porter Planning Economics
Dec-23	CIL Viability Study Addendum Erratum	Porter Planning Economics
Dec-23	CIL Draft Charging Schedule - Proposed Modifications	City of York Council

- 3.14 The CIL rates proposed to be applied to all types of development vary significantly between the various viability assessments and draft charging schedules. The updated CIL rates have been informed by:
 - 1 Changes in market conditions;
 - 2 Changes in the buffer applied to viability margins; and,
 - 3 The application of varied CIL rates to different types of development, including strategic sites.

3.15 The different CIL rates are shown in Table 3.4 and commentary is provided through this section to explain the changes. The categories within which the Hungate strategic site sits is shown in bold text in the table below. This indicates that the Hungate site was proposed to be liable for paying £100 per sqm in the 2022 Draft Charging Schedule, but that this has increased to £200 per sqm in the 2023 Draft Charging Schedule.

Table 3.4 CIL rates proposed for types of residential development in different assessments / draft charging schedules

Report / Charging schedule	Development type	CIL rate per sqm
2017 Viability Assessment	Residential	£150
2018 Viability Assessment	Residential	£130
2022 Draft Charging Schedule	Residential dwellings within City of York	£200
	Residential dwellings within the City of York Local Plan strategic sites ST7, ST8, ST9, ST14, ST15	£0
	Residential dwellings within the remaining City of York Local Plan strategic sites	£100
2023 Draft Charging Schedule	Residential dwellings within City of York	£200
	Residential dwellings within the City of York Local Plan strategic sites ST4, ST7, ST8, ST9, ST14, ST15, ST31 and ST33	£0
	Residential dwellings within the remaining City of York Local Plan strategic sites ST16 and ST36 (only)	£100

Source: City of York 2017, 2018 & 2022 Viability Assessments and 2022 & 2023 Draft Charging Schedules

Assumptions informing the Viability Assessments

3.16 The viability assessments and accompanying appraisals were prepared in line with the Harman Report³ and the Royal institute of Chartered Surveyors (RICS) valuation guidance. These documents advise on the assumptions that should be made to inform assessments, the typologies that can be used to inform high level assessments, and land value considerations.

3.17 Table 3.5 compares the assumptions/inputs applied in the four Viability Assessments, and compares these to the standardised inputs identified by the Lichfields *Fine Margins* research⁴ in respect of the viability assumptions that have been made to inform the preparation of Local Plans and Local Development Plans in England and Wales.

3.18 The most significant changes over time relate to sales values and build costs as guided by market conditions; however, the methodology used to calculate these has stayed consistent. Between the publication of the 2022 Assessment and the 2023 Sensitivity Test, sales values increased by c.1% and build costs increased by c.5%. The rate of increase to build costs is therefore fivefold the rate of increase in sales values. The significance of this relative rate of increase also means that other assumptions that are a function of build costs (such as contingencies, external costs and professional fees) would have increased at a higher rate than sales values. Notwithstanding the outcome of the analysis and the resultant Charging Schedule, this would have resulted in a worsening viability position between the two studies.

³ Viability Testing Local Plans: Advice for planning practitioners (June 2012, prepared by LHD, chaired by Sir John Harman)

⁴ <https://lichfields.uk/content/insights/fine-margins>

- 3.19 It is also noteworthy that a standard sales value is applied for residential development, regardless of the location of development in the local authority area. This is despite the fact that the three viability assessments⁵ contain maps showing the extent to which sales values vary across the local authority area – from £1,447/sqm for flats at the lowest end of the spectrum, to £5,399/sqm at the highest end (in the 2022 Assessment).
- 3.20 Relating to the build costs of flats, we note that the 2022 and 2023 Assessments are based on BCIS costs for low and medium rise flats (i.e. up to five storeys). Block H of Hungate is proposed to be seven storeys high. The BCIS data shows that the development cost associated with taller apartment buildings is substantially higher and so the approach that has been taken in the assessment fails to capture the construction costs associated with this site. This will have implications on the scheme’s viability that have not been considered in the most recent assessments.
- 3.21 In reviewing the figures in Table 3.5, we would also highlight the fact that the figure for opening up/abnormals is disproportionately low for brownfield sites and that the 2022 and 2023 assessments apply an uplift to existing use value for greenfield – but not brownfield – sites, which in any event underestimate significantly the true cost of land in the city centre. We consider these matters in more detail below.
- 3.22 The viability of typologies and strategic sites were also assessed against policy requirements included in the draft Local Plan relating to sustainability requirements, electric vehicle charging points, the costs associated with achieving biodiversity net gain, and contributions to affordable housing delivery.
- 3.23 Critically, it is noted that the viability assessments only considered residential properties that were proposed for sale and did not seek to test the viability of Build to Rent, even though this is an increasingly common form of development in British cities. This undermines its applicability to all development sites in York, not least Hungate.

⁵ 2017, 2018 and 2022 assessments

Table 3.5 Comparison of assumptions included in Viability Assessments across time and with those identified in Lichfields Fine Margins Research

Key findings from Lichfields Fine Margins Insight		2017 Viability Assessment	2018 Viability Assessment	2022 Viability Assessment	2023 Sensitivity Test Addendum
Build costs	BCIS widely used	Methodology: BCIS			
		Flat: £1,124/sqm House (small housebuilder 3 and under): £1,214 House (medium housebuilder 4-14): £1,086 House (large housebuilder 15+): £958 Retirement home: £1,226 Extra care/assisted living: £1,271		Flat: £1,505/sqm House (small housebuilder 3 and under): £1,804/sqm House (medium housebuilder 4-49): £1,340/sqm House (large housebuilder 50+): £1,187/sqm Retirement accommodation: £1,600/sqm Extra-care: £1,620/sqm	Flat: £1,580/sqm House (small housebuilder 3 and under): £1,881/sqm House (medium housebuilder 4-49): £1,402/sqm House (large housebuilder 50+): £1,242/sqm
Sales values	HM Land Registry price data cross-checked against EPC Register	Methodology: Land Registry data cross-checked against EPC data			
		House: £2,650/sqm Flat: £3,300/sqm		House: £4,200/sqm Flat: £5,335/sqm	House: £4,200/sqm Flat: £5,390/sqm
Developer profit	20% GDV (market housing) 6% GDV (affordable housing)	20% GDV (market housing) 6% GDV (affordable housing)			
Externals	10 - 20% of build costs	10%		Houses: 10% Flats: 5%	
Contingency	2.5 - 5% of built costs	4%			
Professional fees	8 - 10% of build costs	8%			
Development finance	6 - 7% debt interest rate	6.5%		7.75%	
Sales and marketing	2.5 - 3.5% GDV Legal fees in addition (c.£750 / unit)	3% GDV			

Key findings from Lichfields Fine Margins Insight		2017 Viability Assessment	2018 Viability Assessment	2022 Viability Assessment	2023 Sensitivity Test Addendum
Land acquisition fees	1.5 - 2.25% of land purchase price (with SDLT on top of this)	Surveyor's fees: 1.00% / land value Legal fees: 0.75% / land value Stamp Duty Land Tax: HMRC rate / land value			
Abnormals	Common not to apply an allowance Brownfield only approach common	Greenfield 50-199: £5,000/unit Greenfield 200=499: £10,000/unit Greenfield 500+: £17,000/unit Mixed: £150,000 / net ha Brownfield: £300,000 / net ha		Greenfield less than 50 units: £0/unit Greenfield 50-199 units: £6,500/unit Greenfield 200-499: £13,500/unit Greenfield 500+: £22,500/unit ST14: £16,875/unit ST15: £11,250/unit Mixed: £200,000 / net ha Brownfield: £400,000 / net ha	
Opening up costs	Common not to apply an allowance				
Viability buffer	Not commonly applied More common for CIL than for development plans	25%	35%	Tested 25%, 33%, 50% (excl. strategic sites) Concludes that a 60% buffer is used	
Approach to benchmark land value	EUV plus a premium ('EUV+') to reflect a 'sufficient' landowner incentive	No premium to EUV		EUV+ (but not for city centre sites)	
Premium to existing	Typical indicative ranges include: Brownfield: EUV+ 20% Greenfield: 15 = 20 times EUV	n/a		City centre/extension: 0% Urban & suburban: 24% Village / rural: 24% Agricultural / greenfield: 2150%	
S106 contributions		£3,300/unit		£4,200/unit	

Source: Lichfields Fine Margins Insight August 2021 & City of York Viability Assessments 2017, 2018, 2022 and 2023 (Addendum/Sensitivity Test)

Typologies

3.24 The 2022 Viability Assessment and 2023 Sensitivity Test identify 25 site typologies to test the viability of residential development. The typologies are based on:

- 1 Location: Centre/ City Centre, Urban, Suburban, or Rural;
- 2 Land type: Greenfield / Brownfield;
- 3 Site size: Small, Medium, or Large.

3.25 The 2022 study also tested ten strategic sites whilst the 2023 study tested five strategic sites. However, neither included a site-specific assessment of the Hungate strategic site. In the light of this omission, the typology that is the closest to Hungate is the Centre/ City Centre Extension – Large – Brownfield typology, albeit this assumes that just 95 dwellings are delivered on the site and therefore differs very significant in scale. This does not reflect the development at Hungate which does not fit into any of the residential typologies. The fact that the 2022 and 2023 Assessments both used build costs assumptions based on low-medium rise flats (i.e., up to five storeys) further separates Hungate (that is proposed to comprise seven storeys) from any of the tested typologies. This substantiates the point that the viability of Hungate should be assessed separately, as should that of all strategic sites.

Reference to Hungate

3.26 Reference to the Hungate strategic site varies through the viability assessments and related documents, both in terms of the nature of the site (i.e., its size and capacity), and in terms of its recognition as a strategic site. The viability of Hungate is assessed as a strategic site in its own right in the first two viability assessments but is not referenced in the post-2022 viability assessments or draft charging schedules.

Approach to Hungate in the 2017 and 2018 Viability Assessments

3.27 Hungate is dealt with differently in the 2017 and 2018 Assessments. These changes relate to:

- 1 Recognition of the site’s location – the 2017 Assessment does not consider the location of strategic sites in estimating the viability of sites whereas the 2018 Assessment recognises that the site is in the city centre.
- 2 Change in the site area, as shown in Table 3.6.

Table 3.6 Comparison of Hungate site characteristics between 2017 and 2018 Assessments

Report	Location	Land type	Site (ha)		No units	Density	Build (yrs)
			Gross	Net			
2017	Not referenced	Brownfield	4.87	3.05	328	108	
2018	City centre	Brownfield	2.2	2.2	328	149	3

Source: 2017 and 2018 City of Yock CIL Viability Assessment

3.28 Recognising the location of sites is important in order to ensure that benchmark land values are appropriately accounted for. The benchmark land value of sites in the city centre will be

considerably higher than for brownfield sites in suburban areas. There may also be additional abnormal costs for brownfield city centre sites. This is particularly the case in the City of York where a large area of the city centre has high heritage and archaeological status. Whilst Lichfields therefore considers that it is appropriate that the location of Hungate was recognised in the 2018 Assessment, we note that this did not result in city centre sites being liable for paying lower CIL rates.

3.29 The gross site area considered for Hungate decreased from 4.87ha in the 2017 study to 2.2ha in the 2018 Assessment. No explanation has been provided for this significant reduction (which may relate to the development of parts of the site) but this reduction coincided with the retention of the same number of residential units to be provided on site. Furthermore, there was no difference in the gross and net site area in the 2018 Assessment. Paragraph 4.12 states that this is because:

“the strategic site assessments have been informed by each site’s areas, yields (number of units) and expected delivery rates provided by the Council. Where the net areas have not been provided, the site densities for the different locations in Table 5.1 has been applied.”

3.30 A review of the Centre/City Centre Brownfield site typologies (as shown in Table 3.7) indicates that the gross: net ratio applied to Hungate is the same as that applied to the small and medium city centre typologies (i.e. 100%). We consider that this is an unreasonable approach to take given that the Assessment noted that Hungate was anticipated to deliver c.328 dwellings, more than three times the number of dwellings included in the largest city centre typology and 6.5 times the number of dwellings included in the medium typology, and that the site is proposed to have extensive areas of open space, including St John’s Square.

3.31 The density per hectare for Hungate identified in the 2018 study (see Table 3.6 above) is significantly higher (149dph) than each of these typologies (100dph) and the 2017 study (108dph). The consequence of this is that the 2018 Assessment identifies a significantly higher headroom for Hungate (£437/sqm under policy layer 5) than the 2017 Assessment (£372/sqm under policy layer 5). The significance of this is demonstrated by the fact that Hungate changed from being the strategic site with the fourth highest headroom in the 2017 Assessment, to having the joint highest headroom in the 2018 Assessment. We are concerned that this difference in the perceived viability of the site (and its ability to sustain CIL) is a result of erroneous inputs and assumptions.

Table 3.7 Residential typology to be tested

Typology	Land type	Gross area (ha)	Gross: net ratio	Net area (ha)	No units	Density (dph)
Centre / City Centre Extension – Large	Brownfield	1.0	95%	0.95	95	100
Centre / City Centre Extension – Medium	Brownfield	0.5	100%	0.5	50	100
Centre / City Centre	Brownfield	0.2	100%	0.2	20	100

Typology	Land type	Gross area (ha)	Gross: net ratio	Net area (ha)	No units	Density (dph)
Extension – Small						

Source: 2018 City of York CIL Viability Assessment, Table 5.1

Lack of consideration of Hungate in 2022 and 2023 Viability Assessments

3.32 Strategic site ST32 is not referenced in the 2022 or 2023 assessments. To provide some explanation for its exclusion of Hungate from the 2022 Viability Assessment, paragraph 4.5 states that:

*“A separate CIL rate for strategic sites may likely be considered owing to the scale of the build, which incurs additional site and infrastructure opening costs. Therefore, strategic sites are tested, which **remain the same as those tested in the Local Plan (and previous CIL) viability work except for where they have an agreed planning application** and ST35 Queen Elizabeth Barracks is removed since it is no longer is an identified strategic site.”*

3.33 It is reasonable to exclude strategic sites that have an agreed planning permission from CIL Viability Assessments given that sites with planning permission would not be required to pay CIL. However, the exclusion of Hungate is based on the inaccurate assumption that the entire site had an extant planning permission. As detailed in Section 1, Block H was granted planning permission for residential development under hybrid planning permission (application reference: 15/01709/OUTM), as updated by the various section 73 applications. The opportunity to submit reserved matters in respect of this outline expired on 25 April 2021.

3.34 A new standalone detailed planning application was submitted to the City of York Council in February 2021 for the development of a residential apartment building (five to seven storeys), comprising 221 residential units (application reference 21/00280/FULM). As of 31 January 2024, the application is awaiting determination following the conclusion of viability discussions in respect of the provision of affordable housing and other contributions.

3.35 The 2022 and 2023 Viability Assessments were therefore both prepared and published following the submission of planning application 21/00280/FULM. City of York Council would have been aware of this application and the headroom for strategic site ST32 to make CIL payments should have been assessed in these assessments, alongside the other strategic sites. This is important because, as highlighted in paragraphs 2.17-2.19 of the 2022 Viability Assessment, local authorities must strike a balance between maximising the delivery of development and supporting infrastructure in the area. It is particularly important that the viability and deliverability of strategic sites are not put at risk and that the scale of development identified in the Local Plan is not threatened.

Consideration of infrastructure commitments for strategic sites

3.36 Table 4.13 in the 2022 Viability Assessment details the Section 106, supplementary education and other key infrastructure contribution cost per unit for dwellings to be delivered at strategic sites. These were informed by the Key Infrastructure Requirement Updated Gantt and high-level estimates by the CYC Highways Team – the Assessment

notes that these costs are likely to reflect the worst-case scenario but that they provide a guide for potential development costs. It shows that the infrastructure cost per unit varies significantly – from £4,200/unit for site ST16 to £42,295/unit for site ST15, with a median figure of £17,515/unit. Only one strategic site (ST16) has a figure that is lower than that of £8,274/unit which was applied to non-strategic sites. By implication, application of the non-strategic site figure to Hungate might serve to underestimate the figure that has been applied. Furthermore, it is important to note that these costs per unit vary within the greenfield / brownfield land types, indicating that general assumptions for strategic sites on different land types cannot be made. For example, sites ST16 and ST36 are both brownfield sites, and yet the anticipated infrastructure cost per unit is £4,200/unit and £16,025/unit respectively.

- 3.37 In considering the application of Section 106 costs to the CIL viability assessment, it is important to ensure that there is no double charging for any items of infrastructure that would otherwise be funded by CIL. It is noted that paragraph 4.58 of the 2022 report notes that the figures cited *"are likely to reflect the worst case/most costly scenarios"* but greater clarity is required in this respect so that the development industry can have confidence that the City of York Council will not seem to apply Section 106 costs that fail to accord with the requirements of the CIL regulations.

Overview of outcome of each Viability Assessment / Draft Charging Schedules

- 3.38 This section provides a brief overview of the outcomes of each viability assessment and related workstreams feeding into the draft CIL rate schedules.

2017 Viability Assessment

- 3.39 City of York Council first proposed the introduction of CIL charging in the City of York Local Plan and CIL Viability Assessment that was published in September 2017. It concluded that there was substantial financial headroom for most residential developments (that were assessed under different typologies or as strategic sites) and that this was significant enough to justify introducing CIL charges.

- 3.40 The 2017 Viability Assessment identified that residential sites comprising ten or fewer units *"in locations outside of the urban area are found to be either unviable or marginally viable"* (paragraph 7.2.10), and that these sites should be zero rated. Besides this typology, the Assessment concluded that *"although there are variations in the typology results, all sites achieve a headroom above £100 at full policy level, and in the majority of cases the headroom is above £200"* (paragraph 7.2.11) and that they should be able to support a CIL rate of £150/sqm. Although not specifically stated, this indicates that a viability buffer of c.25% was applied to the viability rates across all residential development besides the smaller typologies. This assessment did not propose to apply varied rates for strategic sites.

2018 Viability Assessment

- 3.41 The 2018 Viability Assessment found almost all typologies to be viable, with the exception of the smaller site typologies (7-10 units) outside of the City Centre. However, the approach to these sites differs as paragraph 6.7 states that their viability *"is marginal and therefore unlikely to put serious risk to the bulk of smaller sites coming forward since a minor*

change in market conditions, for example, the tested average S106 requirements, will bring these sites forward with a positive headroom.” We note that, conversely, minor changes in market conditions could also negatively affect the viability of smaller sites, further declining their headroom. The Assessment concludes that, as in the 2017 Assessment, that these sites should be zero rated.

3.42 A more flexible approach towards the viability buffer is applied in the 2018 assessment, as paragraph 6.12 concludes that *“most of the tested sites can support a CIL rate up to a maximum of almost £200. For this reason, we would recommend that a CIL rate of £130 per sqm, which is at most two-thirds of the average headroom, would be achievable without putting the bulk of sites within the City of York at risk of delivery.”* Lichfields agrees with the approach of applying a higher buffer to allow for varying circumstances such as increased costs, reduced values or site-specific costs.

3.43 The 2018 assessment did not propose to apply varied rates for strategic sites.

2022 Viability Assessment & Draft Charging Schedule

3.44 Differing to the earlier Assessments, the 2022 Assessment indicated that all typologies and strategic sites were viable and that *“the bulk of sites provide suitable headrooms for supporting CIL charging”* (paragraph 6.5). A different approach of showing the headroom of different typologies and strategic sites was undertaken in this Assessment. Whereas the earlier assessments had shown the headroom at different stages of policy layers applied (e.g., no policy requirements, requirement to contribute to affordable housing delivery), the 2022 Assessment shows just one headroom result for each typology/site. Paragraph 6.5 stated that *“all the tested sites are found likely to come forward within the Plan period to meet the full policy requirements with headroom for supporting a CIL charge”*; this indicates that the contents of Table 6.1 are therefore the equivalent of ‘policy layer 5 headroom’ in the 2017 and 2018 assessments.

3.45 Relating specifically to strategic sites, paragraph 6.8 stated that *“most... show healthy headrooms, although some include a relatively high infrastructure cost and s106 assumption that may be met or partially met by potential future CIL receipts. But sites ST7, ST14 and ST15 all have headrooms below £50psm, which provides little room for any headroom buffers that should be allowed for in setting CIL charges.”* This was the first Assessment that proposes applying varied charge rates for different scales of residential development, as shown in Table 3.4. It cited paragraph 022 of the CIL PPG that allows charging authorities to introduce charge variations where there are differences in viability arising from the following factors:

- 1 Geographical zones within the charging authority’s boundary;
- 2 Types of development; and/or,
- 3 Scales of development.

3.46 This was also the first Assessment to consider the effect of existing land use value for different land types. It acknowledged in paragraphs 2.29 and 2.30 that existing uses of land will inform its value. This will shape development viability and, as a result, charging authorities may seek to apply different charging rates for brownfield and greenfield sites.

We agree with this approach but note the approach in applying this in York is not consistent across development types, as explained later in this section.

3.47 In considering the potential residential CIL headrooms, the 2022 Assessment tested the maximum CIL rate with 25%, 33% and 50% headroom buffers for different land types and dwelling types. The results are shown in table 3.8:

Table 3.8 Residential CIL rates at different financial buffers in York (excl. strategic sites)

Site	Buffer	£psm CIL liable
All sites (excl. strategic sites)	-	£481
	50%	£241
	33%	£322
	25%	£361
All brownfield sites	-	£477
	50%	£239
	33%	£320
	25%	£358
All greenfield sites	-	£485
	50%	£243
	33%	£325
	25%	£363
Houses	-	£480
	50%	£240
	33%	£321
	25%	£360
Flats	-	£546
	50%	£273
	33%	£366
	25%	£409
Mixed sites (houses and flats)	-	£323
	50%	£162
	33%	£217
	25%	£242
Strategic sites	-	£157
	50%	£79
	33%	£105
	25%	£118

Source: City of York 2022 Viability Assessment

3.48 This shows that the CIL rate for all residential development across the City could be comfortably set at around £320/sqm after a 33% buffer is applied. The Assessment also indicated that there is scope for setting a residential charge on strategic sites and that “*after allowing a healthy financial buffer in the headroom, CIL could be comfortably set at around £100 psm*” (paragraph 6.22). This difference accounts for the additional costs associated with delivering strategic sites and the fact that strategic sites are vitally important to the success of the City of York Local Plan. However, the Assessment proposed that strategic sites ST7, ST8, ST9, ST14 and ST15 should not be liable for paying CIL as

viability work indicated that this CIL rate could place these sites at risk of non-delivery, thereby risking that the Local Plan might be undermined.

3.49 The 2022 Draft Charging Schedule was prepared following the 2022 Viability Assessment. It proposed that the CIL rates listed below are established for residential development:

- 1 All residential development (excl. strategic sites): £200
- 2 Strategic sites that are not considered to have a high enough headroom for CIL to be a viable option (ST7, ST8, ST9, ST14 and ST15): £0
- 3 All other strategic sites within the City of York Local Plan (i.e. including Hungate): £100.

3.50 The schedule did not propose to:

- 1 Apply varied CIL rates for residential development on different land types (i.e., brownfield/greenfield sites);
- 2 Apply varied CIL rates based on location; or,
- 3 Apply varied CIL rates for different types of tenures. None of the Viability Assessments acknowledge the varied viability of schemes comprising different tenures, such as build to sell vs build to rent. As the assessments do not specifically refer to rental tenures, we presume that they were undertaken on the assumption that units would be sold. However, Block H of Hungate is anticipated to comprise build to rent units. The viability of this site therefore has not been appropriately tested.

3.51 Whilst the 2022 Assessment noted that different CIL rates can be applied to different land types, i.e., greenfield and brownfield, these varied rates are only applied to certainly types of development (e.g., care facilities), and not for residential development on different types of sites, in different parts of the authority area, or for different tenures. It is not clear why all types of residential development that are not strategic sites have been grouped into one category. This is significant in the context of the varying assumptions for these land types:

Table 3.9 Difference in assumptions for greenfield and brownfield sites

Assumption type	Assumption for Greenfield	Assumption for Brownfield (City Centre/Extension)
Opening up costs/Abnormals	<50 units: £0/unit 50-199 units: £6,500/unit 200-499 units: £13,500/unit 500+ units: £22,500/unit	£400,000 per ha
Existing land value	£20,000/ha	£1,700,000/ha
Land value premium	2,125%	0%
Benchmark land value	£445,000	£1,700,000

Source: 2022 City of York Viability Assessment

3.52 Based on an assumed density of 100dpa, as detailed in Table 3.9 above, the assumed cost of abnormals and opening up equates to £4,000/unit for brownfield sites. This is very considerably lower than greenfield sites with a capacity of more than 50 units. Although it is accepted that many brownfield sites may already have access arrangements, the need for demolition, site clearance and remediation could result in significant additional costs that might not apply to greenfield sites. Indeed, paragraphs 4.44 and 4.45 of the 2022

Assessment acknowledge that abnormals in particular can vary significantly for brownfield sites dependant on site specific characteristics and that “*at this stage of viability testing sites, it will not be possible to know what costs may be for individual brownfield sites.*”

3.53 Furthermore, there is a very significant difference in the benchmark land values for brownfield and greenfield sites – although we note that the brownfield figures are low in the context of the likely figures for brownfield sites in York city centre. In spite of this significant difference in land value for brownfield sites, and the fact that the modelling is likely to have underestimated the true cost of abnormals and opening up for brownfield sites, we note that the strategic sites that are zero CIL rated are entirely greenfield sites (in the 2022 Draft Charging Schedule only). This approach does not reflect the differential cost profile of the different types of site and is also contrary to the national and local policy approach that favours the delivery of brownfield sites for sustainability reasons.

3.54 We also note that the CIL rate for all residential development in the draft charging schedule is significantly lower than the £320 proposed in the Viability Assessment. No commentary is provided explaining this changed position.

2023 Viability Assessment and Draft Charging Schedule

3.55 The 2023 Viability Assessment comprised a sensitivity test to ensure that the proposed CIL rates were tested against the most recent market conditions and evidence of costs. It found that sales values for flats had increased by 1.03% since the 2022 Assessment was prepared (to £5,390/sqm) and that they had declined by 0.05% for houses (to £4,198/sqm). By contrast, it found that build costs had increased by the following rates over the same period:

- 1 Flats: +5.0% to £1,580/sqm;
- 2 Houses (small housebuilder, 3 units and under): +4.3% to £1,881/sqm;
- 3 Houses (medium housebuilders, 4 to 49 units): +4.6% to £1,402/sqm; and,
- 4 Houses (large housebuilders, 50+ units): +4.6% to £1,242/sqm.

3.56 This shows that the rate at which build costs increased was five times higher than the rate at which sales values for flats increased. As stated in paragraph 3.18 of this report, the significance of this relative rate of increase also means that other assumptions that are a function of build costs, such as contingencies, professional fees and externals, would have increased at a higher rate than sales values. In spite of this, the CIL rate for residential development did not change between the 2022 and 2023 Draft CIL rate schedules. We also reiterate the point that build costs for flats are based on low-medium rise flats and therefore do not reflect Block H of Hungate that is anticipated to contain seven storeys.

3.57 The changes relating to residential development were:

- 1 Strategic sites ST4, ST31 and ST33 are no longer liable for CIL;
- 2 The draft charging schedule now lists the strategic sites that will incur a fee of £100/sqm in CIL (ST16 & ST36); and,
- 3 All other strategic sites (i.e. those not specifically listed above) are treated as “*residential dwellings within the City of York*” and therefore liable for £200/sqm CIL.

Nature of lower CIL rate sites

2022 Draft Charging Schedule

- 3.58 The 2022 Draft Charging Schedule proposes to set zero CIL rates for are sites ST7, ST8, ST9, ST14 and ST15. The characteristics of these sites are set out in Table 3.10 below. This shows that all are rural greenfield sites that are anticipated to deliver a total of 7,235 dwellings.

Table 3.10 Nature of sites with zero CIL rate

Strategic site	Location	Land type	Site area (ha)		No of units	Density (dph)	Build (yrs)
			Gross	Net			
ST7 / SS9	Rural	Greenfield	34.5	24.1	845	35	14
ST8 / SS10	Rural	Greenfield	39.5	27.7	968	35	112
ST9 / SS11	Rural	Greenfield	35.0	21.0	735	35	12
ST14 / SS12	Rural	Greenfield	35.0	38.5	1,348	35	14
ST15 / SS13	Rural	Greenfield	159.0	95.4	3,339	35	17

Source: 2022 Viability Assessment

- 3.59 Paragraph 6.22 of the 2022 Viability Assessment states that:

*“After allowing a healthy financial buffer in the headroom, CIL could be comfortably set at around £100psqm on a number of strategic sites, without threatening delivery of these tested sites. However, there should be **exceptions for several major sites, i.e., ST7, ST8, ST9, ST14 and ST15, since this CIL rate could potentially place these large strategic sites at risk of non delivery, and potentially undermine the emerging local Plan.**” Further, “these sites are **already expected to support infrastructure investments** that benefit the City through the site specific S106 contributions, and potentially any additional headroom may be sought through site specific S106 negotiations to avoid any risk on their delivery.”*

- 3.60 There are various factors that may have contributed to varied rates being applied. For example, some assumptions result in significantly higher development costs for brownfield sites than greenfield, namely that benchmark land values are much higher for brownfield sites in urban locations than for greenfield sites in rural areas. Also of relevance is the fact that the Council’s assessments did not apply a build costs rate for taller flats. This difference in the nature of Hungate relative to the other city centre typology is further evidence of the need for a specific viability assessment for Hungate.

2023 Draft Charging Schedule

- 3.61 As stated in paragraph 3.59, the 2023 Draft Charging Schedule proposes that more strategic sites should either incur a lower CIL charge or not incur a CIL charge than in the 2022 schedule. The exception to this is Hungate, for which the position has changed from incurring a fee of £100/sqm in the 2022 draft charging schedule to £200/sqm in the 2023 draft charging schedule. Paragraph 14 of the 2023 Sensitivity Test states:

“For the strategic sites identified as being liable for CIL, we note some minor changes mainly due to the change in build costs, with a £100 psm CIL rate less able to be supported on sites ST4, ST31 and ST33. These sites could afford a CIL rate of £50 psm, albeit for ST31 this would be at the margin of the scheme’s overall viability.”

3.62 As shown below, the characteristics of the sites proposed to be exempt from incurring CIL charges are more varied than those in the 2022 Draft Charging Schedule. It includes a smaller sites than in the 2022 Draft Charging Schedule. However, the sites are almost entirely greenfield sites in rural locations.

3.63 We note that strategic site ST31 was not referenced in the 2022 Viability Assessment but that it is exempt from CIL in the 2023 Draft Charging Schedule to reflect revised viability.

Table 3.11 Nature of sites with zero CIL rate

Strategic site	Location	Land type	Site area (ha)		No of units	Density (dph)	Build (yrs)
			Gross	Net			
ST4 / SS8	Suburban	Greenfield	7.5	6.6	263	40	6
ST7 / SS9	Rural	Greenfield	34.5	24.1	845	35	14
ST8 / SS10	Rural	Greenfield	39.5	27.7	968	35	112
ST9 / SS11	Rural	Greenfield	35.0	21.0	735	35	12
ST14 / SS12	Rural	Greenfield	35.0	38.5	1,348	35	14
ST15 / SS13	Rural	Greenfield	159.0	95.4	3,339	35	17
ST31 / SS18 (2018)	Rural	Greenfield	8.1	4.5	158	35	5
ST33 / SS18	Rural	Mixed	6.0	4.3	150	35	5

Source: 2022 + 2018 Viability Assessments / 2023 Draft Charging Schedule

3.64 The extent to which the viability of the sites for which the 2022 and 2023 assessments proposed different rates changed as a result of market conditions shows the importance of individually assessing the viability of each strategic site. It appears that where the CIL rate applied to strategic sites changed between the 2022 and 2023 Draft Charging Schedules, this occurred as a result of revised viability assessments being undertaken in the 2023 assessment. The absence of reference to strategic sites that have not had the CIL rate updated to standard residential rates indicates that this is just a result of their exclusion from the 2023 review. As we have explained, the failure to test Hungate was a major omission.

Implications of evidence review

3.65 The key implications of this review of the Viability Assessment and CIL charging schedules are listed below.

- 1 It is our understanding that strategic site ST32 was excluded from the 2022 Assessment and the draft charging schedules on the basis that the site has planning permission. This is not true as the timescales for a Reserved Matters application for Block H has passed and a new planning application has been submitted but is undetermined. In addition, subsequent applications could come forward on those parts of the site which remain undeveloped. Therefore, we consider that the viability of

strategic site ST32 should be assessed to ensure that the site's viability and deliverability is not threatened and the City of York Local Plan is not undermined.

- 2 None of the typologies tested in any of the Assessments relate closely enough to Hungate for the viability of Hungate to have been assessed against them. The differences between Hungate and the most applicable typology, brownfield sites in a city centre, relate to different build costs for different flat heights, different sizes of schemes in terms of the number of dwellings, and site-specific abnormalities that may affect build costs.
- 3 The viability of different tenures was not assessed, e.g., built to sell vs build to rent. This is significant in the context of different sales values for different types of dwellings.
- 4 The viability of blocks of flats of varying heights was not tested. The assessments are based on BCIS build costs for low-to medium rise flats (i.e., five storeys), whereas Block H of Hungate is anticipated to contain seven storeys. This again fails to account for the varying nature of development in the city centre and its implications on the viability of such schemes.
- 5 A standard CIL rate for all residential development (besides strategic sites that have been identified) has been applied across brownfield and greenfield sites. This fails to account for the varying opening up costs and benchmark land values for the different land types and risks overstating the viability of brownfield sites in particular.
- 6 No allowance has been made for differences in the sales areas across the City of York Council area, such that there is no geographic variation in the CIL that has been tested. We do not consider that this is appropriate and further results in the viability of city centre developments being overstated.
- 7 As a result of the viability of Hungate not being assessed separately to inform the proposed CIL rate, it has been made subject to a CIL charge that significantly exceeds that which can be achieved without undermining the viability – and deliverability – of this important site.
- 8 The absence of an individual viability assessment for Hungate means that the additional costs associated with delivering strategic sites have not been accounted for. Like other strategic sites allocated in the emerging City of York Local Plan that have been tested separately and that will incur varied CIL charges, Hungate is vitally important to the success of the City of York Local Plan. It both meets an identified overall housing need, and provides a different type of housing to that delivered on greenfield sites in rural locations.

4.0 **Assessment of Development Viability**

- 4.1 In the absence of any viability analysis of the Hungate site in the 2022 or 2023 viability assessments, or a typology that reflects the characteristics of the site, this section provides an assessment of its potential to sustain either £100/sqm or £200/sqm CIL without undermining viability and deliverability.
- 4.2 In accordance with the requirements of paragraph 58 of the NPPF and the conclusions of *Dove J in Holborn Studios Ltd, R (on the application of) v London Borough of Hackney & Anor (2020)* for standardised inputs to be applied, this assessment has been informed by Lichfields' *Fine Margins* research. This research is valuable in relation to those elements such as land acquisition, finance costs and sales/marketing fees, that are less site-specific. In addition, we have applied detailed information on infrastructure costs that has become available as the Hungate site has been developed.
- 4.3 However, our overall approach has been to replicate the inputs used in the 2022 and 2023 viability assessments, so far as possible, even though we do have some concerns about the applicability of these to the Hungate development. The rationale for this is to demonstrate that, even using the City of York's inputs, which results in a worst-case scenario for the Hungate scheme, it cannot viably support any CIL contributions. We set out below where we disagree with the City of York regarding the inputs that should have been applied.
- 4.4 Although Block H of the Hungate development includes a small amount of ground floor commercial development, this assessment has focused solely on the viability of the residential uses. This is because the CIL charge – to which this assessment relates – is focused on residential development and any assessment of the viability of the proposed CIL charge should not be infected by the viability (or non-viability) of any other land use that might come forwards as a mixed-use scheme.
- 4.5 The previous section set out our concerns arising from the fact that the 2022 and 2023 viability assessments failed to assess the viability of the Hungate strategic site and that none of the typologies that were reviewed adequately reflect the scale and character of this development as a large scale, tall apartment development within the city centre. As a result, we are concerned that the conclusion of the viability assessments and the proposed CIL rate set out in the 2023 Charging Schedule that the Hungate development should be liable for a CIL charge of £200/sqm – the standard rate for non-strategic residential developments in the City of York – is flawed. This section details the viability analysis that we have undertaken for the Hungate development to test the level of headroom to accommodate any CIL charge. It summarises the inputs that have been applied before providing an overview of the results of our analysis.
- 4.6 For the purpose of this assessment, we have focused on Block H which is the only part of the development that does not currently benefit from an implementable planning permission and for which construction work has not yet commenced. However, as set out in Section 1, the conclusions drawn in respect of this block are equally applicable to other parts of the development. The core assessment focused on the development viability of a Build to Rent scheme before considering a sensitivity based on the development being used as Purpose Build Student Accommodation.

The Proposed Development

- 4.7 Block H comprises of a residential apartment building of five to seven storeys, 221 residential units, flexible ancillary ground floor commercial space (Use Class E and / or F2), residential amenity space, a landscaped courtyard, green / biodiverse roof areas, cycle parking provision and associated infrastructure works. In addition, the area of public open space within the centre of the Hungate development site known as St John’s Square is to be delivered alongside Block H.
- 4.8 It should be noted that the Block H is proposed to include 623 sqm commercial floorspace on the ground floor. As the purpose of this assessment is to assess the ability of the development to accommodate a residential CIL, we have not included this commercial floorspace in the current assessment. Doing so might result in an inability to achieve a robust understanding of the viability of the proposed residential component of the development.
- 4.9 The residential accommodation on Block H comprises of:
- 1 Five studios;
 - 2 147 one bed apartments (2 people);
 - 3 68 two bed apartments (4 people); and,
 - 4 One 3 bed apartment (5 people)
- 4.10 This results in a net residential area of 11,901 sqm. Adjusting for the proposed commercial space, circulation space, staircases, lift shafts, maintenance areas and plant rooms etc, this results in a net to gross adjustment of 29%.

Gross Development Value

- 4.11 The Gross Development Value (GDV) of the development is a function of the rental value of the units, together with the net yield, management fee, allowance for bad debt and maintenance fund. As explained in the previous section, the 2022 and 2023 viability assessments failed to test any Build to Rent schemes and so it has not been possible to align our inputs in respect of GDV with those contained in the City of York assessments.
- 4.12 Advice in respect of the rental value of the new apartments was provided by Savills. This drew on a review of the local market and concluded that the following rents should be applied:

Table 4.1 Applicable rental values for the proposed residential accommodation at Hungate

	Monthly rent
Studio	£1,006
One bedroom	£1,117
Two bedrooms	£1,728
Three bedrooms	£2,706

Source: Savills

- 4.13 The yield is a function of annualised rental income against the market value of the units. Based on the advice provided by Savills, we have applied a yield of 5%. This is slightly lower than the calculated figure of 6% which is derived from applying the rental income to market value. We note that the 2022 Viability Assessment also applied a 5% yield in respect of Purpose Built Student Accommodation, although the yields for Built to Rent and Purpose Built Student Accommodation are not necessarily comparable. In any event, application of a lower yield serves to increase the GDV of the development and therefore potentially overstate its viability.
- 4.14 Drawing on advice provided by the proposed developer, we have applied the following assumptions:
- 1 Maintenance costs: we have applied an allowance of 20% to reflect the figure that we have been advised by Hungate (York) Regeneration Ltd. This is less than the 30% proposed in the 2022 Viability Assessment in respect of Purpose Built Student Accommodation.
 - 2 Management costs: 5%.
 - 3 Bad debt: 2.5%.
- 4.15 Taking all of these factors into consideration, the GDV of the development is estimated to be £50,535,715.

Costs

Build Costs

- 4.16 The Council's 2022 and 2023 viability assessments apply the BCIS median costs for low and medium-rise flats and apartments (i.e. between 1-2 and 3-5 storeys). The applied figures were £1,505/sqm in the 2022 study (Q3 2022 prices) and £1,580/sqm in the 2023 study (Q2 2023 prices). Given that the Hungate development is seven storeys in height, these figures are not comparable or applicable. We have therefore applied the BCIS median prices for high-rise (6-storeys and over) flats and apartments. The latest figures (updated 27 January 2024) is £1,935/sqm. This compares to the January 2024 figure of £1,600/sqm for low and medium-rise flats and apartments.
- 4.17 In the light of our approach to align our assessment with those undertaken on behalf of the City of York, we consider this to be an appropriate build cost figure to apply for the purpose of this assessment given the height of the development. It is directly comparable to the methodology applied in the City of York viability assessments. However, critically, it is considerably lower than the actual build cost figure of £2,400/sqm that the developer has indicated as actually being applicable. Again, the figures that have been applied represent the worst-case scenario for the developer.

Externals

- 4.18 The 2022 and 2023 viability assessments apply an allowance of 10% of the base build costs for externals for houses and 5% for flats. We have applied the same 5% figure even though this substantially under-estimates the true cost of external works. The external costs would actually be much higher in order to deliver the central courtyard within the block and to

deliver St John's Square public open space alongside Block H. Furthermore, given that the build costs that have been modelled are much lower than the actual build costs that will be applicable, an allowance of 5% of the modelled build costs would also be proportionately less. Once again, this represents a worst-case scenario.

Abnormals and opening up costs

- 4.19 The 2022 and 2023 viability assessments apply an allowance of £400,000/ ha for opening up and abnormal costs. As set out in the previous section, this is considered to be an unrealistically low figure. However, it has been applied for the purposes of this assessment and therefore can be viewed as a worst-case scenario. This equates to an allowance of £200,000 for the 0.5ha site.

Professional fees

- 4.20 The City of York 2022 and 2023 viability assessments applied a figure of 8% for professional fees. This accords with the conclusions of *Fine Margins* which found that professional fees tend to fall within a tight range of between 8% and 10% of base build costs. The position within this range typically varies according to the type of site and location, with the effect of economies of scale being an important consideration.
- 4.21 In the light of this, and in accordance with the City of York assessments, we have made an allowance of 8% for professional fees.

Contingency

- 4.22 The City of York 2022 and 2023 viability assessments applied a figure of 4% for contingencies. This accords with the conclusions of *Fine Margins* which found that contingencies fall within a range of between 2.5% and 5%, with a tighter range of 3% to 5% commonly cited as representing the industry norm.
- 4.23 The figure applied by City of York represents the mid-point of this and we have likewise applied it for the purpose of our assessment.

Land acquisition

- 4.24 For the purposes of the assessment, a cost of 1.5% of the site cost has been applied for agents fees and 1% of the site cost for legal fees. This reflects advice provided by Savills.
- 4.25 Stamp Duty Land Tax has been included at the HMRC rate.

Finance

- 4.26 It is common practice in conventional development appraisals to assume that all costs incurred by developers are financed by borrowing and therefore subject to an interest rate. This is a reasonable assumption and even if it not all of the scheme was to be debt financed, it would be appropriate to make some allowance for the opportunity cost associated with investment in the project.
- 4.27 In accordance with the assumption contained in the City of York 2022 and 2023 viability studies, we have applied a finance cost of 7.75%. This is higher than the range of 6% to 7% identified in *Fine Margins* but reflects increases in the base rate that have been experienced

over the past 2 years. It is, however, lower than the rates of between 8.5% and 9% that are commonly being seen at present.

Sales and marketing

4.28 Although the proposed apartments are to be available to rent and not for purchase, there will inevitably be costs associated with the marketing of the completed residential properties to attract prospective tenants. This will include the cost associated with instructing a local agent and digital marketing through online platforms.

4.29 We have applied a rate of 2% of the letting income for marketing. This compares to the fee of 3% that has been applied in the City of York 2022 and 2023 viability studies in respect of the cost of marketing for the sale of open market properties. A lower figure is considered to be appropriate as a less extensive marketing campaign and legal process is likely.

Profit

4.30 Developer profit represents an important cost within any viability assessment and provides a means by which to take account of the expected risk to the developer. In some cases, lenders will require a high profit margin to be applied to mitigate any potential risks to the scheme.

4.31 The City of York 2022 and 2023 viability studies included a 20% profit margin for open market dwellings. This is the generally accepted percentage which we have likewise applied in this assessment.

Section 106 contributions

4.32 These assumptions have been based on previous Section 106 agreements and negotiations but adjusted to remove those items that would be dealt with by CIL, in order to prevent double counting.

4.33 Based on the Infrastructure Funding Statement, we anticipate that most of the items previously anticipated to be subject to Section 106 at Hungate Block H would instead now be dealt with by CIL. Therefore, we have not applied a separate Section 106 charge, other than for the TRO contribution of £15,000.

4.34 In addition, some other policy requirements will have an impact on costs. Based on the approach taken by the 2022 and 2023 City of York CIL viability assessments, an uplift of £2,250/flat has been applied for compliance with Part L of the building regulations and £231/flat for biodiversity net gain. An allowance of £1,250/flat has also been made for installation of air source heat pumps.

4.35 This approach differs to that taken in the 2022 and 2023 viability assessments. As set out in Section 3. These included an allowance of c.£17,500/unit (median figure) for Section 106 contributions. This represents an additional input that, if applied, would further raise the cost burden associated with the Hungate site and thereby further undermine its viability.

Benchmark land value

4.36 The Council's 2022 viability assessment calculated a benchmark land value of £1,700,000 per ha for city centre/urban extensions. This would equate to a figure of £850,000 for the

0.5ha Hungate Block H site. This is considered to be unrealistically low given the Hungate site benefits from an allocation and previous planning permissions to bring the site forward for residential development.

4.37 In spite of the Council’s viability assessments fundamentally under-estimating the value of the site, this has nevertheless been adopted as a very worst-case scenario.

Summary

4.38 A summary of the various costs that have been applied is set out below:

Table 4.4 Summary of costs applied in viability assessment

	Assumption	Costs
Build costs	BCIS median prices for high-rise (6-storeys and over) flats and apartments dated 27 th January 2024. £1,935/sqm	£32,433,762
Professional fees	8% of build costs	£2,594,701
Contingencies	4% of build costs	£1,297,350
Externals	5% of build costs	£1,621,688
Opening up / Abnormals	£400,000/net ha	£200,000
Section 106	Most included within Infrastructure Funding Statement CIL, therefore only site-specific costs applied.	TRO £15,000 Part L £2,250 / flat Air Source Heat Pump £1,250 / flat BNG £231 / flat Total: £839,551
Land acquisition	Agents fees 1.5% and legal fees 1% SDLT	Agent fees: £12,750 Legals: £8,500 SDLT £32,000
Land	Benchmark land value of £1,700,000 per ha for city centre/urban extensions	£850,000
Finance / Interest	Finance cost of 7.75%. Credit balance reinvestment figure of 3%	£3,590,222
Sales and marketing	2% of the letting income	£69,704
Profit	20% of return	£6,486,752
Total costs		£50,036,980

Assessment of Development Viability

4.39 The GDV of the site is calculated to be c. £50.5 million

4.40 The total development costs amount to c.£50.0 million.

4.41 This gives rise to a residual surplus of £498,735 at completion. Based on the total residential floorspace of 11,901sqm, this equates to a potential headroom of £41.90/sqm, before taking any viability buffer into account. This is clearly at the margin of viability.

4.42 Paragraph 6.8 of the 2022 Viability Assessment stated that some of the strategic sites “*have headrooms below £50psm, which provides little room for any headroom buffers that*

should be allowed for in setting CIL charges.” The same situation is clearly evident in respect of Hungate.

4.43 Having regard to the need to apply an appropriate buffer, this would indicate that a requirement for CIL would undermine the viability of the development.

4.44 It should be further noted that this is based on the application of a series of costs that represent the worst-case scenario from the perspective of the actual cost profile of the development and so the indicated surplus is likely to substantially overstate the viability position.

Purpose Built Student Accommodation Scenario

4.45 In any viability assessment, there are clearly a number of alternative figures that could be considered. Whilst the core assessment takes account of what we consider the viability of a build to rent scheme, this section considers a scenario where the Block H is delivered as purpose built student accommodation (PBSA) and the impact of variations to the following assumptions:

- 1 Weekly rental values of £275 per bedroom. This is based on information provided by Hungate (York) Regeneration Ltd’s agents and is higher than the figure of £177 per week (for 47 weeks) which was applied in the City of York viability assessments. The application of higher rental values will serve to increase the GDV of development and there increase the stated viability.
- 2 Management fee of 30% letting income in line with the City of York viability assessments; and,
- 3 Yield of 5%, again in accordance with the City of York viability assessments.

4.46 All other assumptions have remained as per the core assessment for the build to rent scenario.

4.47 Whilst this scenario shows that a PBSA scheme is slightly more viable than the build to rent scenario, the assessment still shows that there is no capacity to sustain additional CIL payments.

Table 4.5 Sensitivity assessment 1:

	Block H PBSA
GDV	£48,020,602
Costs	£50,667,451
Deficit at Completion	(£2,646,849)

5.0 **Summary and conclusions**

Introduction and Scope

- 5.1 Lichfields has been instructed by Hungate (York) Regeneration Limited to review the revised City of York Community Infrastructure Levy (CIL) Draft Charging Schedule and provide this Representation.
- 5.2 In the December 2022 version of York’s draft CIL charging schedule, the Hungate strategic site (ST32) fell within the ‘Residential dwellings within the City of York Local Plan Strategic Sites’ category which incurred a charge of £100 per sqm. However, in the latest (December 2023) version of the schedule the proposed wording has been altered so this category only includes sites ST16 and ST36. Subsequently, Hungate would now fall within the ‘Residential dwellings within the City of York’ category and incur a CIL charge of £200 per sqm.
- 5.3 Lichfields has considered the evidence that underpins this CIL requirement, the justification for the change in the CIL requirement for Hungate (and numerous other strategic sites) and the viability implications arising from the increased CIL requirement for the Hungate strategic site.

Implications of evidence review

- 5.4 The key implications arising from review of the Council’s evidence can be summarised as follows:
- 1 It is our understanding that strategic site ST32 was excluded from the 2022 Assessment and the draft charging schedules on the basis that the site has planning permission. This is not true as the timescales for a Reserved Matters application for Block H has passed and a new planning application has been submitted but is undetermined. Therefore, we consider that the viability of strategic site ST32 should be assessed to ensure that the site’s viability and deliverability is not threatened and the City of York Local Plan is not undermined.
 - 2 None of the typologies tested in any of the Assessments relate closely enough to Hungate for the viability of Hungate to have been assessed against them. The differences between Hungate and the most applicable typology, brownfield sites in a city centre, relate to different build costs for different flat heights, different sizes of schemes in terms of the number of dwellings, and site-specific abnormalities that may affect build costs.
 - 3 The viability of different tenures was not assessed, e.g., built to sell vs build to rent. This is significant in the context of different sales values for different types of dwellings.
 - 4 The viability of blocks of flats of varying heights was not tested. The assessments are based on BCIS build costs for low-to medium rise flats (i.e., five storeys), whereas Block H of Hungate is anticipated to contain seven storeys. This again fails to account for the varying nature of development in the city centre and its implications on the viability of such schemes.
 - 5 A standard CIL rate for all residential development (besides strategic sites that have been identified) has been applied across brownfield and greenfield sites. This fails to

account for the varying opening up costs and benchmark land values for the different land types and risks overstating the viability of brownfield sites in particular.

- 6 No allowance has been made for differences in the sales areas across the City of York Council area, such that there is no geographic variation in the CIL that has been tested. We do not consider that this is appropriate and further results in the viability of city centre developments being overstated.
- 7 As a result of the viability of Hungate not being assessed separately to inform the proposed CIL rate, it has been made subject to a CIL charge that significantly exceeds that which can be achieved without undermining the viability – and deliverability – of this important site.
- 8 The absence of an individual viability assessment for Hungate means that the additional costs associated with delivering strategic sites have not been accounted for. Like other strategic sites allocated in the emerging City of York Local Plan that have been tested separately and that will incur varied CIL charges, Hungate is vitally important to the success of the City of York Local Plan. It is both a strategic site and brownfield land which meets an identified overall housing need and provides a different type of housing to that delivered on greenfield sites in rural locations.

Assessment of Development Viability

- 5.5 In the absence of any viability analysis of the Hungate site in the 2022 or 2023 viability assessments, or a typology that reflects the characteristics of the site, Lichfields has undertaken an assessment of its potential to sustain either £100/sqm or £200/sqm CIL without undermining its viability and deliverability, the outcome of which can be summarised as follows:
 - 1 The GDV of the site is calculated to be circa £50.5 million; and,
 - 2 The total development costs amount to circa £50.0 million.
- 5.6 In respect of Build to Rent residential accommodation, this gives rise to a residual surplus of £354,234 at present value or a surplus of £498,735 at completion. Based on the total residential floorspace of 11,901sqm, this equates to a potential headroom of £29.77/sqm (current values) or £41.90/sqm at completion before taking any viability buffer into account. This is clearly at the margin of viability. Paragraph 6.8 of the 2022 Viability Assessment stated that some of the strategic sites “*have headrooms below £50psm, which provides little room for any headroom buffers that should be allowed for in setting CIL charges.*”
- 5.7 Having regard to the need to apply an appropriate buffer, this **would indicate that a requirement for CIL would undermine the viability of the development.** It should be further noted that this is based on the application of a series of costs that represent the worst-case scenario from the perspective of the actual cost profile of the development and so the indicated surplus is likely to substantially overstate the viability position.
- 5.8 In respect of Purpose Built Student Accommodation, whilst this scenario is shown to be slightly more viable than the build to rent scenario, the assessment still shows that **there is no capacity to sustain additional CIL payments.**

- 5.9 It should be noted that whilst the focus of the viability assessment is upon Block H (as the only part of the site that does not currently benefit from an implementable planning permission) the viability challenges that are identified are applicable to the wider and as yet undeveloped strategic site. As such, our conclusions regarding the inability of the Hungate strategic site to sustain a CIL charge should extend to ST32 in its entirety.

Overall Conclusion

- 5.10 For the reasons outlined above, it is considered that the Hungate development is unable to support a CIL charge of any amount based upon on the modelling undertaken to reflect a build to rent scenario. Therefore, we recommend that Draft Charging Schedule identifies a CIL charge of £0 for strategic sites including Hungate (ST32).
- 5.11 Furthermore, the modelling for purpose built student accommodation scenario, also demonstrates that the Hungate development as is unable to support a CIL charge of any amount. Therefore, this also needs to be reflected in the Draft Charging Schedule.

Birmingham

0121 713 1530

birmingham@lichfields.uk

Edinburgh

0131 285 0670

edinburgh@lichfields.uk

Manchester

0161 837 6130

manchester@lichfields.uk

Bristol

0117 403 1980

bristol@lichfields.uk

Leeds

0113 397 1397

leeds@lichfields.uk

Newcastle

0191 261 5685

newcastle@lichfields.uk

Cardiff

029 2043 5880

cardiff@lichfields.uk

London

020 7837 4477

london@lichfields.uk

Thames Valley

0118 334 1920

thamesvalley@lichfields.uk

@LichfieldsUK

lichfields.uk