

COMMITTEE REPORT

Date: 10 March 2016 **Ward:** Rawcliffe And Clifton
Without
Team: Major and **Parish:** Rawcliffe Parish Council
Commercial Team

Reference: 15/02490/FULM
Application at: Car Park Lying To The South Of Hurricane Way York
For: Erection of retail unit (Class A1)
By: Mr Mick Roulton
Application Type: Major Full Application (13 weeks)
Target Date: 14 March 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 This is a full planning application for the erection of a new retail unit within the car park of Phase 3 Clifton Moor Retail Park, Hurricane Way, York.

1.2 Phase 3 of the Clifton Moor Retail Park is located on the west side of Clifton Moor Gate. The application area is on the junction of Clifton Moor Gate and Hurricane Way; the land is currently part of the car park which serves the Maplin and Curry's units. To the north, west and east of the site is existing retail development and associated infrastructure and to the south is existing residential development accessed from Longwood Road.

1.3 The proposal is to construct a two storey building to provide a unit of 929 sqm gross internal area at ground floor with near full cover mezzanine of 873 sqm resulting in a total floorspace of 1802 sqm. The building measures approximately 32 metres by 29 metres and stands 7.7 metres high to a flat roof. The details include an external service yard on the southern side of the building; the service yard area measures 8.13 metres by 19.56 metres and is surrounded by a fence that stands between 3 and 3.8 metres high.

1.4 The proposed building is shown located between 6 and 8 metres back from the Hurricane Way frontage and between 8 and 17 metres back from Clifton Moor Gate. The details include the reorganisation of the car park, landscaping and cycle parking facilities.

1.5 The retail unit is for a bulky goods operator. It is indicated that the likely occupant will be Sofa Works.

1.6 There have been some minor changes to the details since first submission to enhance the landscaping scheme around the building.

PLANNING HISTORY

1.7 There is a significant amount of planning history on this site the following are considered to be most relevant to the proposals:-

- In March 1993 outline planning permission was granted for the erection of non-food retail stores, restaurant, hotel, public house, vehicle show rooms and car wash on 5.86 Ha of and south of York outer ring road and west of Clifton Moor Gate. (Planning ref. 3/104/141CV/OA)
- In December 2002 planning permission was refused for the erection of a retail unit in the car park area adjacent to Hurricane Way and Clifton Moor Gate (planning ref: 01/03178/FUL). The reasons for refusal were that the applicant failed to demonstrate compliance with the sequential test in accordance with the then S2 of the deposit draft local plan and the siting of the building was considered to be visually awkward in relation to nearby retail development.
- In November 2007 planning permission was refused for the erection of a restaurant (Pizza Hut) on the same site (Planning ref: 07/01937/FUL). The reason for refusal related to the impact of the movements to and from the site and the operation of the business on the adjacent residential properties.

2.0 POLICY CONTEXT

2.1 Policies:

CYGP1
Design

CYS2
Out of centre retail warehouse criteria

CYSP7a
The Sequential Approach to Development

See also paragraphs 4.2 to 4.21 of this report

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections in principle subject to conditions to ensure the appropriate implementation of the scheme.

Planning And Environmental Management (Forward Planning)

3.2 It is considered that the sequential assessment has demonstrated that there are no sequentially preferable development sites within or on the edge of York City Centre which are both suitable and available at the present time. There will not be a 'significantly adverse impact' upon the vitality and viability of trade or turnover of centres within the City of York or the wider study area. No objections in principle subject to consideration of design.

Public Protection

3.3 No objections in principle. The noise assessment submitted shows that the levels of noise associated with the deliveries to the site are at an acceptable level subject to conditions restricting the times of deliveries to between the hours of 0600hours and 2300 hours. Conditions are also requested in relation to land contamination, electric hook up points, installation of plant and machinery and requiring a construction environmental management plan.

EXTERNAL

Rawcliffe Parish Council

3.4 Strongly objects to the application on the following grounds:

- Proximity to adjacent residential properties; significant increase in noise from additional vehicular movement and deliveries both during daylight hours and at night, resulting in a detrimental impact on the residential amenity of the area.
- Design is incongruous in scale, mass and materials to be used on the street scene.
- Traffic management issues; additional retail and delivery traffic at an already congested area of the retail site. Predicted HGV reversing and turning movements causing increased congestion and road safety issues.
- Light pollution; impact on the amenity of adjacent residential properties due to additional lighting during hours of darkness and the environmental impact of additional lighting causing light pollution.
- Environmental impact of increased air pollution levels due to increased vehicular traffic flow.
- Previous planning applications to develop this site have required a sequential test to be applied which the applicant has provided; however the Retail Study Update 2014 notes that the Community Stadium Development will provide sufficient floor space to house such developments as such small site developments are unnecessary.
- Planned new developments in the vicinity (at Grain Store site, housing planned for North A1237 and approved planning for grocery pickup at Tesco site) will impact on the number of traffic movements; adversely affecting free flow of traffic in this area.

Yorkshire Water Services

3.5 Further information is needed to establish that the ground conditions will not support soakaways. Additional information on the use of SUDS is required.

Police Designing Out Crime Officer

3.6 Considers that the short stay cycle parking should be located closer to the entrance to the building.

Letter of Support

3.7 A letter of support for the scheme has been provided from Sofa Works:-

- It is their intention to occupy the unit
- The design of the building is suitable for their operation
- The delivery facilities are appropriate for their operation. Sofa Works are generally considered to be a 'good neighbour' for other sites in similar environments
- Car parking facilities are appropriate for their use
- The location on the retail park will allow link trips with other retail units on Clifton Moor

Letters of Objections

3.8 Two letters of objection have been received covering the following points:-

- There have been two previous refusals for development of this site.
- Told that amongst the reasons for refusal it was felt that there was already sufficient commercial development in the surrounding area. The traffic infrastructure was also considered to be inadequate.
- The car park is very busy at bank holidays and weekends where will customers park if a section of the car parking spaces is built on. Concerned that any overspill will park down Longwood Road inconveniencing residents and blocking the main bus route.
- The building process will be noisy and intrusive.
- Concerned about the position of the service yard close to front doors of houses facing the site.
- There is possibility of residents being disturbed by light and noise pollution from the site.
- If permission is approved the objector would be interested to note what has changed from the two previous refusals.
- Concerned that noise from deliveries will be 24 hours.
- Concerned about the use of fork lift trucks.
- Concerned about the height of the building blocking light out of gardens.
- Concerned about increase in traffic; it is very busy at peak times.

4.0 APPRAISAL

4.1 Key Issues:-

- Principle of the development
- Design, layout and landscaping
- Access and parking arrangements
- Residential amenity
- Drainage
- Sustainability

PLANNING POLICY

National Planning Policy Framework (NPPF)

4.2 Paragraph 14 of the NPPF indicates that at the heart of the framework is a presumption in favour of sustainable development, for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted.

4.3 Paragraph 17 sets out the core planning principles which should underpin decision taking. These principles include the expectation that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 23 of the NPPF says that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities at paragraph 24 are directed to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 26 states that when assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.5 Paragraph 35 says plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of good and people. Developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements and have access to high quality public transport facilities; create safe and secure layouts, incorporate facilities for charging plug-in and other ultra low emissions vehicles; consider the needs of people with disabilities by all modes of transport.

4.6 Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is indivisible from good planning, and should contribute positively to making places better for people. The NPPF also states at paragraph 57 that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area.

4.7 Paragraph 216 of the NPPF states that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

National Planning Policy Guidance

4.8 The NPPG sets out that the sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).

City of York Draft Local Plan

4.9 The City of York Draft Local Plan (DCLP) Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.10 The DCLP does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.11 Policy S2 recognises that proposals for retail warehouses selling non bulky good may detrimentally impact on the current product available in City Centre and District Centres. To control this, such proposals will be expected to be accompanied by analysis to demonstrate that they would have no adverse impact. The policy also supports the sequential approach to development set out in Policy SP7a (town centre first then edge of centre then site other out of centre sites that are genuinely accessible by a wide choice of means of transport). Net floorspace of less than 1000 sqm. should be restricted.

4.12 Policy GP1: Design is of relevance to this application. The policy indicates in section a) that any development proposal must respect or enhance the local environment.

Emerging Local Plan

4.13 Following the motion agreed at Full Council in October 2014, the publication draft of the York Local Plan is currently not progressing through its statutory consultation; pending further consideration of the Council's housing requirements and how it should meet those requirements. As such, there is a possibility that the position in relation to this site may change when the Local Plan recommences its passage to adoption. This response should be seen only in the context of the present application and in the light of the most recently published evidence.

4.14 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.15 The emerging plan does not attach a specific designation to the application site. Hurricane way is identified, on its west side, as part of the existing strategic cycle network. Adjacent to the site Hurricane way is identified as a route where cycle routes need improvement.

4.16 Policy R1 seeks to maintain and enhance the vitality and viability of the City Centre, district and local centres and neighbourhood parades. Main town centre uses will be directed sequentially to the city, district and local centres and neighbourhood parades. Proposals for main town centre uses outside a defined city, district or local centre must be subject to an impact assessment where the floor

space of the proposed development exceeds the locally set thresholds. Should a formal application be submitted the relevant threshold for a proposal outside York City Centre would be greater than 1,500 sqm gross floor space. An impact assessment would therefore be required. Applicants should seek to agree the scope of the impact assessment which should be appropriate to the scale and nature of the proposed development and to identify any specific local issues.

4.17 Policy R4 relates to out of centre retailing and continues the approach taken in Policy S2 of the 2005 local plan. It states that proposals for out of centre retailing will only be permitted where it:

- cannot be accommodated in a sequentially preferable location in accordance with Policy R1;
- will not result in a significant adverse impact on existing, committed and planned public and private investment in York city centre, and other relevant defined centres in the catchment area of the proposed development;
- will not result in an individual or cumulative (significantly adverse) impact on the vitality and viability of any defined centre including local consumer choice and trade in the centre and wider area up to five years from the time the application is made; and
- is in accordance with other policies within the Local Plan, and national guidance, as appropriate.

4.18 Restrictions on floor space or goods sold will be secured by condition to prevent out of centre proposals having a negative impact on the vitality and viability of the city centre.

Evidence Base

4.19 The most relevant evidence base is the Retail Study Update (2014). It considers that the hierarchy in the emerging plan represent sound tiers in the hierarchy for planning for future community needs and in the absence of new guidance still represent previous best practice. It is not considered that a blanket threshold is suitable for all types of centres across the city. Instead it is considered more appropriate to have a range of thresholds, a tiered approach whereby the threshold applied at edge of centre and out of centre locations varies in relation to the role and function of the particular centre.

4.20 For comparison retailing, the retail study update advises that there is no requirement to identify any sites for new comparison goods retailing in the local plan. Most of the future requirements could be met through the new floorspace at the stadium site and other planning permissions up to 2023. There is also some floorspace capacity available through vacant units at out of centre retail parks and the city centre that could absorb some of the identified capacity. Historic trends

show a shift away from the city centre towards the surrounding retail parks and shopping destinations. Whilst this decline has stabilised since 2004 and 2007 it is recommended that new comparison provision should be focussed towards the city centre. Out of centre locations should therefore be subject to restrictive mechanisms to control further expansion as well as restrictions on the range of goods sold from existing and future floorspace.

PRINCIPLE OF THE DEVELOPMENT

4.21 The land is within the built up area of York but is not specifically allocated in the emerging local plan documents. The site is considered to be previously developed land having regard to the definition of such land in the NPPF.

4.22 The NPPF presumption in favour of development is considered to apply to this site so that planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Retail

4.23 Clifton Moor is an out of town retail area. In accordance with NPPF policy a sequential test has been submitted in support of this application. Sequential tests are required to consider sites which are in sequentially preferable locations (city centre first then edge of centre then only if suitable sites are not available should out of centre sites be considered) and to assess these in terms of availability, suitability, and viability. The sequential test considered sites at York Central, Castle Piccadilly and Foss Islands Retail Park. In each case it is concluded that the site/unit is either unavailable, unsuitable for bulky goods retailing, or is unviable, or a combination of those. The applicant also says that bulky good operators have specific requirements in order to successfully trade their business model and operate a viable store. In many cases bulky goods retailers are regarded as complementary to the role of the town centre retailing and do not generate sufficient sales productivity to trade in pure town centre locations.

4.24 It is agreed that that there are no suitable sites in the city centre for bulky items that are likely to be available in a reasonable timescale. As a result it is concluded that the proposed development would not have an unacceptable impact on the city centre subject to the use of a bulky goods condition restricting the goods sold. The applicant has confirmed in their submitted statements that they are content with the use of a bulky goods condition.

4.25 The proposed development results in an additional gross internal floor space of 1802 sqm. This is below the 2500 sq m threshold set in the NPPF for requiring an impact test. However the Retail Study Update (2014) requires impact tests on site over 1500 sqm. The purpose of an impact test is to assess the impact of a proposal

on existing committed and planned investment in a centre and the impact of the development on the vitality and viability of the city centre and wider area (paragraph 26, NPPF). The applicant has submitted an impact test which concludes that sufficient capacity exists within the catchment to accommodate the proposals. The proposals will not result in significant adverse impact (the NPPF test) on growth across the study period. Officers would concur with this conclusion based on the evidence submitted.

4.26 It is considered that the principle of the creation of the additional retail floor space can be supported having regard to advice in the NPPF and the Retail Study Update 2014 subject to conditions restricting the range of goods to be sold in the new unit.

DESIGN SITING AND LANDSCAPING

4.27 The NPPF says that the Government attaches great importance to good design. Good design should contribute positively to making places better for people. Planning policies should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. GP1 of the DCLP has similar objectives in relation to design.

4.28 In terms of the design of the building the elevation to Clifton Moor Gate is a secondary elevation (the entrance faces into the site) but the elevation has been designed with significant areas of glazing. The Hurricane Way elevation has been similarly designed. The main entrance to the unit is located on the car park side of the building and again is a predominantly glazed elevation. The use of significant glazed areas will 'open up' the building elevations and prevent the unit from appearing to have been designed to face away from main vehicle and cycle/pedestrian routes.

4.29 The unit is shown sited a minimum of 6 metres from the footpath along Clifton Moor Gate; the front boundary is at an angle to the building so that much of the unit will be set further back from the road frontage. Along Hurricane Way the unit will be set between 6 and 8 metres from the road frontage. On these two sides of the building existing planting is enhanced with additional shrub and tree planting. Other than existing planting the site is a car park; views over the car park are towards the existing retail units and towards the residential development on the site's south side. The spaciousness of the site frontage and the existing landscaping are beneficial to the appearance of the area in that the retail development appears less dense and less dominant. However there have been a number of other developments on the edge of the park that have introduced new retail and restaurant units close to road frontages and there is no overriding character to the area which suggests that there is a strong need to retain the openness of the site. The design of the building provides a modern building and landscaping is retained and enhanced on the site

boundaries. It is considered that the siting and design of the building is acceptable and appropriate having regard to advice in the NPPF and policies in emerging local plan documents.

ACCESS AND PARKING ARRANGEMENTS

4.30 The retail unit will displace car parking spaces that currently serve Maplin and Curry's. There are currently a total of 200 parking spaces, 82 of which will be lost as a result of the development leaving 118 spaces which will be available to serve the existing shops and the proposed development. As part of a transport assessment the applicant has carried out a survey of existing car park usage. This shows that at weekends existing parking demand peaked at 57 spaces. During the week peak parking demand of 37 spaces was observed. The likely parking accumulation associated with the proposed retail unit has been derived from the estimated vehicle trip generation. This indicates that the peak car parking demand associated with the proposed retail unit will be approximately 41 vehicles on Saturdays and 41 vehicles on weekdays. The transport assessment says that ample spare capacity (equating to at least 29 spaces or 24% of the total) will remain available, which will be sufficient to address daily and seasonal variation in demand and changes in duration of stay. Furthermore the survey work treats all vehicle trips associated with the proposed retail unit as wholly new trips on the highway network, with a corresponding impact on parking capacity. In practice, it is likely that a proportion of trips will be existing journeys to the existing retail units opposite, or to the wider Clifton Moor Retail Park (potentially with the linked element of the journey to the proposed retail unit undertaken on foot). As such, in practice, it is possible that the parking demand associated with the proposed unit will be lower than demonstrated. The level of car parking retained for the site is sufficient.

4.31 The scheme provides for enclosed and secure cycle parking for staff and separate visitor cycle parking to the front of the unit. A separate cycle/pedestrian entrance is provided from the Hurricane Way frontage close to the retail entrance and the existing access on the north eastern corner of the site is retained which would provide pedestrian entrance around to the entrance. The cycle and pedestrian facilities provided are considered to be acceptable.

RESIDENTIAL AMENITY

4.32 Residential development is located along the southern boundary of the existing car park. Houses accessed via Longwood Road and Langsett Grove are adjacent to the site their rear and side elevations face the retail park. The existing car park is surfaced and lit. The scheme proposes to site the service yard for the retail unit adjacent to the boundary. The service yard consists of an uncovered area extending just over 8 metres from the side of the building. The yard will be enclosed by fencing of between 3 and 3.8 metres high. The service yard is set about 7 metres from the

joint boundary with the nearest residential properties and about 9 metres to the houses.

4.33 The principal concern relates to the potential for noise associated with delivery vehicles. A noise impact assessment was submitted to assess the potential impact of noise from vehicles accessing the site affecting the nearby residential properties. The noise modelling undertaken assumed that there was only one vehicle movement in any one hour period and compared the predicted level with current background sound levels at the nearest residential properties and also against British Standards. The results of the assessment indicate that with the provision of a 3 metre high barrier around the service yard, 2 metres high in some places, the noise levels will be at least 3dB below current background levels experienced at these sites and within the nearest residential properties predicted levels will fall below daytime noise levels. In addition the external levels will fall below 50dB(A) in garden areas. The only exception was on a Sunday night between 22:00 and 23:00 when it was predicted that the background level would be exceeded by up to 3dB. No assessment was undertaken on the impact of any deliveries during the night time period between 23:00 and 06:00. During this time it is expected that the background sound levels will reduce resulting in a likely greater impact during these hours if deliveries were to occur. Noise from deliveries is unlikely to result in an adverse impact or loss of amenity providing hours of delivery are restricted by condition.

4.34 In terms of noise associated with car movements, the car park is already in operation and could be used to a greater extent than it is currently without the need for planning permission. Restriction of night time opening should be sought via condition. Conditions are also sought in relation to siting of fixed plant and to protect existing properties during the construction phase of the development.

4.35 Although the proposal is for the unit to be occupied by a furniture retailer if restricted to bulky good retailing only there are a number of other operators that could occupy the unit such as those selling kitchens or large electrical goods. Each of these users will have a different operating arrangement and will generate a different pattern of deliveries and opening hours. To be satisfied that the development will not detract from the adjacent properties amenity sufficient conditions should be applied to protect adjacent residents from noise which ever bulky good operator occupies the site. Conditions to restrict hours of deliver, opening hours, and reversing beepers and ensure the implementation of acoustic fencing around the service yard. With these conditions in place it is considered that the adjacent properties can be protected from activities associated with the development.

4.36 The proposed building stands 7.7 metres high and is of flat roof construction. The scale of the building will appear larger than adjacent houses even though it is a similar height because of its flat roof. The building is 15 metres from the joint boundary with residential properties and is 17 metres from the nearest house. The

houses are located to the south of the site so there will be no loss of light to existing properties. Furthermore at a distance of 15 metres from the boundary the structure will not dominate the existing properties or garden areas. Windows facing on to the site will have a changed view but privacy will not be affected. It is considered that the siting and design of the building will not detract from the amenity of the adjacent residential development.

DRAINAGE

4.37 The site is located within flood zone 1, low risk, and should not result in river flooding. Yorkshire Water Services are concerned to ensure that sustainable urban drainage methods are used to dispose of surface water. The submitted surface water drainage report indicates that soakaways will not work because of ground conditions. There is no water course close enough to the site for surface water disposal. The conclusion is that the most appropriate means of disposal of surface water is to the drainage in Hurricane Way. Yorkshire Water require further evidence of surface water drainage options including options to attenuate surface water run off. A condition is proposed to require drainage details to be submitted.

OTHER MATTERS:

4.38 Public Protection seek an electric vehicle recharging point within the car park. The applicant has indicated on the submitted plans that a charging point will be provided the details will be conditioned.

4.39 Conditions requiring land contamination investigation are proposed as the site was previously a military airfield.

5.0 CONCLUSION

5.1 It is considered that the proposal, subject to the conditions listed , would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the development considering retail issues, design and landscape, car parking, cycle parking and accessibility, residential amenity and drainage. As such the proposal complies with Policy S2 and GP1 of the City of York Development Control Local Plan, the Retail Study Update (2014); evidence base to the emerging local plan and advice within the National Planning Policy Framework.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

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

3 VISQ8 Samples of exterior materials to be app

4 No construction works shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

Design considerations.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

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

5 Investigation of Land Contamination

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

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The approval of details is required at this stage in order to ensure that the risk from contamination is not increased by the premature commencement of works at the site.

6 Submission of a Remediation Scheme

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

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

7 Verification of Remedial Works

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

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

8 Reporting of Previously Unidentified Contamination

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

scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

receptors.

9 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery,

plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 metre from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades

when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

REASON: To safeguard the amenity of occupants of neighbouring residential properties

10 No deliveries shall be taken at or despatched from the site outside the hours of

Monday to Saturday 06:00 to 23:00

Sundays and Bank Holidays 07:00 to 23:00

Reason: In the interests of the residential amenity of properties to the south side of the site

11 The use hereby permitted shall not be open to customers outside the following times:

07:00 hours and 23:00 hours

Reason: In the interests of the residential amenity of properties to the south side of

the site

12 Before the occupation of the new unit, an Electric Vehicle Recharging Point shall be provided in a position to be first agreed in writing by the Local Planning Authority. Within 3 months of the first occupation of the unit, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle

Recharging Point for a period of 10 years. Electric Vehicle Recharging Point means a freestanding, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification. The charging unit should be capable of charging two vehicles simultaneously. The type and location of the charging point should be agreed in writing with the Local Planning Authority prior to installation. (City of York Council's Low Emission Officer can offer further advice on suitable technologies for the site.)

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy and the National Planning Policy Framework .

13 The landscaping details shown on Drawing no. 03 revision D 'Landscape Concept Plan' and drawing no. 02 revision C ' Tree Removal, Retention and Protection Plan' shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

14 No construction works shall take place until details of the cycle parking areas, including means of enclosure, have been submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

15 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

16 Prior to the building hereby approved being first occupied, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

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

17 All delivery vehicles to the site shall be fitted with and use white noise vehicle reversing alarms

Reason: To protect the amenity of local residents

18 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or The Town and Country Planning (General Permitted Development) Order 2015 as amended or as may be subsequently amended the following range of goods shall not be sold in unit 3B, save where ancillary (defined for the purposes of this condition as no more than 15% of the total floorspace of the retail unit) to the main range of goods sold:

- Men's, women's and children's clothing and footwear
- Fashion accessories
- Watches and jewellery
- Music and video
- Cameras and photographic equipment
- Toys
- Pharmaceutical goods
- Books, magazines and stationery
- Food, drink and other convenience goods

Reason: In the interests of the protection of the vitality and viability of the city and district centres the range of goods to be sold shall not compete with typical products found in these centres and to ensure that any intensification of the use of the site can be accommodated satisfactorily without detriment to residential properties on the south side of the site.

19 Notwithstanding the provisions of section 55(2)(f) of the Town and Country Planning 1990 (as amended) and article 3(1) of the Town and Country Planning (General Permitted Development Order) (England) 2015 , there shall be no subdivision of the retail unit hereby approved in the absence of any planning permission relating directly to such subdivision.

Reason: In order to protect the vitality and viability of the city and district centres and to ensure that any intensification of the use of the site can be accommodated satisfactorily without detriment to residential properties on the south side of the site.

7.0 INFORMATIVES:

Notes to Applicant

1. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

2. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

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

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