

COMMITTEE REPORT

Date: 8 June 2016 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 16/00484/FULM
Application at: Huntington Stadium Jockey Lane Huntington York YO32 9JS
For: Variation of condition 2 of application 14/02933/FULM to allow minor material amendments to the approved drawings including an increase the height and length of the commercial development building with alterations to internal layout and an increase in cinema and restaurant floorspace; alterations to the internal layout of the East Stand and variations of permitted uses; alterations to the internal layout and permitted uses within the Leisure Centre
By: Wrenbridge Sport York Limited And GLL
Application Type: Major Full Application (13 weeks)
Target Date: 17 June 2016
Recommendation: Approve after referral to Sec. of State

RECOMMENDATION

That delegated authority be given to the Assistant Director of Development Services Planning and Regeneration to

- (i) refer the application to the Secretary of State for Communities and Local Government under the requirements of Article 5(1) of The Town and Country Planning (Consultation) (England) Direction 2009, and should the application not be called in by the Secretary of State, then:-
- (ii) APPROVE the application subject to the following conditions set out later in this report.

APPLICATION SITE

1.1 The site (10.3ha.) lies approximately 3km north east of York city centre and is bounded by commercial properties in Jockey Lane to the north, Vangarde Shopping Park to the east and open land to the south and west. Main access points are via Kathryn Avenue in the north and Martello Way in the south. The site includes the site of Huntington Stadium, Waterworld Leisure Centre and Monks Cross Park & Ride. Since planning permission for the stadium was granted in 2015 the stadium and Waterworld have been demolished. The area is predominantly

retail/commercial to the north and east and open/agricultural to the south and west, apart from a small residential area (Forge Close) abutting the north-west corner of the site.

1.2 There are no conservation areas or listed buildings in close proximity to the application site. The site does not contain any trees which are subject to tree preservation orders.

PROPOSAL

1.3 The application is to vary condition 2 of planning permission 14/02933/FULM for the erection of a mixed-use development comprising (as approved): Erection of 8,000 seat Community Stadium, leisure centre, multi-screen cinema, retail units, outdoor football pitches, community facilities and other ancillary uses, together with associated vehicular access, car parking, public realm, and hard and soft landscaping following demolition of existing structures.

1.4 Condition 2 requires the development to be carried out in accordance with approved plans, which are specified. The applicant is now seeking approval for some of the approved works to be altered. The proposed changes mainly relate to the cinema, which would sit above retail shops on the ground floor of the Commercial Development building to the rear of the Stadium's South Stand.

1.5 As now proposed the cinema would be enlarged to provide a 13th screen, 400 additional seats, improved circulation space and better facilities for disabled users. The enlargement would provide an extra 2880sqm of floorspace, which would be achieved by (a) increasing the height of the main part of the building by 2.5m (b) increasing the height of the projecting lightbox by 3.9m, and (c) extending the building to the south by 6m. The extension to the south would project from first-floor level and cantilever over the ground floor (which would retain its approved dimensions), creating a colonnade to the principal retail façade. The dimensions of the Stadium and Leisure Centre buildings would remain as approved.

1.6 Other changes include:

- Some of the retail floorspace on the ground floor of the Commercial Development building would be replaced with a small amount of additional restaurant space.
- The proposed retail mezzanine would be enlarged.
- 643sqm of cinema floorspace on the first floor of the Commercial Development building would be replaced by a leisure use, accessed from the ground floor.

- Within the Community Hub the proportions of the approved floorspace devoted to each use would change. In particular Be Independent and York St John University would no longer occupy space and therefore a greater amount of floorspace would be occupied by York NHS Trust, which would move from level 2 of the Leisure Centre building.
- The restaurant space in the Stadium's East Stand would be rearranged with all space now provided only on the ground floor of the Stadium's East Stand.
- 692sqm of Community Hub NHS facilities on level 2 of the Leisure Centre building would be replaced by class B1, D1, D2 community facilities.

1.7 In terms of floorspace, the changes to the different uses outlined above would be as follows:

Retail units:	No change
Leisure, health, fitness:	31sqm reduction
Cinema:	2,880sqm increase
Restaurant:	585sqm increase
Community:	733sqm increase

1.8 Access, car parking and landscaping would remain as approved.

BACKGROUND AND RELEVANT PLANNING HISTORY

1.9 The delivery of a Community stadium has been a council priority since 2003. In July 2012 outline planning permission was granted for a mixed-use development mainly comprising demolition of the existing stadium and erection of a 6000-seat community stadium, retail uses, food and drink uses, car parking, and landscaping (11/02581/OUTM). A subsequent reserved matters application was approved in September 2012 for the retail and restaurant part of the outline application site (12/02545/REMM). These elements of the development were implemented and now operate as the Vangarde Shopping Park.

1.10 In 2012 the council reviewed its aspirations for the stadium and considered a range of development options. This review resulted in planning application 14/02933/FULM. In March 2015 the Planning Committee resolved to grant planning permission subject to the application not being called in by the Secretary of State (it was not). Formal planning permission was granted by the council in May 2015. In October 2015 various details pursuant to the planning permission were approved.

LEGISLATIVE CONTEXT

1.11 The planning permission granted in 2015 (14/02933/FULM) included a condition (no.2) listing the plans identifying the works as approved. The current application seeks to replace some of the approved plans with others, showing the works now proposed. This requires condition 2 to be varied to replace the superseded plans with new ones. Permission to vary a planning condition of a previous consent can be made under s.73 of the Town and Country Planning Act. This route is appropriate where the changes are material but do not amount to a fundamental alteration of the proposal put forward in the original application. There is no statutory definition of a 'minor material amendment' but National Planning Guidance states that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one that has been approved. Officers consider that the changes being sought can be properly and robustly assessed under Section 73. The main changes to the application, in particular the changes to the size, appearance and capacity of the cinema building, are material but would not result in a development that, as changed, would (as a whole) be substantially or fundamentally different from the one that was approved in 2015.

1.12 The planning authority should only consider issues raised by the conditions to be changed; in the current case the alterations to the proposals and the impacts of the development as changed. In making its decision the planning authority should focus on national and development plan policies and other material considerations. Where an application under s.73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which would remain in force and unamended. The new permission must describe the whole development and list all conditions, not just the one for which an amendment is being sought.

1.13 For the purposes of the Environmental Impact Assessment Regulations 2011, a s.73 application is a new application for planning permission. Where an environmental impact assessment was carried out on the original application (as in this case) an environmental statement (ES) must be submitted with the s.73 application. The current application is accompanied by the original ES together with an ES addendum comprising the proposed changes and the environmental impacts of the development as changed. After submission the applicant was asked to provide additional information (under regulation 22 of the EIA Regulations) in order for the local planning authority to properly consider the likely environmental effects of the proposed development as changed and any appropriate mitigation. The local planning authority has taken into account the environmental impacts of the development in its consideration of the application.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001
DC Area Teams East Area (2) 0005

2.2 Policies:

Draft York Local Plan (2005) - relevant policies include:

CYGP1 - Design
CYGP4A - Sustainability
CGP15A - Development and Flood Risk
CYNE6 - Species protected by law
CYNE1 - Trees, woodlands, hedgerows
CYHE9 - Scheduled Ancient Monuments
CYT4 - Cycle parking standards
CYSP7A - The sequential approach to development
CYSP7B - York City Centre and Central Shopping Area
CYSP9 - Action Areas
CYSP9 - Action Areas
CYSP10 - Strategic Windfalls
CYS1 - Land allocated for shopping sites
CYS2 - Out of centre retail warehouse criteria

Draft York Local Plan (2014) Publication Draft - relevant policies include:

DP2 - Sustainable Development
DP4 - Approach to Development Management
SS1 - Delivering Sustainable Growth for York
R1 - Retail Hierarchy and Sequential Approach
R4 - Out of Centre Retailing
D1 - Landscape and Setting
CF1 - Community Facilities
CF2 - Built Sports Facilities
CC2 - Sustainable Design and Construction
ENV2 - Managing Environmental Quality
ENV4 - Flood Risk
ENV5 - Sustainable Drainage
T1 - Sustainable Access

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management (Policy)

3.1 No objection. The sequential assessment undertaken in support of the proposal 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.

3.2 The retail impact assessment (RIA) undertaken in support of the A1 retail floorspace proposed has demonstrated that that the proposal would divert modest levels of comparison goods expenditure from the defined centres and that there would 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. It is also not considered that the effects of the proposed development would have a significantly adverse impact on committed or planned investment.

3.3 The assessments undertaken in respect of the cinema and A3 floorspace, alongside the additional clarification provided by the applicant has demonstrated that the proposals would be unlikely to have a significant adverse impact upon in-centre facilities within York City Centre.

Planning and Environmental Management (Urban Design)

3.4 The two key views are from the south (Malton Road) and west (New Lane). In both views the proposed development would appear significant and large. The changes are not a significant departure from the agreed scheme but it is hard to interpret the appearance of the cinema as a positive characteristic in the landscape. The increased massing would be a small-to-medium negative change on distant views compared to the agreed scheme. I would recommend a strengthening of the landscape strategy to mitigate the appearance in the long term with enhanced tree and hedge planting. A condition should be attached to prevent over-dominance of retail signage on the long southern retail elevation.

Planning and Environmental Management (Landscape)

3.5 The proposed increase in height and volume of the retail/cinema building as approved would exacerbate the building's visual impact, particularly as the tree planting will not be fully mature for a few decades and the full screening qualities of the trees are only effective for six months of the year. The already approved landscape treatment to the south and west of the retail/cinema does not sufficiently balance the scale of the development, nor will it provide sufficient visual mitigation from New Lane, Huntington. However, there appears to be no scope to increase the

width of planting around the perimeter of the site, due to restricted land ownership. It may be that the benefits of the scheme outweigh the harm to the views and landscape context and quality of the environment of Monks Cross.

Highway Network Management

3.6 The application is not considered to have a material impact on the highway network and changes to travel by sustainable modes would be marginal. Parking management arrangements should be made a condition of approval.

Environmental Protection

3.7 No objections. Comments made by Environmental Protection on the previous application still apply. Conditions of the previous planning permission should be attached to any new approval granted

Flood Risk Management

3.8 No objections. The proposed changes would have no material effect on the drainage scheme approved under the previous permission.

EXTERNAL

Huntington Parish Council

3.9 No objections.

Sport England

3.10 No objections.

Highways England

3.11 No objections.

Historic England

3.12 The application can be determined.

Yorkshire Water

3.13 No comments are required.

Environment Agency

3.14 No objections.

Police Designing Out Crime

3.15 No comments to make.

PUBLIC CONSULTATION

3.16 One objection has been received from VUE Entertainment Limited, which operates a cinema at Clifton Moor: The proposed changes are too significant to be considered under Section 73 of the 1990 Act; a full sequential test should be carried out; the full impact of the proposals on the city centre has not been fully assessed; the impact on the local highway network has not been fully assessed.

3.17 An objection has also been received from Reel Cinemas Limited, which operates the Odeon cinema in Blossom Street: The proposed change is too significant to be considered under Section 73 of the 1990 Act; a proper sequential test assessing the impact on existing centres has not been carried out; the proposals should be rejected due to conflict with policy and the threat to vitality and viability of in-centre operations such as Reel's cinema.

4.0 APPRAISAL

PLANNING POLICY CONTEXT

4.1 Legislation requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. The City of York Local Plan was approved for development control purposes in April 2005 but was never formally adopted by the council. Its policies are capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. For the purposes of this application the most relevant local plan (2005) policies are GP1 design and SP7A, SP7B and S2 relating to protection of existing centres.

4.2 The emerging local plan remains at publication draft stage with consultation on hold pending further work. The plan can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present stage in the statutory process such weight is limited. However, the evidence base that underpins the proposed emerging policies is a material consideration. The evidence base for the emerging local plan includes the City of York Council Retail Study Update, September 2014, by White Young Green.

4.3 The main planning policy context for determining the application is national policy set out in the National Planning Policy Framework (NPPF). The heart of the NPPF is a presumption in favour of sustainable development (Paragraph 14). Where a development plan is not up to date local planning authorities should grant permission unless any adverse impacts of doing so would significantly outweigh the benefits or specific policies in the Framework indicate that development should be restricted. There are three dimensions to sustainable development - economic, social and environmental. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system (paragraphs 7 and 8). Decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

MAIN ISSUES

4.4 The key planning issues relevant to the application are:

- Design and Visual Impact;
- Landscape;
- Highways and Traffic;
- Impact on Existing Centres.

DESIGN AND VISUAL IMPACT

4.5 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.6 The revised scheme represents an increase in height and volume and hence visual mass of the approved retail/cinema building. The main roof would be raised by 2.5m to 23.5m (an increase of approximately 12%) and the lightbox would be raised by 4m to 29m (an increase of approximately 16%). As a guide to the scale of the building the three stores comprising the adjacent Vangarde development are 11.5m high. The increase in height and width would increase the building's visual impact, particularly from the south (the P&R and Malton Road) and from New Lane looking east. From both viewpoints the proposed development would appear significant and large across the open flat landscape. At this distance the stadium would appear easily contained within the landscape but the cinema would appear prominent and rectilinear. A large object in the landscape is quite appropriate for celebrating the significance of a community stadium, but the dominant form

(rectilinear cinema box) does not reinforce sporting or stadium image-association. The proposed enlargement of the cinema as approved is unlikely to be seen as a positive change to the landscape. However, although the increased massing would be a small-to-medium negative change to distant views the development would not be seen as a significant departure from the approved scheme.

4.7 The council's architect has raised concerns about changes to the approved fenestration, including the extent and distribution of signage/advertising on the main retail elevation. Condition 16 of the previous approval requires certain details to be submitted for approval. These include external openings, materials and fenestration. Discussions between the council and the applicant over these matters are progressing. Signage and advertising are covered by the Advertisement Regulations.

LANDSCAPE

4.8 The already approved landscape treatment to the south and west of the retail/cinema does not sufficiently balance the scale of the development, nor will it provide sufficient visual mitigation from New Lane, Huntington. However, there appears to be no scope to increase the width of planting around the perimeter of the site due to restricted land ownership. In particular the lit-up cinema box would, during dark opening hours, be easily visible from Malton Road, New Lane, and Martello Way. The quality of the landscape on the south side of the building is below that provided on the Vangarde development, due to spatial constraints. The increase in width of the cinema over the retail units to create a colonnade over the pavement further reduces the quality and flexibility of the external environment.

4.9 The impact could in the long term be mitigated to some extent by increased tree and hedge planting but the considerable height of the cinema would rise above the tree planting for many years. Furthermore the full screening qualities of the trees would only be effective for six months of the year. It is considered that the benefits of the scheme to the community and the economic need for the additional retail space outweigh this harm to the views, landscape context and quality of local environment.

HIGHWAY AND TRAFFIC CONSIDERATIONS AND ISSUES

4.10 The transport and highway implications of a new stadium on the site have previously been considered by the council through its consideration and approval of the outline planning application. Therefore the issues of how people would travel to the development, the impacts likely to arise and the mitigations required have substantially been established. The environmental statement addendum includes an update of the proposed changes compared with the planning permission granted May 2015. The note sets out the predicted trips (journeys) for the development as now proposed. The assessment includes different modes of travel but focuses on

car trips. The approach and methodology used are consistent with the previous transport assessment.

4.11 The amendments to the retail, leisure, community uses and offices are all shown to be negligible in terms of trip generation. The increased restaurant offer and cinema will give rise to a slightly more noticeable uplift in predicted trips, however even during the peak highway network weekday and weekend hours, the difference (from approved) is well under 100 vehicle trips.

4.12 The predicted increase in traffic due to the 400 extra cinema seats has been calculated pro-rata using the previously-approved trip generation for the same use. During the week the largest increase in trips (by all modes of travel) is in the evening, after the peak hours experienced on the road network, with 1900-2100 typically seeing circa +100 trips over the approved scheme; and on a Saturday this would be in the region of +200 by all modes but predominantly by car.

4.13 Again, as per the approved development, it is predicted that 85% of people will travel by car (driver and passengers) to the cinema; slightly higher still for the restaurants. There would be some linked trips, with people visiting more than one part of the development, although this generates only a single trip to/from the site. The impacts on the local highway network of the car trips generated by the development as changed have been assessed. During all highway network periods the additional vehicular traffic would be under 100 trips which, when distributed on the local network, would not have a material impact over and above that previously considered and approved.

4.14 However the predicted total car traffic generated by the amended scheme has highlighted an issue on the development site itself, in relation to increased demand for car parking. Under the approved scheme the proposal on match days was for the northern and eastern car parks (173 spaces) to be assigned solely to the stadium/club use, leaving the 268 southern car park for all visitors to the retail, cinema, leisure and community facilities.

4.15 On non-match days the maximum parking accumulation (321-352) would still be able to be accommodated within the total car park stock, as all three car parks would be available. The concern raised by officers in pre-application discussions about the variation to development was that of the uplift in parking demand on match days under which only the southern car park would have been available to visitors to the retail, cinema, leisure uses etc.

4.16 The total peak demand of 352 (1500-1600 Saturday) being substantially greater than the 268 space southern car park. Because of this the applicant has agreed to change the parking arrangements at match times such that the bulk of spaces in the northern car park will also be available to the public, with spaces for

358 cars overall; the eastern car park would remain exclusively for stadium use at match times.

4.17 The disabled spectator bays and spaces for emergency services will be retained in the north car park and only on a rare occasion (local derby match with high away attendance or a televised cup game) will it necessary to allocate more spaces in the northern car park for stadium use. Such occasional events will be communicated well in advance and the public made aware of the parking management in place. Use of the car parks will be monitored, managed and reported on, through the Travel Planning commitments already in place.

4.18 There are no immediate impacts on the park and ride (P&R) site as part of this amended scheme, with the alterations to the P&R car park already approved and delivery underway. Servicing (deliveries) and arrangements for coaches would be accommodated within the previously-approved layout, including the realigned Kathryn Avenue.

4.19 In summary the development now proposed would not have a material impact on the highway network. Changes to travel by sustainable modes would be marginal.

IMPACT ON EXISTING CENTRES

4.20 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 floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.21 In terms of retail 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).

Evidence Base

4.22 The most relevant evidence base is the Retail Study Update (2014). It considers that the hierarchy in the emerging plan represents sound tiers in the hierarchy for planning for future community needs and in the absence of new guidance still represents 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.

Sequential Test

4.23 The application site is in excess of 300m from any surrounding defined centre as defined on the emerging Local Plan proposals map and it represents an out of centre retail development in retail policy terms. It is therefore necessary to assess other 'in' or 'edge of centre' alternatives. In accordance with national and local guidance a sequential test is required. This assessment should demonstrate that there are no other viable alternative sites for the proposals within the centres identified in the retail hierarchy; set out in Policy R1. A thorough assessment of the suitability, viability and availability of locations for main town centre uses is required, with a clearly explained reasoning if more central opportunities to locate main town centre uses are rejected. It is for the applicant to demonstrate compliance with the sequential test.

4.24 The retail assessment submitted to support the application includes a sequential test assessment based on the consideration of sites of 2.25 to 2.75ha to accommodate the 13,500sqm commercial floorspace within a catchment area of zones 1-3 of the York Retail Study catchment area which cover the City of York Council boundary. A site is considered sequentially preferable where it is 'suitable' and 'available'.

4.25 The applicant has assessed the following sites in terms of their suitability and availability:

- Hungate (Allocation MU1 in emerging Local Plan);
- Castle Piccadilly (Site ST20 in emerging Local Plan; and
- York Central (Site ST5 in emerging Local Plan)

4.26 NPPF (para 24) requires both applicants and local planning authorities to demonstrate 'flexibility' on issues such as format and scale when considering sites in, or on the edge, of existing centres as part of applying the sequential test but does not provide specific guidance as to what degree of flexibility is required. Recent case law from Tesco v Dundee City Council (2012 UKSC13) clarifies the position. It

highlights that the Supreme Court has told us in the Dundee case what 'suitable' means in relation to the sequential test. In summary the Dundee case establishes firstly that if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable site for the purposes of the sequential approach and secondly in terms of the size of the sequentially preferable site, provided that flexibility has been demonstrated the question is " whether the alternative site is suitable for the proposed development NOT whether the proposed development can be altered or reduced so it can be made to fit.

4.27 In summary, whilst it is necessary for applicants to demonstrate 'flexibility' on issues such as format and scale when applying the sequential test, there is no requirement to consider 'disaggregation' nor to consider changes that would materially alter the proposal such that it no longer meets commercial requirements.

4.28 Officers considered that the applicants have demonstrated flexibility on matters of format and scale because they have assessed the floorspace of the retail, restaurant and leisure floorspace in isolation from the Community Stadium scheme itself which reduces the minimum site size to approx 2.5ha. The sequential test has considered sites from 2.25ha to 2.75ha an allowance of 10% from the required size. Below is a summary of the assessed sites and the officers' review of the conclusions made:

Hungate

4.29 The total site area is approximately 4ha. The original development brief for the site sought to bring forward a mix of uses including residential, commercial and ancillary retail. A planning approval for the Hungate site in 2006 included 6,392 sqm of Classes A1, A3, A4 and A5 uses.

4.30 Phase 1 of the site is now largely completed and consists of residential apartments. Phase 2 is also a residential-led scheme with a small quantum of commercial floorspace at ground level. This scheme was granted planning permission in February 2014 (13/03015/FULM).

4.31 Members have resolved to approve the hybrid application for phases 3 & 4 (ref 15/01709/OUTM) subject to completion of legal restrictions on 10th December 2015 for the erection of two buildings (Block G and Block H) to comprise either residential units (use class C3), residential institution/elderly accommodation (use class C2), or a mixture of the two and flexible commercial uses (within use classes A1, A2, A3, A4, A5, B1 or D2) and associated infrastructure works. The area for commercial uses would be between 1,265sqm and 1,660sqm.

4.32 Although the site is suitable in principle for some retail development it is not considered suitable for large scale retail development such as that proposed in this scheme. In addition the site is not considered to be available for the use proposed

given the developers intention to bring the site forward for a residential-led scheme as demonstrated by the committed and proposed later phases of the masterplan.

4.33 In light of the existing built and committed schemes at the Hungate site it is not suitable by virtue of the quantum of remaining land available for the proposed scheme. Even if the residual part of the Hungate site is considered alongside the adjacent telephone Exchange and Stonebow House sites it would still not be large enough for the proposal in terms of the totality of the floorspace required (13,500 sq.m).

York Central

4.34 This site is included as an 'Area of Opportunity' in the emerging Local Plan under policy SS9. The policy states that a range of uses would be appropriate in this location including office, residential, tourism uses, open space and rail related uses along with ancillary uses subject to relevant impact tests.

4.35 The Council seeks to bring forward the site in a comprehensive manner and it is identified as a medium to long term opportunity for development given the number of ownerships and the scale of development envisaged. The site maybe suitable for some retail and leisure use, subject to the necessary impact tests, but this is envisaged to be ancillary to the main uses including office and residential.

4.36 The site is not considered to be available at present and is unlikely to be available in the short to medium term. The site is not considered to represent a sequentially preferable site at this current time.

Castle Piccadilly

4.37 Policy SS10 of the emerging Local Plan includes the Castle Piccadilly site as an 'Area of Opportunity' for sustainable mixed use regeneration. A mix of retail, leisure, civic open space, residential and employment uses are identified as being acceptable in this location.

4.38 This approach is underpinned by the York Retail Study which states at paragraph 9.20 that:

"In centre investment is likely to have been lost in the short to long term, especially in light of the limited capacity that this Retail Study Update has found to 2023. Whilst the whole site may be considered the sequentially preferable site for future retail needs for the city, it is now unlikely that this will come forward in the form of retail development that was previously considered by the Council and LaSalle UK Ventures"

4.39 Whilst it may be a suitable site for the proposed scheme it is not considered that the site can be considered realistically available for retail development within a reasonable period of time. The policy test is whether a site is 'available' now and not over a number of years. Given that Castle Piccadilly isn't available at present and is unlikely to be available in the short to medium term it is not considered to represent a sequentially preferable site at this current time.

4.40 In conclusion officers consider 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.

Impact Test

4.41 The broad approach to assessing impact is set out at paragraph 018 of NPPG. It sets out a staged approach which requires the consideration of the likely turnover and 'trade draw' associated with a proposal, the locations where impacts will arise and the consequences of identified impacts.

4.42 The methodology employed by HOW Planning on behalf of the applicant is consistent with the approach advocated by the NPPG. In order to quantify trade diversion impacts HOW, undertook a new NEMS household survey in November 2014 as part of the original application (14/02933/FULM). This updated the survey undertaken to inform the York Retail Study in November 2013.

4.43 The study area for the proposed retail development is based on the York Retail Study Update so that direct comparisons may be made in terms of trading patterns and market shares. The period over which population and expenditure has been forecast is between 2015 and 2020 and between 2015 and 2025. This is in line with the timescales for the assessment of impacts as set out under paragraph 26 of NPPF.

4.44 The quantum of retail floorspace remains at 5,324sqm gross internal area (4,259sqm net) as approved under the previous application. A revised RIA has been undertaken to support this new application which updates the following:

- Revised list of retail commitments
- New population/expenditure base data
- New population/expenditure growth forecasts
- Revised allowance for Special Forms of Trading
- Revised allowance for changes in sales densities

Impact of New Proposals

4.45 The updated RIA demonstrates that the implications of the changes in population and expenditure across the catchment area are minimal when compared to the previous RIA of 2014. The population in the test year of 2020 is broadly comparable at 1% lower than previously forecast and the total amount of comparison goods expenditure generated within the catchment area is £2.57bn - 2.7% lower than previously forecast. There is very little difference in the calculated turnovers of centres within the study area.

4.46 HOW Planning in their assessment to accompany the latest proposals estimate that the six A1 retail units (4,259 sq.m net) will have a combined turnover of about £26.4m in the test year of 2020. This is estimated to have a solus impact on York City Centre of 1.5% (1.4% in previous assessment) and a cumulative impact (when taking account of other retail commitments) of 2.9%.

4.47 York city centre's comparison goods turnover (2015) from the study area is estimated at £424.29m (18.9%). It is predicted that the proposal would divert, cumulatively with the other existing retail commitments, about £15.5m of comparison goods expenditure (2.9%). It is considered that the relatively modest level of trade loss predicted from the City's comparison goods retailers would not lead to a 'significantly adverse impact' upon the vitality and viability of York City Centre.

4.48 In terms of the other district centres of Acomb and Haxby the updated RIA forecasts solus impacts of 1.6% on Acomb district centre and 3.1% on Haxby. The cumulative impact is 3.8% and 5.1% respectively. It is considered that these smaller centres predominantly serve the day to day shopping needs of their catchment areas with a relatively low level of comparison goods floorspace. Their focus is convenience goods provision and in that respect the potential for direct competition from the Stadium proposal is limited.

4.49 In summary officers consider that the proposal would divert modest levels of comparison goods expenditure from the defined centres and there would 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.

Impact on Investment

4.50 NPPG states that when assessing impact upon investment the key considerations are: the policy status of the investment (i.e. whether it is identified in the Development Plan); the progress made towards securing the investment (i.e. if contracts are established); and the extent to which an application is likely to undermine the planned development (i.e. its effect on operator demand and investor confidence).

4.51 The emerging Local Plan identifies three sites within York City Centre (Policy SS5) for retail and mixed use development including Hungate (Site E1), Castle Piccadilly (Site ST20) and elements of York Central (Site ST5). With regards progress made to securing investment both Castle Piccadilly and York Central are identified in the emerging Local Plan as 'Areas of Opportunity' under policies SS5, SS9 and SS10. York Central and Castle Piccadilly are more medium to long term development opportunities and are not available in the short term for investment given existing operational uses. Given this, investment on the sites is 'planned' but is at an early stage in the development process. At the Hungate site planning consent has already been granted for various phases of primarily residential development and the scheme is under construction. This therefore represents committed and existing investment.

4.52 With regards to the extent that the proposed scheme is likely to undermine planned development in terms of operator demand and investor confidence given the early stage of both the York Central and Castle Piccadilly site with no firm concept of a detailed scheme it cannot be evidenced that the planned development at York Community Stadium would undermine the investment.

4.53 With regards the Hungate scheme the second phase, which is residential led, is currently under construction so this investment has already taken place. The third and fourth phase of the scheme does include ancillary commercial floorspace including some retail floorspace but the purpose of this space is to serve the residents of the scheme and may include small scale convenience and comparison floorspace. It is very unlikely therefore that the retail development proposed as part of the Community Stadium scheme will impact on investment at the Hungate site.

4.54 In summary officers consider that the proposed development at the Community Stadium would not have a 'significantly adverse' impact on committed or planned investment.

Cinema Proposal

4.55 The cinema proposal includes an extra screen and 400 extra seats. The NPPF includes cinemas in its definition of main town centre uses. This means that proposals for new cinemas in locations outside of town centres are subject to the sequential approach and the impact test. There is no set methodology within planning practice guidance (NPPG) for the assessment of impact of cinema/leisure proposals. However, in line with the NPPF (paragraph 24 and 26) it is necessary to consider the trading impacts of the proposed cinema upon existing facilities within existing centres. Within the York area there are three cinema facilities:

4.56 City Screen, York City Centre - 3 screen facility with associated bar/cafe, gallery and small multi-event venue;
Reel Cinema, Blossom Street - 5 screen facility with limited car parking; and

Vue Cinema, Clifton Moor Retail Park - 12 screen out of centre cinema with associated car parking.

4.57 The applicant's original assessment concluded that the proposed facility at Monks Cross would compete directly with, and therefore have most impact upon, the Vue cinema at Clifton Moor. This is based on the theory of 'like affecting like' given that this is also an out of centre multi-screen cinema offering free car parking and therefore is directly comparable to the proposed cinema at Monks Cross. Given this is an out of centre facility and therefore offered no 'policy protection' the applicants conclude that this demonstrates that there would be no significant adverse impact on existing facilities within defined centres.

4.58 The 2013 household survey undertaken as part of the York Retail Study included a question on cinema usage. The results showed that across the whole study area Vue had the largest market share, 33.9%, followed by Harrogate Odeon with 13.8%, Cineworld at Xscape, Castleford at 11.9%, York City Screen at 11.3% and the Reel cinema, York at 1.5%. For just the York zones (Zones 1, 2 and 3 of the study area) Vue cinema has 55% of the market share, followed by City Screen 34% and Reel 2.3%.

4.59 This analysis of patterns of usage both within York and the wider study area show that the Vue cinema at Clifton Moor has the most dominance with 33.9% and 55% of the market share respectively. It would seem likely then that, given the directly comparable format of the new proposal at Monks Cross, the greatest impact is likely to be felt at Vue which would be competing with the same market share as the proposal. The Vue cinema has no policy protection either nationally or locally given its out of centre location.

4.60 It is evident, particularly given their market shares for the York zones, that York City screen and Reel may feel some impact through the opening of a new cinema at Monks Cross. Whilst it is accepted that it is logical to conclude that the proposal would have most impact on Vue, given its dominant market share and its similar format and scale, further clarification was sought from the applicants that the proposal will not have a significantly adverse impact on the in-centre facilities at York City Screen and Reel.

4.61 It was recognised that further clarification would need to focus on qualitative information given there is no set quantitative methodology for this use advised in NPPG - unlike for A1 retail proposals. Also there is a lack of conventional retail impact data available for this use including benchmark sales densities (£ per square metre), cinema spend per capita (at postcode level) or local level trip data.

4.62 As detailed above both York City Screen and Reel have lower market shares both in the wider catchment zone and York zones than the existing out of centre facility at Clifton Moor (Vue). In terms of patterns of trade that are likely to be

diverted from these existing facilities from the proposal it is logical to assume that the greatest competition would be to the Vue facility, given its market share dominance, and the trade diversion felt by York City Screen and Reel would be more limited

4.63 Both York City Screen and Reel offer a different qualitative product to that at the out of town multiplex cinema at Vue, Clifton Moor and to the new IMAX proposal at the stadium. York City Screen has a City Centre location and has a combined offer as both a specialised cinema destination along with a small live events venue and bar/cafe. It is evident from its current market share both in the wider study area (11.9%) and within the City of York zones (34%) that people are making a distinct choice to visit the facility rather than the out of centre multiplex format offered at Clifton Moor. It is considered unlikely therefore that the new proposal would have a significant adverse impact on York City Screen.

4.64 The Reel cinema on Blossom Street offers a small 5 screen facility in a more intimate setting than that offered at out of centre multiplex facilities. The facility is based on a different business model to out of centre facilities offering a 'value' experience with ticket prices cheaper than the large out of centre facilities. The cinema is also in a central location offering good access both for pedestrians and cyclists and by public transport. The central location also offers the opportunity for linked trips with other restaurant and leisure facilities in York city centre for both residents and visitors to the city.

4.65 It is likely that the new proposal, given its out of centre location, could split the market share currently held by the Vue at Clifton Moor and divert some of this to the new facility along with much smaller trade diversions from the Harrogate Odeon and Cineworld at Xscape (which also have market share in the study area, 13.8% and 11.9% respectively) along with the in-centre facilities at York City Screen and Reel. In summary, officers consider that there is no evidence to suggest that there would be a material diversion of trade from either of the in-centre facilities at City Screen and Reel. Nor would the proposal have a significant adverse impact on these facilities.

Restaurant (A3) Uses

4.66 The approved scheme included two large restaurant uses totalling 1,042 sq m. The revised scheme proposes five smaller units totalling 1,627 sq m. Given that this is above the impact assessment threshold for out of centre destinations of 1500 sqm a RIA is required to demonstrate that the proposal would not have a significant adverse impact on in-centre facilities including York City Centre.

4.67 In the same way as for the cinema use considered above there is no standard quantitative 'retail' impact methodology for assessing the impact of A3 (restaurant uses) given in NPPG. The principles of 'like affecting like', analysis of existing

trading patterns and popularity are all relevant factors in the context of an impact assessment which focuses on qualitative assessment rather than quantitative.

4.68 The applicants have assessed current patterns of market share using the 2014 household survey which included a question asking which location in the study area they most often chose when visiting a restaurant. This analysis shows that York City Centre is the most dominant centre in the whole study area (zones 1 to 20) with a market share of 32% of all available expenditure. Other centres with a strong market share in the study area include Harrogate at 14% and Leeds City Centre at 5%. This shows that York is retaining significant amounts of the available spend across the whole catchment area and is the most dominant centre for this use.

4.69 In terms of the City of York area (covered by Zones 1 to 3 of the study area) York City Centre retains 80% of the total available spend showing that it is very dominant in terms of market share. York City Centre has around 30,000 sq.m of A3 floorspace with the proposal at 1,627 sq.m representing around 5% of this amount. It is considered unlikely that the trade diversion to the new units proposed would give rise to a significant adverse impact on trade and turnover of the City Centre or affect its vitality and viability.

4.70 The five units proposed would be modern out of centre format restaurants which are more likely to compete with the existing out of centre format offer rather than on in-centre provision. Given the limited amount of floorspace it is unlikely that the units would be a destination on their own but rather are an ancillary and complementary offer to the wider stadium and leisure uses. Officers consider it unlikely that the A3 floorspace proposed would have a significant adverse effect on existing centres including York City Centre.

SUBMISSION OF DETAILS

4.71 The previous stadium application, to which the current application is a variation, was approved subject to various conditions requiring submission of details. Most of those details were subsequently submitted to the local planning authority as AOD applications and approved. The applications were 'subsequent applications' in relation to EIA development where environmental information had previously been provided to the local planning authority. As required by Regulation 8(2) of the Environmental Impact Assessment Regulations 2011 the local planning authority considered whether the environmental information already before the local planning authority was adequate to assess the environmental effects of the development and was satisfied that it was.

4.72 The current application (to vary condition 2) is not substantially different from the application that was approved. The local planning authority has therefore considered whether the details approved pursuant to conditions of the previous application are acceptable as details of the current proposal. In its consideration

the local planning authority has considered whether the environmental information already before the local planning authority (the original ES and its 2016 addendum) is adequate to assess the environmental effects of the current proposal. The local planning authority has concluded that it is. Furthermore, the planning authority is satisfied that the previously approved details are acceptable as details of the current proposal. Therefore, where conditions of the previous application required details to be submitted, and those details were subsequently approved, they do not need to be submitted again. Instead, if the current application is approved, conditions should be attached requiring the development to be carried out in accordance with those approved details.

5.0 CONCLUSION

5.1 The proposed development represents a material change to planning permission 14/02933/FULM for the erection of a community stadium and related mixed use development, but in officers' view do not amount to a fundamental change that would warrant a new application being made. Your Officers are satisfied that the application can be robustly assessed through the Section 73 process. The changes mainly relate to the commercial building on the southern side of the stadium. Of these, the main change is the enlargement of the proposed cinema to provide a 13th screen, 400 additional seats, improved circulation space and better facilities for disabled users. The development as changed would have some impact on the highway network, parking, the city centre and the character and appearance of the development, all of which are capable of being examined through the Section 73 process. None of the proposed changes would result in a development that would be fundamentally substantially different from the approved description of the development.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Defer pending the following:-

- (i) Refer the application to the Secretary of State for Communities and Local Government under the requirements of Article 5(1) of The Town and Country Planning (Consultation) (England) Direction 2009, and should the application not be called in by the Secretary of State, then:-
- (ii) APPROVE the application subject to the following conditions set out later in this report.

1 The development shall be begun not later than the expiration of three years from 21 May 2015.

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

2 The development shall not be carried out otherwise than in complete accordance with the following plans:

AL(0)002 Rev L Masterplan 1:1250
AL(0)006 Rev G Site Plan 1:500
AL(0)010 Rev S GA Plan, Level 00 1:500
AL(0)011 Rev S GA Plan, Level 01 1:500
AL(0)012 Rev S GA Plan, Level 02 1:500
AL(0)013 Rev B GA Plan, Cinema Projector Level 1:500
AL(0)014 Rev N GA Plan, Roof Level 1:500
AL(0)020 Rev K Elevations - North, South, East & West 1:500
AL(0)024 C Detail Elevations 1:100
3041-EH-AL(0)121 Rev E - East Stand Section 1:100
3041-EH-AL(0)122 Rev E - East Stand/Hub Section 1:100
3041-AL(0)038 Rev D - North and West Sections 1:100
3041-AL(0)039 Rev D - South Stand and Retail Section 1:100
3041-SD-AL(0)125 Rev D - Sections - East/West & North/South 1:400
3041-LB-AL(0)121 Rev B - Leisure GA Sections EW1 - 1:100
3041-LB-AL(0)122 Rev B - Leisure GA Sections EW2 - 1:100
General Arrangement - 3955_LP 01 Rev.B
YCS(52)SP001 Rev P02 Proposed Surface Water Drainage Network Key Plan
YCS(90)SP002 Rev P02 External Works Proposed Finished Level Contours
YCS(52)SP011 Rev P01 Proposed Surface Water Drainage Network Exceedence Plan - 1 in 100 years + 20% Climate Change Allowance.
YCS(90)CH0002 Rev P02 dated 06/03/15
H-DR-0100 Issue 03
H-DR-0104 Issue 04
H-DR-0106 Issue 04
H-DR-0108 Issue 04
H-DR-0110 Issue 04
H-DR-109 Issue 03

REASON: For the avoidance of doubt and to achieve an acceptable form of development.

3 Within three months of commencement of development a detailed landscaping plan shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall illustrate the number, species, height and position of trees and shrubs. This scheme 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.

4 The development shall be carried out in accordance with the tree protection measures approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00352.

REASON: To protect existing trees which are considered to make a significant contribution to the amenity of this area and/or development.

5 Prior to the use of the stadium hereby approved commencing, full details relating to the Public Address System (specification and type) and its positioning shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall include measures for mitigating noise emissions to neighbouring properties and shall be implemented in accordance with that approval, unless otherwise agreed in writing by the Local Planning Authority. The Public Address System (the details of which are to be agreed) shall only be used during events that take place on the external area within the stadium and during the period two hours prior to the event commencing (apart from for testing purposes) and within 30 minutes of the completion of the event, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the amenities of adjacent residents.

6 Details of all machinery, plant and equipment to be installed in or located on the development hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. All such machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. Any approved noise mitigation measures shall be fully implemented and operational before the machinery, plant and equipment to which they relate is first installed or brought into use. All plant and any noise mitigation measures shall be appropriately maintained thereafter..

REASON: To protect the amenities of adjacent residents

NOTE: The combined rating level of building service noise associated with plant or equipment at the site should not 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.

7 No open-air concerts shall be held at the stadium hereby approved without the prior written consent of the Local Planning Authority.

REASON: To protect the amenities of adjacent residents.

8 The development shall be carried out in accordance with the construction environmental management plan (CEMP) approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00341. The CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

REASON. To protect the amenity of local residents and businesses and protected species.

9 Except in case of emergency, no site preparation, demolition, ground works or construction shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays. There shall be no working on Sundays or Public Holidays except with the prior written consent of the local planning authority. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

REASON. To protect the amenity of local residents and businesses

10 During the site preparation, demolition, ground works or construction period heavy goods vehicles shall only enter or leave the site between the hours of 08:00-18:00 on weekdays and 09:00-13:00 Saturdays and no such movements shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

REASON. To protect the amenity of local residents and businesses

11 Within three months of commencement of development a full Lighting Impact Assessment undertaken by an independent assessor shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail predicted light levels at neighbouring residential properties containing the following as a minimum:

- o Description of the proposed lighting: number of lighting columns and their height, and proposed lighting units.

- o Plan showing vertical illuminance levels (Ev), showing all buildings within 100

metres of the edge of the site boundary

o Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E3 contained within Table 1 of the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting

Any floodlights to be used at the site shall not be used before 08:00 or after 23:00 on any day of the week unless previously agreed in writing by the Local Planning Authority.

No other external lighting shall be installed without the prior consent in writing of the Local Planning Authority.

REASON: To protect the amenities of adjacent residents.

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

REASON: To protect the amenity of future residents and local businesses.

NOTE: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition and that information submitted in compliance with this condition shows compliance with the Defra guidance.

13 In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken, and where remediation (clean-up) 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. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part 2A of the Environmental Protection Act 1990.

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.

14 The development shall be carried out in accordance with the archaeological details approved by the Local Planning Authority on 15 September 2015 under application reference AOD/15/00198.

REASON: The site lies in an area where important archaeological deposits have been identified. The development will affect these important archaeological deposits and they must be recorded during the construction programme.

15 No longer applicable.

16 Within one month of the start of construction of the development details and, where appropriate, samples of the following matters shall be submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

- o External materials
- o Cinema lightbox including lighting and hours of operation
- o Street furniture
- o External openings
- o Fenestration.

REASON: In the interests of the character and appearance of the area.

NOTES: Samples of external materials should cover aspects such as finish, colour, jointing method & flashings.

Fenestration details should include those of: (1) stadium bay western elevation (2) stadium entrance western elevation (3) cinema/retail typical bay southern elevation (4) cinema/retail lightbox bay southern elevation (5) hub entrance bay eastern elevation (6) retail/restaurant bay eastern elevation (7) Stadium entrance canopy/gap eastern elevation (6) leisure bay northern elevation.

In order to ensure the design intent is carried through to detail resolution, the fenestration production drawings are to be produced at part 1:20 scale, covering detailed points of change, so run from the ground to the top of the building over the width of a typical bay. The scope is to be agreed, but includes examples such as window reveals and curtain walling on the vertical and horizontal plane and articulation of solid panels to achieve changes in depth of plane (typified by the

example of the cinema box serrated edge). Solid panel sizes, retail advert/signage panels and jointing methods to also be included.

The design intent of the cinema auditorium with external lightbox appears to be for a glowing lightbox effect. The provision of drawing details will not enable the effect of this lighting to be judged, and so details of additional illustrative material (e.g. samples, computer or artist generated images) for an accurate judgement to be made as to the overall effect shall be agreed and thereafter submitted to the Planning Authority.

17 Prior to first occupation of the development eight (8) electric recharge bays shall be provided within the site boundary at a location to be agreed with the Local Planning Authority. Bays shall be clearly marked for 'electric vehicle charging only'. The bays shall include free-standing, weatherproof, outdoor electric vehicle recharging units (either 4 x dual headed outlets or 8 x single outlets) and provide 32A type 2 sockets and use a back office system which provides public access by swipe card or mobile application.

REASON: In the interests of sustainable transport

18 The development shall be carried out in accordance with the drainage details approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00346.

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

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

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

20 No part of the development hereby approved shall be occupied until the means of vehicular/pedestrian access from the public highway has been constructed and surfaced to at least a base course level, in accordance with the details shown on submitted drawing(s) ref;

- o H-DR-0100 Issue 3
- o H-DR-0104 Issue 4
- o H-DR-0106 Issue 4

- o H-DR-0108 Issue 4
- o H-DR-0110 Issue 4
- o LDA Design General Arrangement 3395_LP 01 Rev B

or such plans as are subsequently submitted to and approved in writing by the Local Planning Authority.

REASON: To confine access to the permitted points in the interests of good management of the highway and to minimise the number of vehicle accesses onto the highway in the interests of free flow of traffic and safety of highway users, including the Park & Ride bus services.

21 No part of the development hereby approved shall be occupied until facilities clear of the public highway have been provided for the manoeuvring of vehicles in accordance with the approved drawing H-DR-109 Issue 3 or such drawings as are subsequently submitted to and approved in writing by the Local Planning Authority. Such drawings shall show means of access, dimensions, surface treatment and drainage. The areas so provided shall at no time be used for any other purpose than the manoeuvring of vehicles and shall be retained thereafter for such purposes.

REASON; In order to ensure that vehicles may leave the site in a forward gear and do not prejudice the free flow of traffic, highway safety or the amenities of the area.

22 The development shall be carried out in accordance with the vehicle parking details including provision for motorcycles approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00346.

REASON; To ensure that adequate provision for parking of vehicles, in accordance with the council's maximum parking standards is provided within the site curtilage to avoid the displacement of uncontrolled parking on the adjacent public highway, to the detriment of free flow of traffic, safety of highway users and amenity of local residents

23 Within 6 months of the commencement of development details of the cycle parking facilities as indicatively shown on drawing LDA Design General Arrangement 3395_LP 01 Rev B shall be submitted to the local planning authority for approval in writing. Such details to show the position, design, materials and finishes thereof. The approved facilities shall be installed prior to any part of the site being brought into use and shall thereafter be retained for the lifetime of the development for the sole purpose of the parking of cycles.

REASON: To ensure that adequate provision for the parking of cycles, in accordance with the councils minimum cycle parking standards.

24 The development hereby approved shall not be brought into use until the

forward sightlines as shown on drawing H-DR-109 Issue 3 have been provided. Such sightlines shall be retained thereafter for the lifetime of the development, free of all obstructions over 600mm in height above the level of the adjacent highway.

REASON: To ensure an adequate level of visibility is provided in accordance with the relevant criteria so that the use of said highway/junction does not prejudice the free flow of traffic or safety of highway users.

25 Within 6 months of the commencement of development drawings detailing the design of a pedestrian/cycle crossing point to be used in the locations indicatively shown on drawings:

- o H-DR-0100 Issue 3
- o H-DR-0104 Issue 4
- o H-DR-0106 Issue 4
- o H-DR-0108 Issue 4
- o H-DR-0110 Issue 4

shall be submitted to the local planning authority for approval in writing. Such details to show the carriageway width, kerb detail, design, surface materials, street furniture and/or planting/street trees thereof. The development shall be carried out in accordance with the approved details.

REASON; To ensure that the pedestrian and cycle crossing facilities are of a high quality to encourage sustainable travel whilst ensuring through design measures that vehicles are aware of the presence of the crossing and as such positively influences driver behaviour.

26 Within 6 months of the commencement of development detailed drawings and an access strategy shall be submitted to the local planning authority for approval in writing by the Local Planning Authority of measures to restrict and regulate traffic using the new access road around the stadium boundary. Such details shall show the physical design features such as carriageway narrowing, signage, surface treatments and/or technology based solutions such as ANPR enforcement, gates, intelligent bollards or CCTV. The development shall be carried out in accordance with the approved details.

REASON: To ensure that the new internal access route is not used inappropriately to the detriment of highway safety of vulnerable highway users or hinder the service reliability of public transport including Park & Ride services.

27 The development shall not come into use until the following off-site highway works have been implemented in accordance with the submitted drawing(s), or such plans as are subsequently submitted to and approved in writing by the Local Planning Authority:

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- a) Upgrading of signal loops and software to UTC and/or MOVA at the existing signalised junction of Kathryn Avenue/Jockey Lane
- b) Provision of a CCTV camera at a location to be agreed in the vicinity of the junction of Kathryn Avenue/Jockey Lane
- c) Improvements to facilities for pedestrians and cyclists including widening and resurfacing of the footways from the site boundary along Kathryn Avenue to the junction with Jockey Lane as shown indicatively on drawing ref; YCS(90)CH0002 Rev P002 dated 06/03/15

REASON: In the interests of providing a safe means of access to the site by all modes of transport and to minimise disruption to the free flow of traffic.

28 A full 4 stage road safety audit in accordance with guidance set out in DMRB HD19/03 and guidance issued by the council shall be carried out for the internal highway layout and all off-site works requiring alteration as specified in submitted drawing(s):

- o H-DR-0100 Issue 3
- o H-DR-0104 Issue 4
- o H-DR-0106 Issue 4
- o H-DR-0108 Issue 4
- o H-DR-0110 Issue 4
- o LDA Design General Arrangement 3395_LP 01 Rev B

or such plans as are subsequently submitted to and approved in writing by the Local Planning Authority.

NOTE: Stage 1 of the audit was approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00364.

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

29 The development shall be carried out in accordance with the detailed method of works statement approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00341.

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

30 No part of the development hereby approved shall be occupied until a car

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parking management plan has been submitted to the local planning authority for approval in writing. The site shall thereafter be occupied in accordance with the approved car parking management plan unless agreed otherwise in writing by the local planning authority. Such a management plan shall include at least the following details:

- a) a maximum duration of stay;
- b) details of how the use of 400 spaces within the Monks Cross Park & Ride by stadium spectators during stadium events will be managed;
- c) details of how the implemented plan is to be enforced and managed on a day to day basis;
- d) a signage strategy which makes visitors clear as to the restrictions and enforcement;
- e) details of how and on which match days the northern car park will be available to the public

REASON: To ensure that car park is not used by employees at adjacent employment sites, undermining sustainable travel policies and to ensure that the provision of free car parking at out of town retail units does not encourage car borne travel to these destinations.

31 Within 6 months of the commencement of development a strategy for the placing of directional signage on the highway network shall be submitted the local planning authority for approval and agreed in writing. Such agreed scheme shall be implemented prior to any part of the development hereby approved being brought into use.

REASON: In order to manage traffic flows to minimise the likelihood of development traffic using inappropriate routes to the detriment of highway safety, residential amenity or air quality

32 The site shall hereafter be occupied in accordance with the aims, measures and outcomes of the submitted Travel Plan dated 11 December 2014, or such Travel Plan as is subsequently submitted to and approved in writing by the Local Planning Authority.

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

33 Within 6 months of the commencement of development a strategy for the use of shuttle buses serving the stadium shall have been submitted to the local planning authority for approval in writing. The agreed strategy shall include at least the following details and shall be implemented prior to the first event taking place at the stadium;

- a) The frequency of the shuttle service operation
- b) The time period before, during and after stadium events that the service will operate
- c) Charges if applicable that will be levied on users of the shuttle service
- d) The routing of the shuttle service including the locations of pick up, drop off and stabling points
- e) Ongoing mechanisms to evaluate the usage of the service, review/adaptation of any aspect of provision to accord with spectator numbers and origins.
- f) Mitigation proposals should the shuttle services fail to achieve the modal split by bus envisaged in the Transport Assessment/Travel Plan.

The agreed stadium shuttle service strategy shall thereafter be operated during stadium events unless agreed otherwise in writing by the Local Planning Authority.

REASON: In order to manage traffic flows to the stadium by promoting sustainable travel and reducing dependence on the private car with the associated detrimental impact that will arise on the operation of the highway network and to local residents.

34 Prior to commencement of the construction works an emission mitigation package for the development shall be submitted in writing to the local planning authority for approval. This shall include a revised emissions damage costs calculation undertaken in line with the DEFRA emissions factor toolkit and Interdepartmental Group on Costs and Benefits (IGCB) and shall adequately demonstrate that the emissions mitigation measures are proportionate to the damage costs. Once approved by the local planning authority

The development shall be carried out in accordance with the emission mitigation package approved by the Local Planning Authority on 30 October 2015 under application reference AOD/15/00346. The emission mitigation package shall be implemented prior to first occupation of the development.

REASON: to mitigate and/or offset emissions associated with the operation of the site in accordance with National Planning Policy Framework paragraphs 109, 124 and 152, City of York Council's adopted Low Emission Strategy, City of York

Council's draft Air Quality Action Plan (AQAP3), and City of York Council's draft local plan air quality policy.

35 The total Class A1 retail floorspace (including mezzanines) of the development hereby permitted shall not exceed 5,324 square metres gross internal area.

REASON: The local planning authority would wish to assess the retail and highway impacts of further retail development.

36 No mechanical, electrical, telecommunications or other plant, equipment or apparatus shall be installed on the roof of the buildings hereby approved without the prior written consent of the local planning authority.

REASON: In the interests of the design and external appearance of the building.

RECOMMENDATION

That delegated authority be given to the Assistant Director of Development Services Planning and Regeneration to

- (i) refer the application to the Secretary of State for Communities and Local Government under the requirements of Article 5(1) of The Town and Country Planning (Consultation) (England) Direction 2009, and should the application not be called in by the Secretary of State, then
- (ii) APPROVE the application subject to the following conditions set out later in this report.

7.0 INFORMATIVES:

Contact details:

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