

COMMITTEE REPORT

Date: 17th May 2012 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 11/02199/OUTM

Application at: Monks Cross Shopping Park Monks Cross Drive Huntington York
For: Erection of additional retail floorspace (class A1) comprising either extensions to existing stores, new buildings and/or new or extended internal first floors to existing stores. Alterations to car park layout, landscaping and associated highway works. Alterations to the planning controls for the existing and proposed retail units to allow a maximum number of 31 units, maximum food sales of 6,968 sq.m., minimum unit size of 455 sq.m., a maximum of 8 units less than 455 sq.m., permit up to two large units (upto 4,645 sq.m. net sales area) to sell a broader range of goods than simply bulky goods.

By: The Monks Cross Shopping Park Trust
Application Type: Major Outline Application (13 weeks)
Target Date: 20 December 2011
Recommendation: Refuse

1.0 PROPOSAL

1.1 This complex outline application relates to the provision of an additional 8,693 sq.m. of gross retail floor space and alterations to the planning controls for existing and proposed retail units to allow them to operate with greater flexibility in terms of size of units and goods sold. The application site consists of the area of land and buildings forming the main Monks Cross Shopping Park (MCSP), Monks Cross, York located adjacent to Jockey Lane and to the north/north-west of Asda Supermarket.

1.2 The site currently consists of 26 separate retail units (as identified by Appendix 1 applicant's planning report supplementary),, providing approximately 34,554 sq.m. of floor space, car parking and ancillary facilities and forms part of a larger retail area known as Monks Cross. The site comprises the area bounded by Monks Cross Drive to the north and west and Asda supermarket to the south-east. Access to the site is via an access point from the roundabout on Jockey Lane and via an access point from the roundabout to the north from Monks Cross Link. The north, west and eastern boundaries of the site present relatively blank elevations of the shopping buildings on to a landscaped boundary adjacent to Monks Cross Drive and Monks Cross Link The southern boundary of the site consists of the entrance and car parking facilities viewed through maturing landscaped boundaries. The

majority of the trees to the periphery of the site are covered by a Tree Preservation Order (TPO no CYC 274)

1.3 The application proposals have been amended since the application was first submitted reducing both the site area of the application and the amount of additional floor space proposed. The proposal is in outline with all matters reserved (layout, scale, appearance access, landscaping). However the submission, as required by planning regulations, provides information on the use, amount of development, indicative layout, scale and parameters and indicative access points. The application proposes the use of the existing access arrangements to serve 8,693 sq.m. of new floor space (gross). The details, which the applicant wishes to keep as flexible as possible to respond to changing market conditions, proposes a number of possible scenarios for the provision of the additional floor space. The scheme shows three potential areas for new build/extension to existing units these areas :-

- A two storey side extension to the existing M-&S unit which could provide an additional 1,940 sq.m of floor space over two levels. The outline plan shows the extension provided in a semi circular form on the north end elevation of the M-&S unit with height proposed as approximately that of the existing retail unit. (approximately 11m to parapet and 12 m to ridge). This proposal will necessitate the loss of 34 car parking spaces.
- An additional freestanding building, referred to in the submitted details as the 'gateway building', providing 1858 sq.m. of floor space over two floors with small single storey 'pod' structure of 111sq.m. to the end northern elevation. The building is proposed to be located on the area of car parking to the southwest of the site adjacent to Monks Cross Drive. The structure will necessitate the loss of car parking and the reconfiguration of the remainder of the car parking adjacent to the building between Monks Cross Drive and the main estate access road.
- The replacement of the management suite and public toilets located in the north west corner of the site to provide two storey extension to the current British Homes stores unit with 932 sq.m. of floor space over two levels, a potential for a single storey coffee shop providing 145 sq.m. of floor space and the relocation of the management suite as a two storey extension to the rear of the retail and coffee shop proposals. The management suite is proposed to provide 346 sq.m. of office /administrative space.

1.4 As well as the provision of new retail floor space the applicant proposes that floor space will be created by the installation of mezzanines within existing retail units. There is no indication of which units would be provided with the additional mezzanine space as this will depend on retailer requirements. The applicant however is proposing that the combination of new build and mezzanine will not extend beyond the 8,693 sq.m gross retail floor space proposed in the application. Combined with the proposal for additional floor space the applicant is proposing a number of planning controls on the use of the retail space. These are:-

- maximum of 31 units
- maximum food sales of 6,968 sq.m.

- Minimum unit size of 455 sq.m.
- A maximum of 8 units less than 455 sq.m.
- Permit up to two large units (upto 4,645 sq.m. net sales area) to sell a broader range of goods than simply bulky goods.

1.5 For clarity and information the existing retail space is currently controlled via a condition attached to the original outline consent to develop the park this says:-

'No retail unit shall be less than 10,000 square feet and units greater than 15,000 square feet net retail sales area shall not be used for the retailing of any of the following goods, save where ancillary to the main range of goods sold, without the prior consent in writing of the Local Planning Authority.

- (a) men's, women's and children's clothing and footwear
- (b) fashion accessories
- (c) watches and jewellery
- (d) music and video recordings and video or CD-ROM games
- (e) cameras (including camcorders) and other photographic equipment
- (f) domestic TV, video and hifi equipment
- (g) toys'

1.6 As part of the extension of the retail floor space, the car park is to be reconfigured; this will involve the removal of the existing bus lane on the north and west side of the existing car park to allow a further 107 car parking spaces to be provided. It is also proposed to enhance the area adjacent to Pizza hut to provide a better pedestrian connection between the site and the area to the west occupied by TK Maxx, Argos and Sainsburys. The master plan for the development of the site also shows a desire to improve linkages between adjacent areas of retail development particularly Julia Avenue.

1.7 The submitted application is supported by the following documents:-

- Planning report and supplementary documents and appendices
- Transport statement
- Travel plan
- Design and Access statement
- Evidence base by Cushman and Wakefield
- Flood Risk and Drainage Appraisal dated April 2010
- Tree Survey dated April 2010

1.8 In March 2011 the applicant's applied for a Screening Opinion to establish if there was a need for an environmental impact assessment to support an application for new retail floor space. On the 21st April it was confirmed that based on the information submitted as part of the screening opinion that the proposal was not considered likely to have significant environmental effects in terms of the criteria laid down in section 10b (Urban development projects) to Schedule 2 of the 1999

Town and Country Planning (Environmental Impact Assessment) Regulations and therefore no environmental impact assessment is required to support this development.

1.9 Members are asked to note that a section 73 application (variation of condition application) relating to the same site is also on the agenda Planning reference 11/2208/FULM.

Relevant Planning History

1.10 The application site area consists of an area which cover the main Monks Cross shopping park referred hereafter as MCSP. The following site history can be attributed to and can be considered relevant to the application site:

- In September 1994 outline planning permission was granted for 'shopping centre comprising 360,000sq.ft. A1 retail floorspace (gross leasable area) plus management space, fast food provision, circulation space and ancillary facilities' planning reference 3/66/650AK/OA 3/61/207G/OA. The application was subject to 13 conditions; condition 3 of the permission is as set out in paragraph above. The remaining conditions on this permission relate to the way in which the physical details of the scheme are to be implemented.

NOTE: the above permission and the subsequent reserved matters also related to the Asda supermarket. The Asda Supermarket building and car park are not part of the current application site area.

- In August 1997 reserved matters approval was granted for the erection of retail units with associated parking/servicing/ management facilities and restaurant (Planning reference 7/066/9080). The reserved matters was subject to a section 106 unilateral undertaking which included financial contributions towards art work and bus routes and highway requirements outside the application site.

- In February 1998 planning permission was granted for a first floor mezzanine to unit 12 to be used for A3 food and drink use. The planning permission restricted the use of the mezzanine to A3 use only and ancillary to the main retail use

- In July 1998 Approval of reserved matters in relation to landscaping and boundary treatment of the retail development was approved (planning reference 98/00187/REM)

- Prior to the introduction of legislation relating to the insertion of mezzanine floors within retail units in 2006 a number of certificates of lawful development applications were submitted in 2005 for the insertion of mezzanine floors (units 7, 13 and 18).

- In September 2007 planning permission was granted for external alterations to and construction of first floor within units 18 and 19 (Planning reference 07/01498/FULM)

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- Certificate of Lawful proposed use was issued in relation to former BB's cafe to allow the unit to be used for class A1 retail. The certificate confirmed that the change would constitute permitted development and thus could take place without the need for planning permission.
- In November 2008 planning permission was granted for a variation of condition 3 (referred to above) of the original outline planning permission in relation to unit 18 (planning reference 08/01515/FUL) allowing the upper limit of 15000square foot to be increased to 15,210 square foot.
- Permission was submitted in March 2009 for external alterations and construction of first floor within unit 16, the Clarke's unit. No decision has been issued on this application.(planning reference 09/00580/FUL)
- In July 2010 planning permission was refuse for the erection of 3no retail buildings (total floor space 1440 sq m) for Class A1 (retail), and/or Class A3 (restaurants and cafes) and/or Class A5 (hot food takeaway) with modifications to existing car park, introduction of new servicing, landscaping and highway works (this was the resubmission of an earlier withdrawn application). The application was refused by planning committee because of loss of car parking and the loss of trees, including trees covered by a Tree Preservation Order. (planning reference 10/1012/FULM)
- In September 2010 permission was granted for the erection of 2 storey infill unit to create sandwich shop (use class A1), cafe (A3) Drinking Establishment (A4) or Hot Food Take-Away (A5) (Planning reference 10/2058/FUL). This permission was subject to a restriction to the specified uses and no other use within class A1

2.0 CONSULTATIONS

INTERNAL

2.1 Highway Network Management - The major part of the highway network response has been incorporated into the committee report. Highway Network Management's overall response is that in the absence of sufficient uplift to public transport (TP) services through either car park charging or the payment of a sum to allow the provision of a bus service direct from the north side of York, the development will not meet the modal split (proportion of people travelling by different transport means to the site) targets set out in the submitted travel plan. The application is recommended for refusal on highway grounds. Concerns are also raised about how conditions and contributions can be secured for a scheme that provides so many scenarios for implementation. Highway Network Management have also raised detailed design concerns with regard to the provision of cycle parking and the loss of the segregated bus transport lane on the north and west of

the site. The concern is about the lack of design features that promote sustainable travel objectives.

2.2 Environmental Protection – States that in line with the Council's emerging low emission strategy developers should demonstrate how they are using best endeavours' for reducing emissions during construction and operational phases of development. The development should strive to reduce the use of private car as possible and should promote the uptake of low emissions vehicles. The Environmental Protection Unit would like to see three electric vehicle recharging points installed within the development site to promote the uptake of low emissions vehicles. Additionally Informatives are requested in relation to control of noise on construction sites.

2.3 Flood Risk Management Team - Following the submission of topographical information and existing and proposed surfacing, raises no objections to the principle of the development subject to a condition ensuring that foul and surface water drainage works are submitted and approved. Details to include attenuation measures and storage volume calculations.

2.4 Design, Conservation and Sustainable Development (DCSD)- Landscape Architect states any excavations for new surfacing adjacent to existing trees should not go deeper than existing road construction. The reduced projection of the unit from the side of the building is now sufficient to provide for the welfare of the trees on the boundary of the existing car park. However it would have been preferable for the building to be set slightly further back. In relation to the 'gateway' scheme ' concerns are raised that the position of the building encloses the site reducing the visual connection with adjacent sites. The amended scheme allows the existing trees around the play area to be retained and allows more space for its redesign. Concerns raised that the planting margins may reduce the chance of success and maturity of the trees. Exceptional detail will be needed to ensure those trees placed in a hard surround are able to thrive.

2.5 DCSD (Design) - In design terms the revised proposal are acceptable and would deliver some improvement to the overall quality of the site for users within the constraints of the existing retail park format.

2.6 DCSD (Sustainability) - The applicant has committed to achieving BREEAM 'very good' rating. A condition is suggested to ensure that this is achieved. A condition is suggested to ensure a minimum of 10% of the entire development's energy demand is provided by renewable energy technologies.

2.7 Life Long Learning and Leisure - No comments

2.8 Integrated Strategy – Much of the Integrated Strategy response has been incorporated into the report. Overall Integrated Strategy considers that the

proposals fail the sequential and impact tests and that the proposals when considered in conjunction with the stadium proposals could create a substantial risk to the soundness of the core strategy which could risk its withdrawal.

2.9 Economic Development – States the scale of economic impact of the application will be approximately a third of Monks Cross south. The expansion in activity and employment would contribute an extra £4.3 million to the economy. There would be a net increase in jobs. Two appendices are attached to the report. Appendix 1 says that changes in the high street are happening anyway, the application will at worst accelerate these. Appendix 2 details the City Centre Action and Investment Plan which the council has adopted to mitigate and manage these changes.

EXTERNAL

2.10 Huntington Parish Council - Has no objections to this application but wishes to seek assurances that permission granted for any such development maintains safe pedestrian access and adequate bus links to the area.

2.11 Highways Agency - Whilst there has been no formal response from the highways agency they have forwarded comments from their consultants (JMP) on the proposal. The consultant's conclusions are that the Travel Plan targets require further consideration, particularly how they fit with the likely impact of the measures proposed for implementation. Further clarity on the measures would also be beneficial.

2.12 Environment Agency - The proposed development will only be acceptable if the measures detailed in the flood risk assessment are implemented and secured by condition. A condition is proposed to ensure the development is carried out in accordance with the submitted flooding and drainage appraisal.

2.13 Architectural Liaison Officer - no issues raised. Monks Cross Park has consistently achieved safer parking award scheme accreditation. The alterations to the car park will not affect this.

2.14 Ryedale District Council - The proposals taken cumulatively the applications represent relatively significant additions and changes to the current MCSP which exerts a significant influence in attracting customers from Ryedale. Malton is identified in the Ryedale Core strategy as the principal town centre where most opportunities exist to accommodate new retail development. A key need identified within the centre is for new purpose built comparison units. Principally concerned about the provision of smaller units at MCSP. The lowering of the minimum unit size has the potential to partially change this format which could have direct competition with town centres which are also seeking to attract this format. This has the potential to undermine the key principles of the retail sequential test - the promotion of town centres first- and divert investment away from nearby town centres. There are

currently two planning applications being considered in Malton which make provision for purpose built comparison units as part of a larger scheme. The Council have concerns that the supporting retail information does not consider the issue of diverting investment from neighbouring centres such as Malton.

2.15 Harrogate Borough Council - No objections

2.16 Selby District Council – No objections

2.17 East Riding of Yorkshire – No comments received

2.18 At the time of writing there are 1645 letters of objection covering the following points.

- The economic benefit of the development has been hugely overstated. Insufficient consideration has been given to the effect on existing businesses, peripheral and city centre.
- Job losses associated with reduced trade in existing city centre businesses could eclipse the corporate retail and construction jobs created
- Commercial areas- city centre, off centre and neighbourhoods- are crucial to local communities providing anchor points for business and social activity. Accessible by foot, cycle and public transport and not dependant on access by car.
- Support for out of town development will create an alternative economic centre, stronger businesses will feel pressure to move out-of-town
- Even in an apparently vibrant neighbourhood like Bishopthorpe Road businesses already struggle to survive and the commercial balance is difficult to maintain the development will exacerbate this
- Despite the bland assertions by the developer it is impossible to conceive that such a massive corporate expansion will not reverberate throughout every commercial street in York
- UK retailing is undergoing massive structural change generated by the rise in the internet, the future is likely to see a falling demand for physical retail space and raises the long term sustainability of retail space across the entire city and whether available central sites can ever be utilised if out of town development is given the green light. Future retail should be concentrated in the city centre which is the principle enshrined within the Local Development Framework (LDF)
- The LDF is based on wide consultation and well established and thoughtfully considered planning policies, developed over many years to encourage healthy, long term and sustainable economic growth. Policy aims to foster economic development within the city that supports sustainable, environmental, social and cultural goals rather than short term economic gain. Developments at Monks Cross pay very little attention to policy aims
- The development represents a large step away from the aims of established planning policy and a very large step towards remaking York along the lines of

flawed models of town planning that have been thoroughly discredited elsewhere in the UK.

- This development would make a mockery of York's LDF and create a highly undesirable precedent.
- City centre businesses have found creative ways to adapt to high overheads and lack of space if large corporate retailers want a presence in York they should have to play by the same rules. There is ample room for expansion within the city centre.
- Local Businesses in Local centres play a vital role in nurturing the community. This would be undermined by the approval of this project
- Monks Cross is large enough now, adequate for most out-of town shoppers needs adding more space will be detrimental to city centre and small retailers and the footfall of the city centre
- Parking at Monks Cross is inadequate to take extra development
- Road system around Monks Cross is often grid locked as is the northern part of the ring road meaning that people living in Heworth find it quicker to go through the city.
- Prime aim should be to look after the city centre, it's stores and smaller retailers
- Monks Cross is big enough and the proposed extension is out of all proportion
- There would eventually be a net loss of jobs caused by this development.
- Monks Cross was originally built with constraints to mitigate the effect of the development on the city centre traders and to reduce the impact on smaller retailers. The approval of this scheme will undermine city centre vitality
- It will Increase pollution through additional traffic.
- Development would lead to empty shops, decay to the atmosphere of the city centre
- Out of town shopping is environmentally unsound – encourages car usage
- Already too many unoccupied shops in the city
- Expansion of Monks Cross will mean chain stores will move out of the centre.
- The Council is urged to think long term not just money Monks Cross will generate
- Non-car users would be disadvantaged by out-of-town shopping development
- The city centre is already battling against Clifton Moor
- City centre traders rely heavily on Tourist trade which is declining local trade must be kept in the centre
- Enough shops in Monks Cross to serve York already
- People come to York to visit the independent shops they can go anywhere for main stream shops
- What about the quality of the city rather than the quantity of shops.
- The scheme will disadvantage poor and elderly
- Contrary to all local and national planning policies
- Proposals would undermine York's draft LDF which is going to public examination this year
- Sequentially there are plentiful of sites in the city centre and edge of centre
- Undermine future prosperity of York, trade draw from the city centre would mean that only tourist shops and cafes would be left in the centre
- Undermine existing and potential strategies for developing a sustainable city including traffic reduction and improving air quality

- Contrary to the City's aspirations to promote fairness and greater equality as its out-of-town location on one side of the city it will be hard to reach for young, those on low incomes and those who do not wish to use a car.
- Decline in the city centre will discourage inward investors, could cause far more loss of jobs than it creates
- The Council should refer these applications to the Secretary of State for public inquiry given the size of the combined applications and the potential impact on the future of York.
- Particular concern about any proposal that reduces the size of the units at Monks Cross.
- Cost of buses is high and their availability is low; therefore bus use is not an option in many cases for accessing out-of-town shopping
- Out-of-town parking should not be free
- If land at Piccadilly or to the rear of the railway station can not be developed because it is too expensive there should be no development until these sites become economically viable
- Lack of inward investment will be a major concern for the maintenance of historic buildings in the city
- Scheme has more disbenefits than benefits
- York will lose its unique qualities
- There is no shortage of retail space for car borne shoppers with Clifton Moor Monks Cross, Designer outlet, Tesco, B&Q
- Trade to centre diverted will mean fewer tourists
- Empty shops in York could be used for the development
- Increased congestion will contribute to climate change
- There are areas in York that have been left to be run down such as Piccadilly. New development should go to these areas
- The Council should do the hard job of regenerating areas such as Micklegate and Piccadilly instead of taking business away
- The schemes are unnecessary
- A huge carbon footprint will result
- Planners should be focusing on attracting good quality development in the centre
- As a business employing 80 people have found that the vibrant city centre is key to attracting and retaining top quality people, the scheme will reduce the attractiveness with a likely impact on the businesses future expansion and employment options.
- Only beneficiaries are the developers and the businesses concerned in the development
- The city does not need more shops it needs more affordable homes.
- Environmentally regressive step
- York is wonderful for walking and cycling we should not be pushing people out of town to shop
- Out of town retail outlets create a dehumanisation of shopping
- There will only be tourist attractions left, nothing for residents
- Out of Town shopping is bland and soulless has no sense of community to locals

- The whole idea of park and ride has been to free up the city for tourist and residents to encourage those on the periphery to shop in the city
- Monks Cross is a boring place to shop and Marks and Spencers already has enough stores
- Independent retailers says shop would close as a direct result of the development
- Present road system around Monks Cross can not cope with the extra traffic
- Panders to national and multi-national interests to the detriment of local people
- Empty shops in the city centre will be off-putting to tourists and will lose repeat visitors
- The approval of the schemes will be regretted in years to come
- Will set a precedent for yet more out-of-town retail development
- York's status as a cycling city is surely not compatible with the proposed development
- Jobs created would be off-set by job losses within the city centre
- Leeds is competing against other centres by building new shopping within the city centre
- Reports by GVA Grimley should be taken into account The Council have relied on their judgement before it would seem perverse to start and ignore them now.
- Speed of traffic on the northern ring road gets slower every year additional traffic to shops will cause even greater congestion
- Far too many empty buildings in the city centre to justify further development out of town
- The city centre can not survive on gift shops and cafes
- It is important that York has real people going about their business tourists enjoy atmosphere as much as attractions
- A large number of jobs will simply transfer to Monks Cross creating further traffic problems and pollution
- With the current economic conditions it is the worst time to be putting pressure on the city.

2.19 At the time of writing there are 42 letters of support covering the following points:-

- More shops at Monks cross would be fantastic
- The doom and gloom predicted for the city centre contradicted by UK economists
- Development would give York residents more choice
- York centre does not have space for large stores want to be able to access large shops without having to travel away
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2.20 A number of letters of objection have been received from or on behalf of other interested parties and these are referred to separately below:-

2.21 GVA Grimley on behalf of the York Chamber of Trade - The proposal is contrary to PPS1 as although the proposal is considered to be in the interests of sustainability by preventing the need to identify additional locations for retail this is not presented against the significant detrimental impact of investment and employment opportunities within existing communities and centres.

- The proposals are contrary to the local plan as the anchor stores and configuration of smaller units will significantly alter the character of the centre
- In emerging Council policy Monks Cross is not indicated as a site for further retail development. Sequential preference after the city centre post 2020 is for development at York Central
- Even if the Council conclude that there is clear evidence to demonstrate that permitted space could be brought forward without the need for planning permission, there is concern about the cumulative impact of the of the proposals now been promoted which would lead to a more significant uplift in the overall attractiveness of the centre and its turnover, and hence its impact on the city centre
- it is considered that the applicants have not demonstrated compliance with the sequential approach as required by EC15 of PPS4
- The proposal would create precedent and pressure for the continued unplanned growth of retailing in the Monks Cross area. The combined proposal of Monks Cross North and the Oakgate scheme would elevate the role of Monks Cross to sub-regional or even regional significance. The proposal would therefore prejudge and prejudice the emerging LDF. There should therefore be proper independent scrutiny through a public inquiry.
- The applicant's case is predicated on the fallback position relating to the unfettered nature of the current planning control on the site. Chapter 12 of the submitted planning statement refers to attracting retailers based on 'out-of-town as opposed to 'high street' format of retail space however the flexibility introduced by the range of units, particularly in respect of the smaller units will blur these distinctions to the detriment of the city centre
- Paragraph 9.34 of the planning statement identifies that the biggest draw of trade will be from York City Centre this impact is muted to negligible due to the compensatory impacts of new retail development at Castle Piccadilly and York Central however this contradicts evidence also presented confirming anticipated delays to these projects
- The additional travel generated by the proposals is likely to have a significant impact on the highway network arising principally from private motorised transport. The transport assessment does not accurately reflect pressure for parking arising from the increased attractiveness of the centre.
- The chamber of trades' view is that the proposals would alter the offer at Monks Cross in such a way that the impact on the City centre would be significantly adverse and the application should therefore be refused.

2.22 Jones Lang La Salle - selected as the preferred developer for the Castle Piccadilly site - object to the proposals on the following grounds:-

- The Castle Piccadilly site is a key city centre development site within the Council's emerging Local Development framework for a mixed use development with a significant amount of retail. The site is identified as being of strategic importance to the future of the city centre.
- LaSalle UK Venture Funds is actively preparing a scheme designed to accommodate a large department store and a range of modern shop units.
- The scheme would strengthen the retail function of the city centre significantly in line with national, regional and local planning objectives.
- The significant amount of retail proposed at the existing Monks Cross shopping park is contrary to planning policy at all levels and contrary to independent advice given to the Council from retail experts.
- If permitted, the proposals would harm the existing shops in the city centre and would have such a detrimental effect on future investment that the comprehensive redevelopment of Castle Piccadilly would not happen. In the event of approval LaSalle UK venture fund would look to dispose of their assets in York in order to liquidate the fund. The most likely disposal would be of the individual parts to maximise the asset value.
- The permission being sought to remove the minimum unit size and permitted range of goods conditions will in effect create town centre shop units. If granted this would create another city centre in an out of centre location.
- Retail studies commissioned by the Council acknowledge that the substantial range of out of town shopping around York has resulted in consistent decline in its comparison goods market share for the city centre to levels that are considered to be unacceptably low. The massive increase in the amount of out of town retail floorspace will accelerate the decline of the city centre yet further.
- In York there are sequentially preferable existing retail stores and also major retail development sites (sites identified - expiring leases within Coppergate, M&S moving from Coppergate together with existing vacant shops and Castle Piccadilly development site). It is a matter of fact that the proposal fails the sequential approach.
- The proposals to reduce the size of unit from 929 sq.m. to 455 sq.m. is in direct conflict with policy S2 of the local plan. The reason for the limits on minimum floor space is to limit the impact of out of town retailing on the vitality and viability of existing centres. Further more the emerging policy CS17 says that the amount of comparison floorspace in out-of town retail destinations will not be expanded.
- Castle Piccadilly is key to reversing the declining market share of the City Centre. The scale and nature of the proposals to further increase retail floorspace at Monks Cross would cause lasting damage. The application would result in a step change in the attractiveness of Monks Cross as a whole, drawing a significant number of new shoppers out of town.

2.23 York Conservation Trust - has undertaken a survey to every retailer in the city centre (approximately 700) excluding national chain stores, public houses and restaurants. 140 replies were received. The questionnaire asked what the effect on the business would be of a loss of sales of 5,10 and 15%. Of those replies received

it was calculated that with 5% loss of business job loss would be 190 jobs, with 10% loss the job loss would be 377 and with a 15% loss the job loss would be 724.

- This figure is extrapolated over the total number of retailers surveyed and concludes that at 15% loss of business there could be 565 shop closures and 3,620 jobs lost. The conservation trust accept that statistics can not be completely accurate but considers that the survey shows that the Monks Cross development could have a catastrophic effect on retailers in the city centre
- The proposal will seriously jeopardise the lives of many small businesses and reduce the appeal of York as a joint historic/retail tourist venue.
- The results of the survey support the recent report by Mary Portas for the Government.
- The trust owns over 80 properties within the Centre of York most of these are listed buildings. If these properties lay empty the Trust will not be able to purchase any further old properties which are in need of care and attention.

2.24 York Civic Trust -Principle concerns are the additions and the sub-division of units.

- The proposals go against national and local policies
- The scheme will have a detrimental effect on York's historic core.
- the sustainability assessment for the Core Strategy states 'The (team) welcomes the new policy's strengthening approach to the sequential development of retail in York, prioritising the city centre primarily over other development'. This local view was written in the context of national planning policy
- Sustainability is an absolute commitment in the new draft framework and does not remove the sequential test. York planning policies follow current and emerging national policies
- Concerned that the City Council might not adhere to these policies in the face of these major challenges.
- At what point do these applications become unsustainable. The grant of these permissions will threaten the sustainability of the historic environment. York has around 1,600 listed buildings of which 1,000 of them have a retail use. We must preserve the incentive for owners and operators to look after and invest in these buildings which are, in effect, York's unique selling point
- The incentive for re-development of Castle/Piccadilly site must not be put at risk by further out-of-town expansion.

3.0 APPRAISAL

3.1 Key Issues:-

- Policy background - retail
- Principle of the development considering:-
- Sequential assessment and retail impact
- Fall back position
- Transport

- Economic Development -Employment
- Conclusions -Principle of the development and sustainable development
- Design and Landscaping
- Parking and Access Arrangements
- Sustainability – Building Design
- Flood risk and drainage
- Conditions

Policy background - Retail

3.2 The recently published National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied and confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a development plan is not up to date Local Planning Authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

3.3 The Ministerial Forward highlights that sustainable development is about positive growth, making economic, environmental and social progress for this and future generations. The policy framework sets a clear presumption in favour of sustainable development within every decision.

3.4 The NPPF retains and defines the 'presumption in favour of sustainable development'. as the "golden thread" which runs through both plan-making and decision. It is defined in the NPPF by five principles as set out in the UK Sustainable Development Strategy:

- "living within the planet's environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly."

3.5 The NPPF says the Government believes that sustainable development can play three critical roles in England:

- an economic role, contributing to a strong, responsive, competitive economy;
- a social role, supporting vibrant and healthy communities; and
- an environmental role, protecting and enhancing our natural, built and historic environment

3.6 The NPPF states Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. It also states that Local planning authorities should look for solutions rather than problems, and 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.

3.7 The document states that Planning should promote the vitality of main urban areas and encourage the effective use of previously developed land providing that it is not of high environmental value. It should promote mixed use developments, support the transition to a low carbon future, actively manage patterns of growth and focus significant development in locations which are or can be made sustainable (para. 17).

3.8 Specifically, Para 23 states that it is important that the needs for retail uses are met in full and not compromised by limited site availability. Well connected appropriate edge of centre sites for main town centre uses (which include retailing) should be allocated where suitable and viable town centre sites are not available. If these cannot be identified, policies for meeting the identified needs in other accessible locations that are well connected to the town centre should be set as well as policies for the consideration of proposals which cannot be accommodated in or adjacent to town centres.. The quantitative and qualitative need for land / floorspace for retail development should be assessed through the evidence base for making Local Plans, as should the role and function of town centres, the relationship between them and the capacity of existing centres to accommodate new town centre development (para. 161).

3.9 In promoting healthy communities, para. 70 seeks to ensure that planning policies and decisions should ensure that established shops are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

3.10 Specific aspects of the NPPF relevant to this application are; paragraph 19 says that significant weight should be placed on the need to support economic growth. Paragraph 24 requires a Sequential test for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Main town centre uses should 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 (note: there is no specific test of viability). When considering edge of centre and out of centre proposals, preference should be given to accessible sites

that are well connected to the town centre. Flexibility should be demonstrated on issues such as format and scale.

3.11 Paragraph 26 requires an Impact assessment for retail (and leisure and office) development outside of town centres which are not in accordance with an up-to-date Local Plan. An impact assessment is required if the development is over a proportionate, locally set floorspace threshold (if no such threshold, then 2,500 sqm is the default). The assessment should cover the impact of the proposal on:

- Existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.
- Town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

3.12 Paragraph 27 says where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused. Paragraph 203 relates to the use of planning conditions and says Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Yorkshire and Humber Plan (2008)

3.13 The Yorkshire and Humber Plan is the relevant Regional Spatial Strategy. The Localism Act 2011 makes provision for the revocation of the Strategies though this provision has yet to be brought into force. The Plan still forms part of the Development Plan although the Government's intention to revoke it is capable of being a material consideration.

3.14 York is defined as a sub-regional city and sub regional cities are one of the locations to be the prime focus for shopping in the region, under Policy YH4.

3.15 Retail services to diversify and grow York are encouraged through Policy Y1 and investment is to be delivered in locations, through Policy E1, where it will have maximum benefit and secure competitive advantage.

3.16 Policy E2 seeks to strengthen the role and performance of existing city and town centres, with the centres of sub-regional cities being a focus for retail development, amongst other uses, and for district centres to be the focus for local services and facilities. No further development of new, or large scale expansion of existing, regional or sub-regional shopping centres should be permitted and proposals for small scale expansion should be assessed in line with PPS6. Policy

E3 seeks to make use of appropriate located previously developed land and current allocations.

3.17 The Plan does not set out the need for additional retail space, which is left for a further plan review, although Table 11.2 sets out the potential for growth as being 450 full time equivalent jobs per annum from 2006 for York for retail and leisure uses.

‘Planning for Growth’ Ministerial Statement (2011)

3.18 On 23 March 2011, the Minister for Decentralisation and Cities issued a statement which sets out the steps the Government expects local planning authorities to take with immediate effect.

3.19 The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs; the Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

3.20 When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate inter alia economic development. Where relevant they should consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies. In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations and they should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.

3.21 The Statement confirms that the Secretary of State will take the principles in the Statement into account when determining applications that come before him for decision, and in particular, that he will attach significant weight to the need to secure economic growth and employment

Current and Emerging Local Level Policies

3.22 The City of York is preparing a Local Development Framework, which will comprise of a folder of documents for delivering the spatial planning strategy for the area.

In terms of a Core Strategy, a Publication Submission Document was produced and consulted upon between September and November 2011. This Document has now been submitted to the Secretary of State.

3.23 The sites put forward at the Issues and Options Stage for the Allocations and Designations Development Plan Document are being assessed and a Preferred Options Document is currently being drafted.

3.24 A Preferred Options Document is also being prepared for the City Centre Area Action Plan, which follows the analysis of representations submitted at the Issues and Options Stage.

All three documents are predicted by the Council to be adopted by the end of 2013.

3.25 There is no formally adopted local development plan. A Draft Local Plan document was approved by the Council for development control purposes in April 2005. The Draft Local Plan does not have formal development plan status but is considered by the Council to be an important material consideration in the assessment of planning applications, as policies have been found to generally conform to national policy when tested on appeal .

Draft York Local Plan (2005)

3.26 Through policy SP7A, the Plan seeks to ensure that development outside York City Centre is highly accessible by non-car modes of transport, taking a sequential approach for new retail development; the hierarchy for retailing starting with the defined Central Shopping Area, then edge-of-city centre sites or Acomb or Haxby District Centres, than in other out-of-centre locations that are genuinely accessible. The policy does not permit individual retail units in out-of-centre locations of less than 1,000 sq.m net sales area. For major shopping developments outside the Central Shopping Area, evidence of retail impact will be required to show that the proposal would not, together with other recent and proposed developments, undermine the vitality and viability of York City Centre's predominant use as a sub regional shopping centre, the defined Central Shopping Area, or the Acomb or Haxby District Centres. Policy SP7B states that York City Centre will remain the main focus for retail development and that the Central Shopping Area, as shown on the proposals map, will be the City Centre for retail purposes in terms of the sequential test and will be the focus for retailing activity.

3.27 A number of sites are identified for mixed use developments that include retail use, including at Hungate, Heworth Green and Castle Piccadilly (Policy SP9).

3.28 Strategic windfall sites, where consistent with other policies, will be appropriate for retailing where located in the most sustainable areas, defined as within 400m of a transport mode or park-and-ride, under Policy SP10.

3.29 Policy S1 allocates Castle Piccadilly for comparison goods retailing to meet the need for new retail development to 2011 and sites are allocated at George

Hudson Street for comparison / convenience goods retail and at Foss Island for convenience / bulky goods retail.

3.30 Under Policy S2, planning permission will be granted for out-of-centre retail warehouses or retail warehouse parks provided that no development has a net sales floorspace of less than 1,000 sq.m and shall be not subsequently subdivided, with restrictions on the primary retail use.

3.31 Policy YC1 designates York Central as an Action Area to provide a modern central business district and new residential community. The accompanying text relates to local retail uses being of appropriate scale to meet the new resident and workforce population and any locally deficient surrounding communities.

City of York Core Strategy Submission (Publication Version, 2011)

3.32 The Core Strategy is at an advanced stage, though the policies remain to be examined for soundness and the weight to be attached to the policies needs to be considered in that context. The Publication version was issued in September 2011 and submitted to the Secretary of State on 14 February 2012. The Inspector held an Exploratory Meeting on 23 April 2012, and has decided to suspend the examination of the emerging Core Strategy for six months pending further technical work. The technical work is broadly intended to add detailed justification to the strategic work already carried out and presently appears unlikely to affect the broad thrust of the Core Strategy; this would include additional evidence to clarify and explain, and not to dramatically change, the Core Strategy's implementation intentions.

3.33 Reference to the sub-regional role of out-of-centre retail destinations is made (para. 1.34) and to the conclusions of the York 2008 Retail Study that the greatest challenge to the success of the City Centre is growing competition from other shopping destinations and a lack of space for higher quality, more varied department store operators (para. 1.35).

3.34 The vision of the Local Development Framework includes strengthening the City Centre as a sub-regional shopping and entertainment centre by 2031, involving the increase in the supply of modern retail units and enhancing department store representation.

3.35 Spatial Principle 1 identifies York City Centre as the main focus for retail with Acomb and Haxby District Centres also delivering retail services. Principle 3 seeks to fully realise the potential offered by the York Northwest Strategic Allocation, including York Central, in meeting the city's retail needs.

3.36 Policy CS2 for York City Centre seeks to provide around 28,000 sq.m of comparison retail by 2020, in the Castle Piccadilly and the Stonebow area, with between 20,000 and 25,000 sq.m net of comparison retail on York Central post-

2020 (the latter following the development of Castle Piccadilly and the Stonebow area, subject to retail impact testing). Part 3 of the Policy refers to the retail space of Hungate as being ancillary.

3.37 Policy CS3 relates to the York Central Strategic Allocation and reiterates the quantum of floorspace and criteria set out in Policy CS2.

3.38 Policy CS4 includes for a new local centre including between 200 and 600 sq.m gross of local convenience retail at the British Sugar / Manor School site, subject to a retail impact assessment.

3.39 Policy CS15 seeks to protect and enhance the retail role of the City Centre and Policy CS17 deals with the distribution of retail growth. The emerging policy seeks to support the vitality and viability of the City Centre, with the Central Shopping Area continuing to be the primary focus for new comparison goods retail development. The phasing approach is set out namely to give priority to Castle Piccadilly pre-2020 and to prioritise York Central thereafter.

Other out-of-centre retail developments will be considered in the light of the sequential approach and the impact on existing centres and retail allocations. Convenience retail development will be directed to the City and District Centres and the smaller centres at an appropriate scale including a new local centre at British Sugar / Manor School referred to above.

3.40 Para.14.6 states that the amount of comparison floorspace in out-of-centre retail destinations will not be expanded but district centre type uses will be supported in these locations.

City Centre Action Plan – Issues and Options Report (2008)

3.41 The City Centre Area Action Plan Issues and Options report in July 2008 predates the publication version of the Core Strategy. It is the Council's intention to progress the Plan following further progress on the Core Strategy. The Plan, in particular, poses the question as to whether the Castle Piccadilly area should be promoted as a key retail site (question 4).

Other Local Level Documents:-

3.42 An overview of certain documents (not exhaustive) that provide background evidence on retail and may help in the consideration of retail impact and sequential approach are set out in the DJD report:

- City of York Council Annual Monitoring Report (2011)
- City of York Core Strategy Supporting Paper – Retail (2011)
- City of York Council Topic Paper – Population, by Arups (2011)
- Visit York: York Big Attractions Group Visitor Model 2010 (2011)

- Lynn Jones Research : Visitrac City Surveys – York's Scores for Quarter 3 2011, published by Visit York (2011)
- City of York Council Retail Topic Paper (2010)
- York New City Beautiful – Towards an Economic Vision (2010)
- City of York Council Retail Study, by GVA Grimley (2008)
- City of York Retail Study 2004 – Report to Executive (2004)

Other National Level Documents

3.43 An overview of national level documents is set out in the DJD report. These documents provide a background to the Governments approach to new retail development:-

- The Portas Review: an independent review into the future of our high streets, by Mary Portas (2011).
- Understanding High Street Performance - A Report by Genecon LLP and their Partners for the Department for Business, Innovations and Skills (2011).
- The Deloitte Consumer Review, by Deloitte (2011)
- Retail Trends, by GVA (Spring 2011)
- UK Shopping Centre Development Pipeline, by Colliers International (Autumn 2010)

Weight to be attached to Existing and Emerging Local Policy

3.44 The Local Planning Authority commissioned a report from Drivers Jonas Deloitte (DJD) to inform the policy response to this retail application and the application being considered on Monks Cross south relating to new retail development and community stadium. The DJD report is also supplemented by an addendum which addresses the impacts of the publication of the NPPF and the amendments made to the proposal subsequent to the writing of the original report.

3.45 The view of the DJD report, which Officers concur with, is that the introduction of the NPPF still allows weight to be attached to the draft local plan and the emerging core strategy where these are consistent with the framework policies. In particular the DJD report says:-

3.46 The NPPF makes clear that proposed development that accords with an up-to-date Local Plan should be approved, and that proposed development that conflicts should be refused unless material considerations indicate otherwise (para. 12).

3.47 Furthermore the NPPF says where the Development Plan is absent, silent or relevant policies are out-of-date, applications should be granted unless material considerations indicate otherwise and unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or
- Specific policies in the Framework indicate development should be restricted (examples quoted relate to environmental designations and areas of environmental constraint as well as heritage assets) (para. 14).

3.48 The policies apply from 27 March 2012 (para. 208). For 12 months, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework; in other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the Framework policies, the greater the weight that may be given) (para.215).

3.49 Weight may also be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections (the less significant, the greater the weight) and the degree of consistency of the relevant emerging plan policies to the Framework policies (the closer they are, the greater the weight) (para. 216).

3.50 In essence, in this case:

- The Yorkshire and Humber Plan is the adopted Development Plan in the York area and as such, decisions should be taken in accordance with the Plan unless material considerations indicate otherwise
- The City of York Local Plan is not an adopted plan; some weight may be given to relevant policies in existing plans although the fact that the Local Plan is not a formally adopted plan irrespective of whether or not it pre-dates the 2004 cut-off date is relevant; and
- Some weight could be given to emerging Core Strategy policies which are at an advanced stage; the weight to be attached will depend upon their relationship to the NPPF and also whether they are subject to unresolved objections

3.51 Principle of the development considering:-

- **Sequential test and impact assessment**
- **The fall back position**
- **Transport**
- **Employment**

Sequential Test and Impact Assessment

3.52 This outline application is for an additional 8,693 sq.m of floor space through either first floor space, new buildings or a combination of both, with a limit on the number of units to 31 and by virtue of the associated variation of condition application the requirement to consider the reduction of unit size to 455 sq.m. (from 929 sq.m.) except for up to eight smaller units, which will have no size restriction, up to 2 units with up to 4,645 sq.m (net sales area) each to have the ability to trade fashion and other goods and a cap on convenience goods sales area to 6,968 sq.m (there is currently no cap on the level of convenience goods).

3.53 There is significant retail evidence supporting the planning application. This is set out in a planning report, which includes a retail assessment, and two supplementary documents prepared by Indigo planning and within an evidence base produced by Cushman and Wakefield.

3.54 Supplementary 2 which was produced following the latest amendments to the scheme can be summarised as follows:

- MCSP (and MCSP II and Julia Avenue) are largely unfettered (in planning terms) and over time mezzanine floors will continue to be developed; there is a genuine fallback position which has a material bearing;
- There are limited opportunities for new retail development within the City Centre, a matter not contested by the Council, and there are no more sequentially preferable sites;
- The retail floorspace proposed represents a substantially lesser scale of retail floorspace than could be accommodated over time and the proposals provide new planning controls over that which is already consented;
- A recent Secretary of State's planning decision indicates that failure to comply with the sequential test should not in itself be a reason for refusal;
- The original retail impact analysis did not take account of the fall back and as a consequence the impact levels were over stated and worst case;
- The scale of predicted impact is immaterial on the City Centre, both in terms of solus impact and cumulative impact with other proposals, and of no significance in policy terms ; and
- The revised solus impact on York City Centre is less than 1%. The turnover of the City Centre will grow by £270.2m (2011 to 2016) due to the Castle Piccadilly proposal; if that scheme does not come forward, the City Centre turnover will still be higher in 2016 than in 2011.

3.55 As set out in the NPPF there are two key policy tests relevant to the consideration of the retail impacts of the development. These are the sequential test and the impact assessment.

Sequential Test

3.56 A sequential test is a planning principle that seeks to identify, allocate or develop certain types or locations of land before others.

3.57 The sequential approach remains a fundamental aspect of national planning policy in the new NPPF. Under the NPPF, the test continues to be applied for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan.

3.58 The NPPF says that main town centre uses should 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. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

3.59 No specific floorspace threshold is cited for the use of the sequential test. The twin facets of the new test in the NPPF are suitability and availability. The previous consideration of viability referred to in former Government advice (planning policy statement 4) is no longer referenced in dealing with planning applications (it does remain relevant for plan-making).

3.60 The NPPF says that when undertaking the sequential assessment flexibility should be demonstrated on issues such as format and scale, both by applicants and by local authorities. There is no reference to car parking provision or the scope for disaggregation nor is there any direct reference that local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating their proposed business model. However, it is considered that such issues can be considered through the requirement for applicants to undertake an assessment of format and scale.

3.61 Essentially this means that a proposal for an out-of-centre development that is not in accordance with an up-to-date development plan will fail this test if there are suitable and available alternative sites for retail development either in an 'edge-of-centre' location or within existing centres.

3.62 The applicant has submitted a sequential test argument as part of their planning report and appendices and supported by an evidence base produced by Cushman and Wakefield. Their sequential approach argument can be summarised as follows:-

- There is substantial expenditure capacity for additional comparison goods floorspace with limited opportunities to accommodate this need in the City Centre or its edge (Indigo Planning report. There is sufficient expenditure capacity on any site that may be deemed sequentially preferable.
- Retailers require different formats including both high street and out-of-centre formats and a large proportion of the existing retailers at Monks Cross Shopping Park (85%) have dual representation, i.e. in centre and at the Park.
- The Council's Integrated Strategy Officer, in considering planning application ref: 10/01012/FUL, indicated that Castle Piccadilly would have a long timescale, retail at Hungate would be small scale and unsuitable, York North West would not be available in the short term, Foss Islands is out-of-centre and Stonebow and the Telephone Exchange are not appropriate to the present time.
- The sequential test is largely hypothetical and the proposals seek to reduce the amount of retail floorspace permissible and impose controls.
- The Practice Guidance recognises that there will be some situations where it is difficult to accommodate large developments due to conservation and heritage issues and York City Centre has significant heritage issues.
- It is highly unlikely that Castle Piccadilly will be developed in the next five years given the sensitive nature of the site and its constraints in terms of heritage, land assembly issues and the need for a CPO (compulsory purchase order), and present market conditions.
- There is no evidence that the owners of Stonebow House are bringing the site forward for development, office space has recently been refurbished and the site is not available.

3.63 Part of the assessment by DJD on behalf of the Council is an independent review of the alternative sites for retail development. The assessment considers sequentially preferable sites including Stonebow House, Telephone Exchange, Hungate, York Central and Castle Piccadilly. DJD conclude that there is only one sequentially preferable site – Castle Piccadilly that is considered to be suitable and available for major retail development.

3.64 DJD conclude in terms of suitability that the Castle Piccadilly site is capable of contributing directly to the vitality of the Central Shopping Area and that there are no specific policy restrictions that would render the site unsuitable particularly given the support in Planning Briefs and draft policies for retail-led development at Castle

Piccadilly. DJD consider that there is the potential to create a high quality development that would contribute significantly to the vibrancy of the city centre. There is developer interest with emerging proposals for a major retail-led development to include two large anchor stores and large space users and the Council are working with the adjacent land owners through the principal of a Conditional Concession / Development Agreement.

3.65 The DJD Addendum report states that since the Main DJD Report was produced, a report to the Council's Cabinet (3rd April 2012) has been approved to allow for negotiations on a Conditional Concession Agreement to be concluded. The Cabinet Report in particular identifies that "Retail Studies conclude that the site provides the best location for extending the current primary shopping area and the best site in the City Centre for meeting the City's longer term retail needs" (para.7). This reference to 'longer term' needs to be set in the context of when the retail studies were produced (2004 and 2008).

3.66 In terms of the availability of the Castle Piccadilly site the DJD states that "the majority of the site is in the ownership of two parties; the preferred developer and the Council and that subject to planning the site could be made available for a start on site in 2013/14 with completion in 2016/17. Based on the information available to the Council there is confidence that there are no insurmountable legal or ownership problems that are not capable of resolution". DJD also state within the Addendum report that "there is evidence that the Castle Piccadilly scheme could be delivered within the short to medium term and on a timeframe not materially different from that for the Stadium Development (a potential 'lag' of say two years given the planning status and the more complex build requirements).

3.67 DJD consider that there is evidence that there is a reasonable prospect of a sequentially preferable opportunity coming forward, likely to be capable of meeting the same requirements as this application is intending to meet. The timescales for progression of the Castle Piccadilly opportunity are still uncertain but there is recent Cabinet approval to forming a partnership with the LaSalle UK Venture Fund which provides tangible evidence of progress. DJD state in their Addendum report in respect of the deliverability of the Castle Piccadilly site that "we do recognise that the long history associated with that site creates uncertainty as to its deliverability and the progress of the Castle Piccadilly project should be monitored carefully. If for instance, no substantive progress has been made on the Concession Agreement nor masterplan / planning application in 2012 that could create further uncertainty and concern over the deliverability of the proposal. There is currently no evidence however that progress is not likely to be made, particularly as the Cabinet approval to progress has only recently been granted".

3.68 The needs identified within this application are for greater flexibility over the use of the Shopping Park and this includes the construction of new floor space, the flexibility to sub-divide space to allow for smaller stores and the provision of larger

anchor stores. The needs are not specifically defined in terms of operators but generalised in terms of a need to accommodate specific requirements. It is evident that the MCSP proposals are speculative, yet the existing array of permissions, which are generally quite flexible for out of centre retailing, provide a complex dimension to the assessment of the this application and the accompanying section 73 application.

3.69 A case is put forward in the supporting evidence from the applicant that the sequential test is hypothetical and that in effect the requirements are 'location specific'. In many respects the identified need at MCSP is specific to the requirements of the developer, in that they own the land and are seeking greater flexibility to accommodate improvements but the core test is whether there is a need for the retail space that they are proposing and whether there are sequentially preferable sites that could accommodate this; not that their need is specific to the Shopping Park.

3.70 For the two large space units proposed DJD consider that the Castle Piccadilly scheme could accommodate the large stores proposed for MCSP. They consider that there is no specific operator evidence provided in support of the application to support the need for additional large space units at MCSP. Debenhams are cited by the applicants as a possible occupier for one of the two new proposed large stores but no direct company evidence has been provided. Marks and Spencer have made a commitment to the Stadium Development with a store which is much larger than that proposed for MCSP.

3.71 For the mezzanines, location specific arguments have been put forward by the applicant that the mezzanines are required to satisfy certain operator requirements. DJD consider that the supporting evidence provided is limited; however the provision of some mezzanine floorspace may be acceptable in order to remedy the specific operational issues faced by particular operators who wish to adapt their business model to competition and for which a relocation or expansion of their existing City Centre store, where applicable, is not a reasonable proposition. However the proposed widespread flexible approach to mezzanine provision as advocated by the applicant raises particular concerns in relation to impact. The 'fallback' argument put forward by the applicant of an array of incremental installations of mezzanines across the shopping park is a possibility but DJD consider that it is not a reasonable possibility within a reasonable period of time. Notwithstanding the 'fallback' (See below) argument, DJD consider that the justification for additional mezzanine floorspace in an unrestricted fashion across the Monks Cross Shopping Park is not supported by sufficient evidence at this stage for this to be considered an overriding material consideration.

3.72 In respect of the proposed smaller units (vary the lower limit of unit sizes to 455 sq m with up to 8 units below that level) DJD consider that there are potential vacant units and space available within the City Centre, as well as within the Castle

Piccadilly development to accommodate smaller floorplate stores. The focus of the sequential test work provided by the applicant has been on larger sites and this in some respects disregards the potential availability of existing buildings, including redevelopment opportunities to accommodate the need for smaller stores. There has been a history within the City Centre of proposals coming forward for the redevelopment of space, particularly post-war style buildings which are approaching the end of their useful life. DJD consider that the level of detail provided by the applicant on the sequential assessment is not sufficient to demonstrate why these smaller units could not be appropriately accommodated in sequentially preferable locations and that notwithstanding this the Castle Piccadilly site also has the potential to accommodate smaller units.

3.73 DJD consider that the applicants case that there is a 'business model', namely an out-of-centre format that should be accommodated on out of centre sites and a separate in-town format, does not have any particular recognition in national planning policy. Whereas in practice this has often been the case, typically out of centre units, especially where they are unconnected to existing centres, have been subject to floor area controls as the existing draft Local Plan Policy which places a restriction against units being provided, or sub-divided to, less than 929 sq m. This restriction does continue to maintain a key distinction between the two offers – City Centre and 'Out-of-Centre'- within the City.

3.74 It is recognised that in the case of MCSP there is a potential fall back situation in that a number of smaller units already exist or could be sub-divided, four adjacent to the existing Debenhams store and a further 3 within the Phase 3 scheme (Julia Avenue). The Phase 3 scheme is now omitted from the MCSP proposals although this sub-division could still occur within the existing consents. This situation is the making of the previous planning permissions for those units and the absence of certain planning controls. Although the delivery of this fallback position may not be desirable there are no controls upon it and thus the implications of this would have to be accepted. However, DJD consider that the flexible introduction of small units throughout the scheme as proposed could have a more significant impact which could undermine the ability to secure investment in vacant space and buildings within the city centre. They also conclude that the flexible introduction of smaller units within the main shopping park could also set an undesirable precedent that would make it extremely difficult to defend against the sub-division of retail premises throughout out-of-centre locations, not just at Monks Cross.

3.75 Paragraph 27 of the NPPF says that where a proposal fails the sequential test this will, of itself, be sufficient reason to refuse planning permission. The emerging Core Strategy and the draft Local Plan take a similar stance.

Impact Assessment

Health Check Assessment

Application Reference Number: 11/02199/OUTM

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3.76 A Health Check assessment is as a tool used for assessing and monitoring vitality and viability of town and city centres.

3.77 The role and importance of health checks were referenced in PPS4 (now cancelled). The NPPF is silent on their role, although DJD consider that 'they remain important in considering and judging the extent and significance of impacts'

3.78 The DJD report reviews the health check information used by the applicants within their submission documentation together with other evidence. The report says that 'healthy town centres need to have a 'critical mass' and diversity of retail development to attract consumers on a regular basis throughout the year. To remain competitive, they need a good mix of different types of multiple and independent retailers, which can include specialist shops, and the core retail offer may be reinforced by a range of tourism, leisure and cultural activities'. The dynamic role of retailing is noted in that a range of factors, including economic and social trends and new technology can have a significant impact on the current and future role of existing centres and the scope for new ones and that these factors need to be taken into account when considering future needs and assessing the impacts of new development'

3.79 Consideration of impact requires the health of York City Centre, and other centres within the catchment area, to be carefully considered. DJD conclude that based on their assessment of the City Centre as a whole it is a 'vital and viable City Centre but with some particular issues of concern. The performance of the centre over recent years can be expected to have declined due to the general economic conditions, albeit that the evidence of decline is less pronounced than arguably is the case for other main centres. Larger units which have been brought to the market have tended to be reoccupied and vacancy levels overall are significantly better than in many other centres. However there is concern about the vacancies arising particularly in peripheral 'secondary' streets. There is also concern that the levels of footfall are not growing and ongoing concerns regarding the cost of car parking which is a distinct competitive disadvantage when compared to the out of centre model with free and plentiful parking provision'.

3.80 There is an extensive array of out of centre facilities within York and the City Centre has been able to maintain a competitive advantage in the face of that competition, in certain sectors. DJD state that some of the developments that have occurred at Clifton Moor, York Designer Outlet and Monks Cross Shopping Park are some of the larger, more significant shopping centre and factory outlet centres that have been built in the region. York City Centre has around 138,600sq.m. (1.49m sq ft) of city centre retail floorspace compared to around 148,600 sq.m. (1.6m sq ft) in out of centre locations. Yet despite this, DJD conclude that the City Centre has been able to withstand competition in certain sectors and provide a different, distinctive and unique offer. However they conclude that maintaining that offer

remains a significant challenge and the lack of available large floor plates has arguably held the City Centre back from increasing its market share.

3.81 The comparison goods assessment of the 2008 York Retail Study demonstrates a market share of 21% for York City Centre of the total available expenditure for the whole survey area (zones 1-20), and 28% from zones 1 to 16, which represents a fall from 31% in 2004. York City Centre's comparison goods share has remained static at around 21% between the two household surveys (2008 and 2010) although it has fallen from previous levels in 2004 (31%) and 2001 (37%). Whilst the information submitted claims that the static market share of the City Centre shows that the City Centre has remained attractive as a retail destination despite the difficult economic conditions over the past 3-4 years in the same period of time both Monks Cross and Clifton Moor have both increased their market shares.

3.82 At the time of the 2008 GVA York Retail Study Monks Cross and Clifton Moor had a combined market share of 14% compared to the City Centre at 21%. In the recent 2010 household survey undertaken by the applicant for the Stadium proposal this combined market share has increased to 20% (8% for Monks Cross and 12% for Clifton Moor). DJD estimate that if this application were to proceed along with the proposals for retail on Monks Cross south the market share of York City Centre would reduce to around 19% whilst the combined market share of Monks Cross and Clifton Moor would increase to circa 25% (Monks Cross 14% and Clifton Moor 11%), well above that of the city centre. When combined with other out of centre facilities this increases to 27.5%.

3.83 DJD estimate that If the Castle Piccadilly development is factored in the anticipated market share of the City Centre would increase to 24%, the Monks Cross market share would still be 11.5% and the combined out of centre market share would be 24% which would be equal to the market share of the City Centre (with Castle Piccadilly).

Impact

3.84 The purpose of the impact assessment is to consider the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

3.85 The NPPF says proposals that are likely to have significant adverse impact on one or more of the above factors, should be refused.

3.86 The impact assessment arguments put forward by the applicant can be summarised as follows:-

- There are no restriction on first floor trading and full first floor coverage could be achieved over time without the need for planning.
- There is sufficient non-food retail floorspace to accommodate proposals at Castle Piccadilly and York central as well as that proposed. The changes will complement the Castle Piccadilly as that scheme will provide floorspace for retailers with a high street format whereas the shopping park provides out-of-centre format.
- Neither the Castle Piccadilly nor the York Central scheme will improve market shares significantly and the Proposal will help assist to claw back trade leaking to more distant centres. The market share of the City Centre will be affected further by schemes in Leeds, Wakefield and Sheffield and trade leakage will increase. York City Centre is a vital and viable centre.
- Retail expenditure is projected to increase significantly, there is already a substantial surplus due to outflow of trade from York, and the surplus is expected to grow and diminish any trade impact. The Proposal will 'soak up' only 2.5% of the rising expenditure between 2011 and 2016 and 2.1% between 2011 and 2021.
- In terms of impact on investment (Policy EC16.1a test), Castle Piccadilly is in its infancy but nevertheless, there is more than sufficient expenditure surplus to meet the retail demands of the scheme and the Monks Cross Shopping Park applications. There is no planned investment in the District Centres.
- The proposals at Monks Cross will come forward over the course of 10 years and impact has been tested at 2016 and 2021 (50% by 2016 and the remainder by 2021). The turnover of the Stonebow House, Castle Piccadilly and Telephone Exchange proposals, for the purposes of the impact assessment, have been added to the turnover of the City Centre. The levels of projected impact are *de minimis* and negligible in terms of the overall turnover of the City Centre's comparison goods retail offer, and will be more than compensated through the positive trading effects of the new retail developments at Stonebow House, Castle Piccadilly and the Telephone Exchange.

- In 2021, York City Centre's turnover will be £896.6m, compared to £449.1m in 2011, following the development of the former Terry's site, the remainder of Monks Cross and York Central.
- The impact assessment does not take account of the 'fallback' that presently exists nor the added controls that are proposed.

Impact on existing, committed and planned investment

3.87 The first impact test as set out in NPPF (paragraph 26) is the impact on existing, committed and planned investment in a centre or centres in the catchment area of the proposal.

3.88 DJD conclude that Castle Piccadilly is a planned investment that would directly contribute to the City Centre, given the site's relationship with the Central Shopping Area. They conclude that the Stadium and MSCP proposals will have an effect on city-wide trade, operator demand and investor confidence as well as reducing the city centres market share, without additional counter-acting development, making it more difficult to attract demand and support development in expenditure terms.

3.89 In respect of this application DJD consider that the large space anchor stores could have a significantly adverse impact upon planned investment as the Castle Piccadilly scheme is capable of accommodating large stores/department stores and thus operator demand and investor confidence could be unduly affected. They consider that the additional mezzanine floors proposed would have an adverse impact though this is not considered to be significant. They conclude that the smaller units would also have an adverse impact on planned investment but also not necessarily significant, given that the delivery of the planned investment is unlikely to be dependent upon this element and having regard to evidence of general commercial demand.

3.90 The preferred developer for the Castle Piccadilly scheme has claimed that the level of impact on their scheme will be significant. Jones Lang La Salle (JLL) acting on behalf of LaSalle UK Ventures Fund (The Fund) submitted an objection to the MCSP proposals in February 2012. (summarised in the section 3 above)

3.91 DJD conclude that 'the scale of out of centre retail development in York is significant and it is evident that the proposals (the Stadium and Monks Cross Shopping Park) will expand the market share of these facilities, potentially at the expense of the City Centre's market share, without an appropriate counter-balance. This will constrain the Council's ability to deliver planned investment at the Castle Piccadilly site'. It also states that 'the emerging Core Strategy seeks to bring forward the York Central site as an appropriate location to cater for comparison goods needs post 2020. On the information available on capacity and impact, we remain

concerned whether this could be delivered within that timeframe without significant impact upon the City Centre's ability to withstand that level of competition, assuming the proposals are granted'.

3.92 DJD say that 'the Castle Piccadilly project, on the face of the evidence available, has a reasonable prospect of being brought forward in the short term. In theory, there is more than sufficient demand for Castle Piccadilly and additional schemes, although the timing and delivery of this is important. However, approval of the proposals as they stand could undermine the emerging Castle Piccadilly proposal and the preferred developer has indicated that the scheme would not progress in the face of such approvals'.

Impact on town centre vitality and viability

3.93 The second impact test outlined in paragraph 26 of NPPF is the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

3.94 DJD conclude that the impact on York City Centre as a result of the MCSP proposals is estimated to be a trade diversion away from the Centre in the region of £10.26m in 2016 which represents a circa 2% negative impact on the turnover of York City Centre. This does not take account of any uplift which is likely to result from Monks Cross becoming a more attractive shopping destination in relation to the City Centre.

3.95 DJD consider that the reduced scale of the MCSP proposals renders the solus impact to a level which is not considered to be significant in itself however the impacts arising from the provision of the proposed large units are considered to be adverse on an individual basis without restrictions on their scale and use. The impacts arising from the smaller units within MCSP are considered to be significantly adverse. The flexible introduction of mezzanines across the main shopping park is considered to be adverse on an individual basis. DJD consider that subject to further evidence and detail the impacts arising from selective mezzanine installations and not the flexible approach currently proposed may mitigate some of the impact.

3.96 There is expected to be growth in the local retail market, both in terms of population and expenditure growth, particularly in the comparison goods sector and there is a need for additional floorspace within York as evidenced in the York Retail Study (GVA, 2008). DJD also consider that there is the prospect that 'leakage' from York's retail catchment area to other centres outside the catchment such as Leeds and Hull will increase over time, although they consider that the particular characteristics of the City Centre provides some resilience to that effect. It remains an important objective of the emerging Core Strategy to retain additional spend in the City Centre and thus improve its market share and this is dependent to some extent upon additional floorspace being created.

3.97 The assessment of spending and consumer shopping patterns is complex and subject to different assumptions and judgements. The Council's and DJD's approach has been to seek to agree the baseline assumptions wherever possible. There are no meaningful benchmarks of trade diversion (i.e. what level or percentage of impact should be seen as adverse or significantly adverse) as the specific circumstances are critical to the assessment process. DJD consider that this proposal, together with the proposals at Monks Cross South, cumulatively, could have a significant impact on other retailers within the City Centre and undermine the 'town centre first' approach as well as the Castle Piccadilly development.

3.98 Overall DJD consider the City Centre to be vital and viable and able to withstand a higher level of trade diversion than may be deemed unacceptable in more vulnerable sectors. However the health check evidence and market share analysis indicates that a core role of the City Centre is in the clothing, footwear and personal goods sectors. The predicted decline in market share in those sectors would leave the City Centre vulnerable to further decline as a retail destination although DJD consider that it is likely to remain strong as a leisure and food and drink destination.

3.99 DJD conclude that 'the particular concern at a trading level is the impact on the sectors for which the City Centre retains a strong competitive advantage; namely clothing, footwear and personal goods. A significant decline in those sectors could place at risk the retail strategy for maintaining the City Centre as a strong regional centre. The particular risk is that Monks Cross, Clifton Moor and the Designer Outlet collectively, all of which are unrelated to an existing centre, would become the dominant locations for those sectors, which would over time, would make it more difficult to secure new investment into the City Centre. A linked risk is that the success of York as a heritage destination is dependent upon vibrant and commercially successful uses being maintained in the existing heritage asset base; given the scale of heritage assets, the decline, particularly in secondary streets, is arguably more significant in York given the financial obligations which are generally associated with the up-keep of such assets'.

3.100 DJD also conclude that 'the larger national multiple retailers may be able to withstand the additional competition to a greater degree, to adjust their own business models and to stock a different selection of merchandise. In addition, store failures may not lead to a dramatic increase in the vacancy levels per se because the strength of the City Centre draw for visitors could mean that those units are re-occupied by food and drink operations but the concern is that over time this could dramatically change the dynamic of the city centre as a retail destination which would be harmful'.

Conclusion of sequential test and Impact Assessment

3.101 Taking the DJD report as a basis for the consideration of the sequential and impact tests, officers conclude the following in relation to the sequential and impact tests on this application.

3.102 In terms of the sequential test the large units are unacceptable without further evidence and justification for their scale, format and use. The mezzanines proposed on the basis of the advocated flexible approach are unacceptable as currently presented but are capable of being acceptable for selective additions, subject to the provision of further supporting evidence. The flexible introduction of smaller units within the main shopping park as proposed is unacceptable both in terms of the impact it may have on the ability to secure investment in vacant space and buildings in the City Centre, and also the undesirable precedent it could set for further sub-division of existing retail premises throughout out-of-centre locations.

3.103 The impacts arising from the proposed large units are considered to be adverse on an individual basis on investment, vitality and viability and in-centre trade. The main area of concern is the clothing, footwear, luxury and personal goods sectors of the City Centre. The Castle Piccadilly scheme is capable of accommodating larger stores/department stores and thus operator demand and investor confidence could be unduly affected. The impacts arising from the flexible introduction of mezzanine floors is considered to be adverse on an individual basis. Restrictions on scale and use based on evidence of genuine operator difficulties may mitigate the impacts. The introduction of the smaller units across the main shopping park is considered to be significantly adverse. On the evidence available there is no justification to reduce the minimum size of units.

3.104 The floor space element is for an additional 8,963 sq.m of gross retail floor space; the applicant seeks flexibility on how that floorspace is provided for, whether it be through new development and / or mezzanines. There is no evidence as to why this floorspace could not be accommodated, in particular, within the proposed development for the Castle Piccadilly site and thus could have a significantly adverse impact on planned investment into the City Centre. The development, given paragraph 27 of the NPPF which says where an application fails to satisfy the sequential test or is likely to have significant adverse impact planning permission should be refused. Furthermore the advice within the NPPF is supported by existing draft local plan policy and the aims and objectives of the Core strategy which represents the vision set out at local level and consulted upon and agreed at local level in accordance with the Government's localism agenda.

Cumulative Impact

3.105 This application is being considered at the same Planning Committee as the application for a new retail offer and stadium at land known as Monks Cross south (

Planning reference 11/2581/FULM).

3.106 The DJD report and the Integrated Strategy response consider the cumulative impacts of this development with those proposed at Monks Cross south. Whilst each application is to be considered on its own merits, it is considered that there are cumulative impacts which would result from approving both applications to be taken into consideration.

3.107 The retail offer of Monks Cross south proposal includes 3 large retail units supported by a range of restaurant and kiosk units. The proposed large floorplate units at both MCSP and Monks Cross South are considered to have a significantly adverse impact on both planned investment and the vitality and viability of in-centre trade. The larger stores would create anchor units which are needed at Castle Piccadilly in order to make it viable. The introduction of the smaller units across MCSP is considered to be significantly adverse on a cumulative basis on planned investment and vitality and viability.

3.108 The cumulative trade draw away from the city centre as a result of both applications is projected to be 10.52% which equates to approximately £61m per annum. This does not take account of any uplift which is likely to result from Monks Cross becoming a more attractive shopping destination in relation to the City Centre.

3.109 The deliverability of Castle Piccadilly is a fundamental element of the Core Strategy which also seeks to bring forward the York Central site as an appropriate location to cater for comparison goods needs post - 2020. Without the enhancement to the City Centre that the Castle Piccadilly scheme would bring the impact from York Central could further undermine the viability of York City Centre. The non-delivery of retail on Castle Piccadilly and York Central would be likely to compromise the delivery of the strategic approach in the Core Strategy. The proposal presently under consideration when considered together with the stadium proposals could create a substantial risk to the soundness of the plan which could risk its withdrawal.

Fallback

3.110 As part of the planning submission the applicants assert that they have a fallback position (i.e.what the applicant could do without the need for planning permission) in relation to two areas of the existing use of the site. Their main argument for the fall back position is explained in the planning report and supplementary planning reports. Based on the application as originally submitted (which related to MCSP, MCSP II and Julia Avenue) it is asserted that without the need for further planning permission, mezzanine floors could be placed within the existing buildings which would allow 5,200 sq metres of floor space to be created immediately and that there is nothing preventing further mezzanines at a scale of 200sq metres per unit from coming forward, giving the potential for the Monks Cross

shopping park to have total cover mezzanine. The applicant says that this could amount to a total additional floor space of 27,072 sq metres. The amended submission again refers to the largely unfettered nature of existing permissions at Monks Cross including reference to Julia Avenue and Monks cross II. Officers consider that on the basis of the amended site which includes MCSP only, the figures would be reduced to around 3,600 sq.m. immediately with a maximum total amount of approximately 13,300 sq.m. This calculation is based on appendix 1 of planning report supplementary 1. The applicant's planning reports also say, based on the amended scheme, that there are 4 units within the site area that are less than 455 sq.m these existing units could be subdivided without planning permission and therefore an additional 8 units could be provided that would have a lesser floor area than 450 sq.m. Both these arguments are considered, by the applicant's agent to be a strong fall back position for allowing the introduction of the 8,693 sq.m of new floor space, and for changing the controls on MCSP so that there are a maximum of 31 units, maximum food sales of 6,968 sq.m., minimum unit size of 455 sq.m., a maximum of 8 units less than 455 sq.m. permit up to two large units (up to 4,645 sq.m. net sales area), permitted to sell a broader range of goods than simply bulky goods.

3.111 The supplementary planning report no.2 submitted in conjunction with the amended scheme, says in relation to the fall back position that the practice guide (PG) to PPS4 recognises that a 'fallback' scenario, such as the opportunity for development to come forward through permitted development rights, can be a relevant planning consideration in retail planning terms. It notes in paragraph D.10 of the PG (to PPS4) that '... an application might provide the opportunity to impose planning restrictions which could mitigate impact...'. The report says that it is outlined in the planning report (supplementary) that mezzanine installation has taken place historically, and it is explained in the planning submission that there is further opportunity for significant increase and further mezzanine will be introduced in the event that planning permission is not forthcoming. Finally the report says 'It is noted in the PG that where there is a prospect that the fallback position is brought forward then it would be appropriate to attach significant weight to it in judging the impact of the proposal in question'

Mezzanines

3.112 Section 55 of the Town and Country Planning Act (as amended by Section 49 of the 2004 Act) and article 2 A of the General Permitted Development Order issued 1996 provides that internal floor space increases such as mezzanine floors of 200 sq.m. or more in buildings used for retail purposes (other than for the sale of hot food) are classed as development and as such will require planning permission. Circular 01/2006 says that the measure is not intended to halt mezzanine development; rather it is intended to bring mezzanine development and other internal floor space increases within planning control and thus subject to the same considerations as other retail extensions. The Circular acknowledges that

mezzanines can be a quick, usually straightforward and flexible method of increasing floor space within a building. However paragraph 116 warns that 'some development could act against the objectives of planning policy for town centres. This might occur, for example, where mezzanines or other development is proposed which has the effect of increasing gross floorspace in an out-of-centre location where there isn't a need for additional retail floorspace or sequentially preferable opportunities for development exist. Such proposals might also have a negative impact on the vitality and viability of neighbouring centres'.

3.113 Officers consider, from this circular advice that it was believed that the thresholds put in place were sufficient to control the extent of out of town mezzanines. The actual effect of the legislation, it is argued by the applicant is limited, because the legislation does not preclude incremental increases running consecutive to each other. Thus, the applicant contends, there is nothing to stop the construction of a mezzanine, and when that mezzanine is substantially complete, starting on the next section of mezzanine up to 200 sq. m. and so on until the whole of an upper floor has a full cover mezzanine. Thus the insertion of mezzanines is a fall back position where planning permission not granted for the proposals considered as part of this application.

3.114 The Development Control Practice advises that fall back is a material consideration in the decision making process, of which PD rights given by the General Permitted Development Order (GPDO) comprise an element. Thus when making a decision on a planning application it may be argued with some effect that a development carried out to slightly reduced dimensions or at a marginally lesser level, or perhaps on a revised location nearby, could be implemented using permitted development rights. The weight to be given to such a material consideration varies according to whether what could be built using the GPDO would have a broadly similar or worse impact to what is proposed; and the reasonable likelihood or possibility that, if permission were refused, permitted development rights would in fact be resorted to. The practice guide indicates through the Burge case (House of Lords judgement *Burge v S.O.S.* 14/7/1987) that the weight to be attached to the fall back position should be on the balance of probabilities rather than the balance of possibilities.

3.115 Furthermore Annex D to the practice guide to PPS4, which we are advised is not superseded by the publication of the NPPF, sets out a useful test for the fall back position which is similar in its effect to the Burge case it says 'in judging the relevance of a 'fall back' position, the following factors should be taken into account:

- First, the relevance of a fall back position should be judged having regard to the likelihood of it being implemented. There is a difference between a purely 'hypothetical' fall back position, and a position which actually could be implemented. If there is a realistic prospect that the fall back position would be brought forward, then it would be appropriate to attach significant weight to it in judging the impact of the proposal in question.

- Second, when comparing the impact of a proposal with a fall back position, it will be relevant to consider the impact of the proposal as a whole rather than just the 'incremental' impact of the difference between the two. This applies to all impact assessments, where the relevant test is the cumulative impact of the proposal in question.

3.116 In support of the fallback position in relation to mezzanines the applicant's says that mezzanines have been inserted historically within the park, and as units become available, or existing retailers change their formats, there is a strong possibility of new mezzanines being introduced. It is further argued that other benefits and investments linked to the proposals will not come forward if planning permission is not granted. The agents have also submitted a Certificate of Lawful Development issued in respect of a site outside City of York Council area. This accepts that the introduction of mezzanines at 200 sq. metres at a time but consecutive to each other, in the circumstances of the site with which the certificates are associated, did not require formal planning permission.

3.117 In terms of the installation of mezzanines at the site the planning history shows Certificate of Lawful development certificates were issued in 2005 in relation to several of the units prior to the introduction of the 2006 legislation. Of these it appears that unit 18/19, which was subject to a further permission, has installed a mezzanine within the unit as has unit 13 (H & M unit). Others may have been installed prior to 2005 but crucially no others, apart from those mentioned above, appear to have installed mezzanines post 2006.

3.118 In 2010 there was a resolution to grant consent for the subdivision of unit 16 (Clarks) into two units. Each unit retained a floor plate of over 929 sq. metres (10,000 sq.ft) and the delegated resolution was to attach a bulky goods condition which accords with policy S2 of the draft Local Plan but with the concession that the units could sell shoes to allow Clarks to remain within one of the units. The decision has never been issued on this application, there has been no request for a planning decision on the application or appeal against non-determination.

3.119 In June 2010 planning permission was granted for the construction of a mezzanine floor within the units at Julia Avenue with the current three units being changed to units one of 1666sq. metres and a small second unit of just 109 sq. metres . The insertion of this mezzanine floor and associated external alterations were granted subject to a condition that restricted the sale of goods in accordance with Policy S2 (bulky goods conditions) (Planning reference 10/1014/FUL). This application has not been implemented.

3.120 It can be noted the mezzanine applications for the Julia Avenue site and those within units 18 and 19, as well as requiring planning permission because of their size, have all required external alterations requiring planning consent. No indication within the outline application or in any other documentation submitted with the

current applications has indicated how incremental installation of mezzanines could work, or the extent of any works required to achieve mezzanines or details of how such mezzanines could be installed within functioning retail operations. Furthermore it has been open to the owners of the site to incorporate mezzanines within the retail park on an incremental basis for nearly 6 years, now and despite the suggested desperate need to provide alternative formats for existing operators in the park, no mezzanines have been installed that takes advantage of the 200sq. m. limit. Furthermore it should be noted that even to install 3,600 sq.m. of new mezzanine space within the existing units within the permitted 200sq.m amounts would take approximately 18 separate construction operations.

3.121 One must also consider the current position with regard to permitted development rights. This application seeks outline planning permission. That permission would, if granted, be valid for a period of three years during which time approval of reserved matters could be submitted. Even if conditions are attached to an outline planning permission restricting permitted development rights in the future, (and such a condition was felt to meet the test of the conditions circular 11/95), that would not prevent the use of permitted development rights until such time as the permission was implemented. So one could have a situation where for the next three years the applicant could install incremental mezzanine floors within the 200sq.m. limit and subsequently implement the full extent of the outline permission. One cannot therefore conclude that the grant of this consent will bring within control of the Local Planning Authority the total amount of development at the MCSP site (put forward as a reason for approving the scheme by the applicant) or that such a consent will preclude the exercise of permitted development rights within existing units.

3.122 A further concern is that the mezzanine increase is being suggested as a reasonable fall back position to justify new build development and/or mezzanine construction. The characteristics of which, as explained elsewhere in this report, in its trading pattern is potentially very different to the installation of mezzanines. The application proposes a fixed amount of floor space but proposes total flexibility as to how that space is to be provided and wants the existing and proposed floor space to have different controls to that which exist. This could mean that through the change in the range of size of units and the new floor space that there could be a fundamental change in the character and retail offer at the site. This is considered to be a completely different proposition to the introduction of an amount of first floor space within an existing modular layout.

3.123 In Officers' opinion the potential to install mezzanines through the permitted development rights set out in the General Permitted development order are no more than a possibility and do not amount, on the balance of probabilities, to represent a realistic fallback position because despite perceived demand no recent installations have taken place under permitted development and consecutive introduction of mezzanine floors have not been shown to be feasible. Furthermore the

characteristics of the proposal have the potential to be very different to the introduction of mezzanine floors and the grant of outline permission would not preclude the exercise of permitted development rights. In officers opinion the impact of any fall back position would be significantly different to the impact of the proposed development and therefore little weight can be attached to the fall back position with regard to the installation of mezzanine floors.

Provision of smaller units

3.124 The reduction of the application site area to relate to only MCSP means that the argument in relation to the fall back position for the existing smaller units has been reduced from 7 which included 3 at Julia Avenue and 4 adjacent to Debenhams on MCSP to 4 units which are less than 450 sq. m. The applicant says that these four units are capable of further sub-division without the need for planning permission; thus a further 8 units sought in the planning application is a reasonable fall back scenario. Consequently it is the applicant's opinion that there is no material change in what is currently consented, to what is sought in terms of the allowance for small-scale units. Furthermore it is argued that the cap on the total number of units will restrain the number of small units in any event.

3.125 The four units referred to as being less than 450 sq. m. are Starbucks coffee, Game, Pizza Hut and McDonalds. The unit occupied by Game was granted a Certificate of Proposed Use in 2008 which confirmed that the change of the unit from Class A3 to A1 would constitute permitted development under the Town and Country Planning use classes (Amendment) Order 2005 and therefore could take place without the need for planning permission. Thus it is reasonable to assume that as the legislation stands at the moment the remaining three A3 uses could be changed to A1 retail use without further planning permission. Furthermore there is established case law that says the subdivision of a planning unit into two or more units within the same use class will not result in an intensification of development requiring planning permission. It is Officers opinion that it is case law and permitted development rights that lead to Indigo planning's view that the provision of 8 retail units with no minimum floor space requirement is a reasonable fall back scenario.

3.126 Currently the small units in MCSP are provided in a specific location of the park. Except for the unit occupied by Game, the small units provide much of the 'amenity' or 'leisure' facilities that allow the park to provide a balanced shopping facility. These facilities, it is considered, are an essential element of the offer of many retail parks and therefore it is anticipated that replacements would need to be provided before it would be reasonably likely for them to be changed to A1 uses or sub-divided. This view is supported by the application submission which shows new coffee areas within the scheme and by the fact that despite the suggested demand for smaller units within MCSP the lead set by the change of the Games unit to A1 retail has not resulted in other such changes. Furthermore the 4 existing smaller units are set together at one side of the development; the introduction of 8 units

potentially anywhere within the site would change the nature of the park by allowing much greater diversity to its shape and character. The park would be much more able to replicate the characteristics of the city shopping street rather than the larger modular development that distinguishes MCSP from the city at the moment.

3.127 In Officers opinion the potential to sub divide existing A3 permitted units and change these to class A1 without the need for further planning permission are no more than a possibility and does not amount, on the balance of probabilities to represent a realistic fallback position because of the need to provide balanced shopping facilities and because despite perceived demand no change to the existing facilities has taken place. Furthermore the effect of permitted development scenario is significantly different to the effect of the proposed development such that little weight can be attached to the fall back position.

Transport

3.128 Section 4 of the NPPF promoting sustainable transport says 'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. (para.32)

3.129 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas. (para.34)

3.130 Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, 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 which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
 - incorporate facilities for charging plug-in and other ultra-low emission vehicles;
- and

- consider the needs of people with disabilities by all modes of transport. (Para 35)

3.131 A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan.(Para.36)

3.132 Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.’(para 37)

3.133 Section 15 of the LDF Core Strategy ‘Sustainable Transport’ establishes five strategic transport objectives:

- providing quality alternatives to the car;
- providing strategic links;
- supporting and implementing behavioural change;
- tackling transport emissions;
- improving the quality of public streets and spaces.

3.134 Core Strategy Policy CS18 (i) states that ‘new development will be required to be in locations which are (or can be) well served by public transport, accessible by walking and cycling and have good access to a range of local facilities. The layout of sites should also give priority to the needs of pedestrians, cyclists and public transport users.’

3.135 Policy CS18 (iii) seeks to implement a sustained travel behaviour change programme supported by low-cost infrastructure and service improvements to reduce traffic delays and manage the increasing demand for travel into and within all parts of York.

3.136 City of York’s third Local Transport Plan (LTP3)approved by the Council on the 7th April 2011, covering the period April 2011 to March 2015 and beyond to 2031 sets out the transport policies and measures that will contribute to the city’s economic prosperity over the next 20 years, whilst meeting challenging national and local targets for reducing emissions. The document forms part of the evidence base for the LDF.

3.137 The application is supported by a Transport Statement (TS) and Framework Travel Plan. The TS considers the impact of the extension to the existing retail park through the creation of an additional 8693 sq m. retail floorspace.

3.138 Given the adjacent application by Oakgate for a community stadium and enabling development, it is important that a cumulative impact is assessed and consideration given to the increased attractiveness of Monks Cross as a destination that will be created should either/or both of these applications be granted planning consent.

3.139 The application is being assessed against the aims and outcomes of the Halcrow prepared Monks Cross Transport Masterplan (TM).

3.140 In line with Government Guidance in the NPPF and the Council's overarching transport policies as set out specifically in the Local Transport Plan (LTP3), the objectives and priorities for the Monks Cross TM focused on the delivery of a step change in travel patterns. The purpose being to set out a transport strategy that maximised travel by sustainable modes and reduced, managed residual private car trips. It sought to set a benchmark, including a range of possible interventions to achieve such a strategy and provided a base against which development proposals could be evaluated.

3.141 The strategy for LTP3 was developed under the following five themes:

- Providing Quality Alternatives to the car, to enable more trips to be undertaken by sustainable means,
- Improving Strategic Links
- Encouraging Behaviour Change
- Tackling Transport Emissions
- Enhancing Public Streets and Spaces

3.142 In addition the Council submitted a bid to the department For Transport for the Local Sustainable Transport Fund (LSTF) which was successful. Part of the focus of the bid was the northern quadrant of the city and again this identified a need to change travel patterns in the Monks Cross area, aiming for less reliance on the car and more journeys by public transport, cycling and walking. The LSTF bid discussed the existing problems of traffic congestion, including the A1237 Outer Ring Road, where further increased traffic demand would have a severely detrimental effect, if left unchecked.

3.143 The application being considered is outline with all matters reserved. The proposed additional retail floorspace could be implemented through a significant number of combinations and proportions of new build floorspace and/or mezzanine floors to existing units.

3.144 Hereafter in this transport section new build floorspace describes the construction of new build. The creation of mezzanine floors will be described as an extension to existing floorspace.

3.145 Given the number of scenarios in which the proposals could be implemented the TS has presented what is considered to represent a worst case scenario. This is stated as being a maximum of 2622m² of new build gross floor area (GFA) with the remaining 6071m² being provided through the introduction of mezzanine floors.

3.146 Retail evidence demonstrates that mezzanine floors can generally trade at

lower levels than the equivalent ground floorspace. For the purposes of the TS the mezzanine floors have been assumed to trade at 50% of the ground floor. For trip generation purposes the trip rate for mezzanine floor area is therefore 50% of the trip rate used for the new build.

3.147 The trip rates used within the application have been derived by assessing the existing total floor area against surveyed traffic flows to give a trip rate per 100sq.m. GFA.

3.148 Traffic surveys were undertaken during typical periods of operation of the retail park. The traffic surveys were supplemented by ANPR cameras which identified the numbers of vehicles carrying out cross visitation trips to other parts of the Monks Cross Retail Park (Argos/TK Maxx and Julia Avenue Units)

3.149 The main car park at the retail park offers 960 spaces. Car parking accumulation surveys were also undertaken during typical periods of operation. These surveys indicate that the car park occupancy, during a typical Saturday peaks at approximately 94% of it's available capacity (906 occupied out of 960 spaces). This peak represents the single worst 15 minute period throughout the survey. Outside of this peak greater capacity is available.

3.150 The application proposes to remove the internal public transport (PT) link which runs to the front of the retail units on the Western side of the retail park. The existing dedicated PT route to the front of the retail units on the Eastern side of the park is to remain. The removal of the Western PT corridor is proposed in order to allow for the provision of up to another 107 car spaces. Should the extension of retail space all be carried out through the introduction of mezzanine floors there would be a net increase in 107 car spaces. Evidence taken from other schemes indicates that car park construction costs vary between £2k - £4k per space. Based upon the increase in parking proposed of 107 spaces this is a likely cost to the applicant of £214k - £428k. It is not in the spirit of national transport policy or the submitted TP to remove an existing insulated PT corridor and replace it with further car parking. It would be more appropriate for the development to put funding into providing for a step change in travel choice

3.151 Under the scenario including development of a gateway scheme and the area adjacent to M&S, 91 spaces are lost to enable development. This would therefore represent a net increase in car parking of 16 spaces.

3.152 Officers have sought the implementation of car park charging at the retail park. Car park charging is considered to be an essential part of changing attitudes and achieving mode shift. It is acknowledged that the provision of free and available car parking is a major influence in the choice of mode that people use when visiting destinations. The introduction of a nominal charge would provide an on-going long term funding stream towards sustainable travel initiatives such as the

implementation of the Travel Plans and associated measures such as funding PT services. Car park charges would also level the playing field between the city centre and out of town retail destinations reducing the incentive to shop out of town and to use the car as the first choice mode of travel.

3.153 To date the applicant has not agreed to implement car parking charges nor provided any detailed reasoning or justification behind this decision.

3.154 Evidence gathered has demonstrated that the retail park currently achieves in the region of 3% mode share by public transport. The application however states that this figure is closer to 8%. The aim of the authority, as set out in the Halcrow Monks Cross Transport Masterplan, is to increase this mode share to 10%.

3.155 Monks Cross is currently a car dominated environment, which is evident in it's design, layout and mode share. This situation is unsustainable when judged against both local and national policies. A significant change in approach would therefore be required in order to achieve mode shift of the order required away from car use.

3.156 The application has been supported by a Framework Travel Plan (FTP) which will cover both the new floorspace proposed through this application and the existing retail units on the park. Whilst the FTP can be considered to be a full and detailed document; officers do not consider that, in isolation, the FTP can be considered robust or reasonably expected to achieve the target mode shift it sets out to achieve.

3.157 The document is considered to only address how people can currently travel to the site using the existing infrastructure/facilities. These facilities are not adequate when looking at the change in mode shift required and when considering access in a qualitative approach rather than a quantitative one.

3.158 Whilst FTP's are a laudable approach, in order to have a meaningful impact they must be credible and form part of a total package of measures, including physical works and/or financial contributions and in accordance with local and national policy they must be credible. National guidance also advises that FTP's which only focus on marketing and promotion measures tend to achieve no or negligible mode shift. Far more substantial and robust interventions, including mitigation works/funding, are required to achieve the higher mode shifts of the magnitude of those required at Monks Cross.

3.159 The site is, not particularly well served by public transport, considering the significant increase in mode share which is being sought (3% to 10%)

3.160 The site is served by a 10 minute frequency service by the Monks Cross Park and Ride. However when considering accessibility by public transport it is important to look beyond the accessibility in pure numbers and consider where the services run, who they will serve and subsequently how attractive they are.

3.161 The Park & Ride provides a valuable service in reducing the number of cars in the city centre by intercepting commuters as they approach the city. However data demonstrates that there is a very low utilisation of the outbound service outside of the traditional AM/PM peak hour services, indicating that the service is not attractive for shoppers. Furthermore the routing of the P&R provides a link to the city centre only, leaving large parts of the city without a direct service to Monks Cross.

3.162 The use of PT services is affected by a number of issues including the total travel time and cost/ease of use. Any need to change service and walk between stops clearly diminishes the attractiveness of that mode of travel when compared to the ability to drive straight to Monks Cross and use the free and available car parking. This issue is more acute given the lack of PT services to the very significant residential areas to the North of the city (Wiggington, Haxby, Strensall)

3.163 In order to address the above and uplift PT services directly serving Monks Cross, as highlighted in the Monks Cross Masterplan, officers have requested a contribution of £480k. This figure is based on calculations provided by PT operators. The sum would provide a 30 min frequency service linking Haxby, Wiggington, Strensall and areas within the outer ring road to Monks Cross and would cover the operation of the service for a period of 2 years. Officers are seeking the same amount from the adjacent Oakgate scheme in order to provide a total contribution of £960k, which would ensure the operation of the service for 4 years. It is anticipated that beyond this point the service would be established and commercially viable given the high anticipated footfalls seen at both the existing retail park and the Oakgate proposals.

3.164 The applicants have not agreed to this level of funding and consider that mode shift can be achieved through the implementation of the FTP. Officers, for the reasons set out above do not agree with this approach and believe that without an increase in the frequency and number of direct PT services to Monks Cross the status quo will be maintained. The provision of this level of funding is therefore considered absolutely essential and as such without the funding officers do not feel that they can support the proposals.

3.165 Consultants for the Highways Agency, JLP, have provided some comments, which similarly highlight the inadequacies of the FTP.

3.166 Highways Network Management also raise a number of concerns about the potential to attach appropriate conditions given the flexibilities in terms of arrangement of new floorspace within the proposal. These concerns are addressed in the conditions section in paragraphs 3.284 to 3.290 of this report.

Economic Development - Employment

3.167 Paragraph 18, 19 and 20 of the NPPF headed 'building a strong, competitive economy' says 'the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

3.168 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

3.169 To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

3.170 Furthermore as discussed in the retail policy section the Ministerial Statement of the 23rd March 2011 remains a material planning consideration. This Statement says that the top priority in reforming the planning system is to promote sustainable economic growth and jobs. The answer to development growth wherever possible should be yes except where this would compromise the key sustainable development principles set out in national planning policy.

3.171 The applicant in a letter of the 18th April 2012 says that the strong presumption in favour of economic development lends weight to the support for the application proposals.

3.172 In terms of the employment generation of the development this is set out within three documents of the planning submission. Firstly the commercial evidence base to the application sets out the expected job levels within the retail park as a result of the development. This evidence base was submitted before the application was amended and is therefore based on a bigger site area and larger floor space. However this report shows is that the shopping park including Julia Avenue and Arogs/TKMaxx currently employs 566 full time equivalent (FTE)with a further 16 FTE in the centre management, approximately 80% of employees live within 10km of the site (based on a survey of 14.3% of employees), that there will be a range of jobs associated with the scheme both direct on the park and indirect and that this range of jobs will include management positions, assistant management positions as well as sales assistant and other jobs (indirect from areas such as cleaning contracts, printing and maintenance). There will also be a seasonal increase of employment opportunities at the site.

3.173 The planning report from the agent supporting the original proposal states the proposed changes will assist in sustaining the existing employment at MCSP as well

as providing significant new jobs, the proposed changes will assist in meeting the Council's annual job growth as set out in the Cambridge econometrics forecasts, and that the proposed changes will have a significant positive impact on the local economy. Section 3 of the planning report supplementary 2 says that the development as originally proposed could create in the order of 323 new jobs in addition to the existing jobs at MCSP. The report says that although the application site area and new development footprint has been reduced there are still opportunities for additional floorspace within the rest of the park that can be carried out without the need for further consents (this is the fallback position referred previously). As a consequence it is considered that there remains the prospect of the same level of job creation arising from the land within the trustees' ownership. The section says that if account is taken of only the application area the additional jobs would be in the order of 221 (although this is not stated as FTE) and indirect employment of a further 58 jobs (not referred to as FTE).

3.174 The Economic Development section have commented on the proposal and break down the effects of the development into two areas direct impacts and indirect impacts. The direct impacts being the impact on jobs and employment and the indirect being the fundamental questions about the role of the city centre in the overall York economy, as well as challenges as to the way that role is managed and supported in future.

3.175 The Economic Development section says that the direct economic impacts on jobs and employment of the proposal can be defined as the immediate net jobs and economic growth to be generated as a result of the proposal. Furthermore they say that by its very nature, the creation of jobs in the retail sector tends to have a higher displacement effect than other new jobs created up to 70% i.e. shifting of employment from one area or establishment to another, as opposed to genuine additional jobs.

3.176 In the case of Monks Cross north the figures on employment provided by the applicant do not make any allowances for jobs to be displaced from the city centre. In Officers' view this is because their application is based on the premise that those retailers at MSCP are likely to be those with dual representation (i.e. a shop in Monks Cross and one in the city centre) or ones that only have an out of town format. However figures produced on behalf of the Council show that the actual number of jobs to be created would be in the order 136 FTE direct jobs at MSCP and 25 indirect jobs. These figures are based on a displacement allowance of 50%. In terms of the current emphasis on the need to support sustainable economic growth set out within the NPPF the provision of additional jobs is a positive benefit to the scheme.

3.177 In terms of economic growth associated with the proposals Economic Development's analysis suggests that the local impact on Gross Value Added (GVA) in York would be reasonably discrete. Gross Value Added (GVA) is a measure in

economics of the value of goods and services produced in an area, industry or sector of an economy. Economic Development estimate that up £4.3 million per annum would be added to York's economy (that is total GVA would be £4.3 million larger in net terms). This GVA figure would increase to £4.8 million p.a. by 2023. This analysis needs to be balanced against the conclusions of the DJD report that around £10.26 million pounds would be diverted from the city centre by 2016 as a result of the development and that the development could result in other investment in the city centre not progressing.

3.178 The Economic Development Unit say that indirect impacts of the proposal refer to the question about the role of the city centre in the overall York economy. These impacts overlap with the general concerns about the retail impacts of the development particularly in terms of the sequential and impact tests. The DJD report identifies through its health check assessment, the city centre is resilient in the current economic climate, and this resilience is particularly significant in relation to the national average:

- Whereas 14% vacancy rates in centres across the UK is the national average, York city centre stands at about 10%.
- The centre has demonstrated relatively resilient high street footfall, with an increase of 13.5% between 2010 to 2011.
- Although York's vacancy rate is rising – it is currently around 10% and the council's data indicated a rise of 2% in 2010, from 7.1% in 2009 for shop units in the A classes, vacancy rates are far better than the average 14% across the rest of the UK

3.179 However, what is also clear is that the city centre is not a typical high street. With a strong role in the leisure and tourism industries which bring in a significant £443m and 7 million visitors a year, the city centre is seeing increases in these sectors, as well as increasing demand from business and start-ups in a wider range of sectors looking to operate in a central location. Nonetheless, the diversity and mix, which includes a strong core retail offer, has supported the overall resilience of the city centre to date.

3.180 A shift in the city centre economy to non-retail uses, although subtle, is most likely driven in part by pressures on the retail industry more generally as a result of recession and tightening of consumer spending, but also the changing behaviours and preferences of consumers. As the Department for Business Innovation and Skills has set out in its review of high streets, the combination of reductions in consumer spending overall, a rise in expectations for a convenient shopping experience, and the rise of online retailing all have contributed to a decline in the role of retail in centres across the UK.

3.181 Although retail employment is decreasing, it remains the most significant class use of commercial premises in the city centre. The change over time is seeing a shift in decreasing retail use to increasing leisure uses. It is considered that additional retail development at MCSP will accelerate these pressures on the city centre to change and the space within the centre to not only accommodate new uses but indeed, to proactively attract investment in these further uses to ensure the continued vibrancy and maximisation of city centre space. In order to begin to mitigate the potential negative impacts that the trade diversion may create, the city will need to identify and promote a clear and confident strategy for the economic future of the city centre, which will need to recognise and clearly support the likely change in the overall make-up of the city centre economy.

3.182 Related to this application Economic Development conclude that that approving the planning application will accelerate current trends of changes in the city centre economy – away from retail, toward other uses and this will require support and intervention from economic development and planning teams to enable and support this evolution.

Conclusions - Principle of the Development and Consideration of Sustainability

3.183 The following conclusions can be drawn from the above sections

3.184 It is Government's current policy position that new retail development should be provided within and adjacent to town centres and to pursue sustainable development. The recent comments by Government Ministers following the issue of the NPPF, are pertinent. Government ministers in defining "sustainable" said: "It's not sustainable to have a shopping centre outside the town centre...".

3.185 The Government, within the NPPF, have retained both the sequential test and the impact assessment in relation to retail development together with clear advice that retail development should be located in towns/cities first. At a local level policies in the draft local plan and the emerging Core Strategy both direct new development to the city centre first and in fact the Core Strategy, in its effect, aims to stop further out of town development. The GVA retail report 2008 says that the Council should seek to resist any further out of town shopping. Therefore, in principle, the location of new or extended unrestricted retail development in an out of town location is considered to be unacceptable. In a planning context this needs to be balanced against other relevant material planning considerations.

3.186 Specifically in relation to the sequential test and impact assessment, the proposals both in terms of the new floor space and the change to the controls at MCSP, are considered to fail the sequential test and are considered to have either adverse or significantly adverse impacts on the city centre. For the reasons set out

above and in the context of NPPF advice this in itself is sufficient reasons to refuse planning permission.

3.187 Furthermore it is concluded that the fallback position suggested by the applicant in relation to additional mezzanine floorspace and sub-division of units is no more than a possibility. In any case it is considered that fundamental changes in the size and distribution of the units proposed in the scheme is a completely different proposition to the introduction of an amount of first floor space within an existing modular layout or the subdivision of units in one area of the park.

3.188 Highway Network Management say that in the absence of sufficient uplift to public transport (TP) services through either car park charging or the payment of a sum to allow the provision of a bus service direct from the north side of York the development will not meet the modal split targets set out in the submitted travel plan and transport statement. The application is recommended for refusal on highway grounds and is considered to be contrary to advice within the NPPF, in particular paragraphs 32 and 34 to 37 and the objectives set out in section 15 of the emerging Core Strategy and supported by the Local Transport Plan approved by the Council on the 7th April 2007.

3.189 In the current climate the benefit of additional jobs should not be underestimated. The level of jobs estimated as part of the development, as assessed by consultants on behalf of the Council, is around 161 FTE jobs in total. Economic Development estimate that up £4.3 million per annum would be added to York's economy increasing to £4.8 million pounds (annually) by 2023. This analysis needs to be balanced against around £10.26 million pounds would be diverted from the city centre by 2016 as a result of the development. The Government say that significant weight should be placed on the need to support economic growth through the planning system. The economic benefits of this scheme, however, have to be considered in the context of the potential loss of other investments and the diversion of investment from the city centre. Planning policy guidance, Officers consider, clearly supports city centre sites above out of town locations as representing a significantly better sustainable economic development option.

3.190 As identified in the Core Strategy, the city centre is the "economic, social and cultural heart of York." Its value is not only in its draw for visitors and residents, but is a key part of the international brand of the city as it is recognized. York's high street has bucked this trend in recent years, demonstrating relatively resilient high street footfall, with an increase of 13.5% between 2010 to 2011. Nonetheless, York's vacancy rate is rising.

3.191 The developers of Castle Piccadilly site have formally said that the approval of schemes at Monks Cross will prevent the Castle Piccadilly scheme from coming forward and the land will be sold in parcels to maximise resale. The MCSP scheme as a competitor will clearly have an influence on the progression of the Castle

Piccadilly development, affecting the possibilities this site offers to increase the market share of the city as a whole and the likely spin off of reinvigorating the city as a shopping destination.

3.192 The NPPF sets out three dimensions to sustainable development; economic, social and environmental. These dimensions, it says, give rise to the need for the planning system to perform a number of roles. In an economic sense it should build a strong, responsive and competitive economy. Monks Cross has a part to play; it forms part of a diverse area which through the current policy objectives will provide a good mix of employment, retail and leisure opportunities that will complement each other without any one sector becoming dominant or competitive with adjoining areas or to any greater degree with the city centre. The economy of the city centre, if it is to support growth and innovation, needs to safeguard it's historic characteristics, heritage and attractiveness whilst making space for new development that will stem the signs of decline by bringing forward modern retail development. The Council's planning policies expect the Castle Piccadilly site to achieve this if out of town development does not prevent it from coming forward. Furthermore there can be no guarantee that the jobs provided as part of the MCSP development will be sufficient to compensate for the decline of the city centre and the potential job impacts across the spectrum of tourist and retail jobs in the city centre.

3.193 In a social sense the role of planning is to support strong, vibrant and healthy communities. York through its Core Strategy and the Council's Corporate Quality Commitment Statement aims to promote fairness and inclusion. As expressed through many of the letters of objection the city centre is a centre for the community of York with good accessibility for all members of the community, young, old, infirm, low income etc. Whereas the Monks Cross site with its free car parks, relatively low level of access via other modes of transport, location on the north side of the city with none of the other diverse facilities associated with the city centre such as libraries, post offices and social space. The application details do not appear to raise the prospect of significant improvement in accessibility and facilities to enhance social inclusion. A shift further towards out of town shopping development will, in Officers' view, be a significant step back towards unsustainable travel choices which through the recently approved Local Transport Plan and recently launched Air Quality Management Plan the Council is clearly seeking to avoid.

3.194 In an environmental context the role of planning is contributing to protecting and enhancing our natural, built and historic environment. Concerns have been expressed in the letters of objection particularly by the Conservation Trust and the Civic Trust that the reduction of investment in the city centre will mean a significant reduction in the investment in historic buildings within the city. Furthermore the emphasis, in an environmental context, is on minimising carbon emissions and pollution. As described above, the current proposals are unlikely to meet the objectives of reducing car trips because the modal split targets can not be achieved

without further investment in public transport therefore the development will be accessed primarily by the private car.

3.195 The NPPF says that the planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable solutions involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life including making it easier for jobs to be created in cities, towns and villages; replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure. It is considered that for the reasons set out above the proposal is not a sustainable form of development in the context of NPPF advice and should, in principle, be resisted.

Design and Landscape

3.196 The NPPF requires good design in all development. It says the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

3.197 The section goes on to say 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 development schemes.

3.198 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.'

3.199 The aims of the NPPF are reflected in Policy GP1 'Design' of the draft local plan which includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

3.200 Section 11 of the NPPF says the planning system should contribute to and enhance the natural and local environment by among other things protecting and enhancing valued landscapes,

3.201 Policy NE1 of the draft local plan takes a similar stance when it says that trees, woodlands and hedgerows which are of landscape, amenity, nature conservation or historical value will be protected by refusing development that would result in their loss or damage, require protection of existing trees during development, make tree preservation orders for individual trees and groups of trees which contribute to the landscape or local amenity, ensure the continuation of green, wildlife corridors.

3.202 The proposals are to provide 8,693 sq.m. of new floor space within the retail park. The proposals do not show a definitive scheme for the provision of the floor space but rather includes a range of options for the provision of the space. The options include three areas of new build each of which may or may not be implemented, the provision of new internal space to existing units through the construction of mezzanines and change in the size of units, the external effects of which are not part of this outline submission. There are also other design elements to the scheme including an amended car park layout and alterations to the open space and connections between the site and adjacent retail areas. The design, appearance, visual amenity and landscape of each element of the scheme is therefore considered separately and then the impact of all new build being constructed together with all other proposed changes.

3.203 The existing retail buildings are orientated around a central car park. They are simple modern structures which are designed to serve the primary function of retailing in an out-of-town location. The open customer car park and access areas facing the front facades and entrances provide an open aspect which allows the frontage signs and the architectural elements of the retail park to be visible from the main roundabout serving the retail park.

3.204 The entire outer edge of the shopping park is planted up with a single depth line of trees. These create formal avenues along the open perimeter of the retail park. The service areas to the rear of the units at the western end and on the northern boundaries are screened by a brick wall and less formal tree and shrub planting. A single avenue of trees lines the main access drive into the shopping park; and the car park itself is supplemented with further tree planting. The majority of the trees within the park are covered by a Tree Preservation Order.

3.205 Due to their vertical stature trees are the most important green element in this landscape. They soften the scale of built development, provide a landscape setting, enhance amenity, highlight the changes in the season, and provide environmental and well-being benefits.

New Build

3.206 The three areas of new build are:-

- An extension to the Marks and Spencer unit

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- A new build separate unit adjacent to Pizza Hut (known as the 'gateway' building)
- The redevelopment of the existing management suite

Marks and Spencer extension

3.207 The current Marks and Spencer unit is located on the north eastern corner of the retail park. Adjacent to the unit is a small car parking area accommodating approximately 34 cars. Access to the car park is from the road which provides access to the park from Monks cross link. The proposal in this location is to construct a semi circular extension at two storeys to the side of the existing retail unit to provide a further 1,940 sq.m of gross retail floor space over two floors. The parameters for the building which form part of the submitted application details indicates that the structure will be similar in height to the adjacent unit and will extend out from the side of the existing building by approximately 28 metres at its widest point. The trees within the centre of the car park will be lost and are to be replaced by additional planting in a mounded area adjacent to the access road.

3.208 The existing retail units at this northern entrance are orientated towards the main car park and present blank elevations to the access road. The introduction of a semi circular extension that is appropriately designed (through a reserved matters submission) could enhance the northern entrance.

3.209 Although the buildings along the northern entrance are unassuming the landscaping is of good quality and provides a mature and attractive setting for the buildings. The car park is bordered by significant trees and there are a number of trees within the car park of which many are covered by tree preservation orders. The trees within the centre of the car park, a group of four silver birch, will be lost. These are to be replaced by additional planting in a mounded area adjacent to the access road. The landscape Architect initially raised concerns about the proximity of the trees on the perimeter of the car park to the extension. The size of the extension has now been amended to provide a distance of 4 metres between the building and the trees and provide sufficient space for the trees to continue to grow. The replacement tree planting in lieu of those to be lost within the car park area is considered to be sufficient to allow the existing and proposed tree cover to continue to provide an attractive setting for the buildings. The landscape Architect is satisfied with the proposed amended details.

3.210 Overall the design, appearance, visual amenity and landscaping of this extension are considered to be acceptable.

Management Suite

3.211 Within the north west corner of the shopping park is a single storey block providing the management suite and toilet facilities for the shopping park. The

proposal is to redevelop this part of the site to provide two storey extension to the BHS unit providing 832 sq.m. of gross floor space over two floors with new two storey management suite to the rear and small single storey coffee shop unit at the shopping park frontage and adjacent to the unit currently occupied by New Look. The height of the proposed building is to be similar to adjacent structures at 11 metres to parapet and 12 metres to ridge. This part of the site currently has rear access from Monks Cross Drive. The elevation of the building to this road is blank and is surrounded by a substantial boundary wall with landscaping in front. The elevation to the shopping park is of no particular merit and it is considered that a new structure could be provided that would conform to the general characteristics of the existing structures without detracting from or crowding those adjacent buildings.

3.212 There is an area of landscaping to the rear of the management suite building. This area includes 4 oak, 4 pine 6 birch and 6 maple covered by a tree preservation order. None of the landscaping is affected by the proposed development although protection of this would need to be in place during construction and appropriate conditions would be required. The Landscape Architect has no comments to make on this element of the scheme.

3.213 Overall the design, appearance, visual amenity and landscaping of this extension are considered to be acceptable

‘Gateway’ building

3.214 The proposal for the south western portion of the site is to construct a new, separate building. The proposed building is to be located on an area of car park between the pizza hut unit and the main access road into the site. There has been a previous application for the development of this area of the site in 2010 when the building was termed the gateway building because of its prominent location on the main entrance to the shopping site. The 2010 application, as can be noted at paragraph, was refused by committee because it was considered that the increased demand for car parking would lead to the length and duration of vehicular trips being increased contrary to policy advice in planning policy guidance note 13 and because of the loss of a significant number of established trees.

3.215 The site consists of part of the existing car park with an area of landscaping and children’s play space forming part of the area.

3.216 The proposal is to construct a free standing 2 storey structure with a gross floor space of 1858 sq.m. over two floors. It would have a further single storey ‘pod’ structure on its northern end elevation with a further 111 sq.m. of floor space. The submitted information indicates that the building will not exceed that of the surrounding retail units namely 11 metres to parapet and 12 metres to ridge. A feature tower may form part of the detailed design this is suggested at no more than

14.5 m high. Approximately 56 car parking spaces will be lost. The new building shows a servicing area on the Monks Cross drive frontage and the reconfiguration of the area between the new build and the existing units so that there can be improved connectivity between this site and the adjacent shop units of Argos and TKMaxx. The pedestrian crossing across Monks Cross Drive is shown as relocated close to the reconfigured space. A small infill unit between Starbucks coffee shop and Debenhams is also shown on the plan for the development of this area of the site but this area has been the subject of its own application which was granted planning permission in 2010.

3.217 The building will become the most visible element of the entrance to Monks Cross Park. Its design will therefore be significant in determining the future visual quality of the site. The previous application concluded that the 'The bulk of the development proposals are oriented parallel to Monks Cross Drive to retain, as much as possible, the open aspect of the entrance to the retail park. Whilst the architectural rhythm of the proposed terrace building along Monks Cross Drive is to be set apart from the established buildings as a stand-alone structure, the front façade would relate harmoniously with the modern design and simplicity of the existing park.' The current proposed building is smaller than the original proposal but its siting is very similar. In terms of the building's siting the view on the original proposal is applicable.

3.218 In relation to landscaping there are two areas of trees that are of importance; the first is trees that form group G1 within the TPO. This area consists of 9 Ash, 12 scots pine, 12 Oak, 5 birch and 5 field maple at the existing play area and the adjacent land. The position of the building allows for the retention of these trees now that a free standing pre-formed building has been removed from this area. In the latest proposal the cafe element is designed as an extruded semi-circular 'pod' attached to a reduced retail unit. This allows retention of the majority of the existing trees located around the existing play area; and allows more space for a redesigned play area, and some limited space for outdoor seating the proposed solution is an improvement as it allows more space for existing trees and outdoor facilities and provides a greater break between the built form.

3.219 The second area of trees are those which are located on the boundary of the site adjacent to Monks Cross Drive. This area is group G2 of the TPO and consists of 8 lime trees and 5 hornbeam. Replacement trees would not compensate for the loss of protected trees along the perimeter both in quantity and public amenity value. However it is considered acceptable to replace the existing trees with semi-mature trees along the rear of the service yard, provided it was only for this limited stretch. These would be located within a verge of reduced width, thereby reducing the area of growing medium and thus likelihood of success. Ultimately on the previous scheme the Landscape Architect did not object to the tree replacement to the rear of the service yard and the refusal related to the overall loss of tree cover. This scheme now sees the retention of many of the trees adjacent to the play area and it

is considered that there is not a sufficient basis to object to the scheme as now proposed given that the overall level of tree cover, subject to appropriate details within any reserved matters submission could be similar to that which exists. Conditions will be needed to ensure the optimum planting conditions for new trees.

3.220 The space between the existing units and that proposed is similar in both the current and previous schemes; however the current scheme proposes no buildings, proposes to retain a play space and the existing trees and within this to provide access for pedestrians and bikes.

3.221 As well as the three new areas of build the application proposes that additional floor space could be provided through the provision of mezzanine floor space. Furthermore the changes to the planning controls could result in changes to the unit sizes which would require external alterations to the shop fronts to those units affected.

Mezzanine floors

3.222 The design and access statement says in respect of mezzanine floors that these will be contained within the curtilage of existing buildings and that access to them will generally be via established entrance points. The statement says that potential mezzanines cannot be defined as they will be developed to suit retailers' needs and will be controlled by the overall limits proposed on the floor space. This being the case it is not anticipated that there will be major visual implications for the installation of mezzanine floors, although where these are proposed to cover the full extent of retail floorspace there may be pressure to place functional equipment such as ventilation units exterior to the building. These, together with any other external alterations will need to be considered as part of any reserved matters submission.

Changes to unit sizes

3.223 As the proposal has the potential to create both smaller and larger units through the introduction of 8 unfettered units the overall reduction in the size of units and the creation of two anchor store size units of around 4,500 sq.m., there is the potential for the individual shop fronts to be changed to accommodate these changes in size. The design and access statement says that sub-division and enlargement will generally take place within the existing buildings but if new entrance features are needed they will match the existing and the heights of any new structures within the fascia will conform to the general appearance of the existing buildings.

Cumulative Impact – design and landscape

3.224 One of the fundamental difficulties of assessing the design impacts of this application is the flexible manner in which the application is proposed. Clearly, if all

the floor space is provided within buildings the visual impacts will be significantly different than if the floor space created includes the provision of all the new build proposals. Given that the proposal is so flexible it is proposed to assess what is considered to be the most visually significant scenario. This would be the construction of all new build with alterations to shop fronts and the formation of new car parking and pedestrian linkages on the south western side of the site.

3.225 The front of this section sets out what are considered to be the various elements of the park which give it its overall character and quality. These are simple modern structures, open customer car park and access areas facing front facades and entrances providing open aspect which allows frontage signs and architectural features to be visible. The single depth line of trees around the perimeter provides vertical stature which is the most important element in this landscape softening the scale of the built form. The addition of the extension to the Marks and Spencer unit and the BHS unit will not significantly change the overall views into the site. The gateway scheme will be more prominent and the site will appear more enclosed when approaching the site from the west. However, an appropriately designed building, can be accommodated without detriment to the site's overall appearance. From within the site the new car park arrangements, the amendments to the shop fronts and the reconfiguration within the site car park areas together with new build elements will mean that some of the spacious feel of the current surroundings will be lost and much of the original modular design of the buildings may change as a result of the significant alterations to the size of the individual units. It is likely that the character of the shopping centre will change. From a design perspective this may be balanced by updated shop unit design and materials and the use of the external space in a new way to provide connections with the adjacent area of shopping and better amenity space provision adjacent to the proposed gateway structure.

3.226 Overall it is considered that from a design and landscape perspective the new elements of development can be accommodated within the site without detriment to the overall visual amenity of the area.

Parking and Access Arrangements

3.227 The scheme shows the car park being reconfigured to accommodate a further 107 car parking spaces. In real terms this will mean an increase of approximately 16 spaces if all the new build is built out. The creation of the 107 car parking spaces is to be achieved by removing the existing bus lane on the west and north of the perimeter of the car park. This section of the bus lane is currently unused; buses enter the site from the northern entrance and run along the eastern side of the site and out the main access road (see paragraphs to for a discussion of the transport merits of this). The proposal retains the bike lane and the landscaping along the west and north so that there remains a reasonable buffer between the main 'shopping street' and the car park area. The loss of the bus lane will reduce the

feeling of spaciousness within the park but will not significantly change the overall appearance of the site and is not considered of itself to be visually detrimental.

3.228 A Design and Access Statement has been submitted which includes plans which would be secured through the planning consent. These plans act as the masterplan documents and provide the control for the authority to ensure development is carried out in a managed and sustainable manner. The submitted Mountford Piggot development principles drawing is not considered by officers to contain sufficient levels of detail to reassure officers that the development would be carried out in accordance with local and national transport aims and that the sustainable travel aims could be achieved.

3.229 An example of this is the lack of detail relating to the cycle parking provision. In order to achieve the step change in travel to the site the sustainable travel offer must be significantly uplifted, as discussed previously. Officers have requested that basic principles are established including the provision of a handful of high quality cycle hubs which are conveniently located at the retail park as opposed to many sets of uncovered Sheffield stands dotted around the perimeter of the car park. Whilst it is acknowledged that the application is outline, basic principles regarding this type of facility (location, covered, space for trailers, covered by CCTV, secure etc) are required to be established to ensure they are not provided as an afterthought once car parking and floor extensions have been provided.

3.230 As it is proposed to remove the Western PT insulated corridor the only remaining bus stop location will be the existing stop on the Eastern part of the site. Officers consider that if this approach is to be taken the stop would require significant enhancements and improvements to enable it to act as a public transport interchange point. This detail has only been indicated on drawings in terms of a “potential integrated transport interchange”. Officers in developing a Transport Masterplan together with the LSTF programme, set out to deliver a genuine step change in travel in the northern quadrant of the city, aligned with LTP3 aims/objectives and Council Plan, with the clear overarching objective of reducing car trips and increasing journeys by bus, cycle and on foot. The approaches and measures presented by the scheme do not accord with the Council’s transport strategy and policies. This is compounded by an unwillingness to consider parking charges and an overall weighty reliance upon Travel Plan outcomes.

Sustainability - Building Design

3.231 The NPPF says Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

3.232 To support the move to a low carbon future, local planning authorities should:

- plan for new development in locations and ways which reduce greenhouse gas emissions;
- actively support energy efficiency improvements to existing buildings; and
- when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.

3.233 Section 10 of the NPPF also says in determining planning applications, local planning authorities should expect new development to:

- comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
- take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. (para.96)

3.234 To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- have a positive strategy to promote energy from renewable and low carbon sources;
- design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;
- consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

3.235 GP4(a) of the DLP supports the aims and objectives of the NPPF as well as providing policy on the location and design elements of sustainability.

3.236 This Interim Planning Statement (IPS) on sustainable design and construction supports and supplements policy GP4a. This IPS requires all commercial development over 1000 sq.m. to achieve BREEAM 'very good' and 10% of expected energy demand to be provided through on site renewable generation.

3.237 The LDF evidence base documents include the climate change framework and the climate change action plan. The Framework is the overarching document that will enable York to accelerate actions to reduce carbon emissions across the city. The document says that 37% of York's carbon dioxide emissions came from the city's industries, businesses and non-residential buildings. Ensuring that all existing and new non-domestic buildings are energy efficient, sustainably designed, built and operated is vital to creating a low carbon, sustainable city.

3.238 It is essential that a high standard of sustainable design and construction for all new development is required. The standards used would be dependant upon best practice at the time (currently through BREEAM and Code for Sustainable Homes assessments). The Land Use Consultants report entitled 'Delivering Sustainable Energy in North Yorkshire' sets out that on-site renewable energy equipment should be incorporated to reduce predicted carbon emissions by at least 10%.

3.239 Strategic Objective within the core strategy says that the City of York Council will seek to help reduce York's eco and carbon footprint through the promotion of sustainable design and construction, energy efficiency and renewable energy, thereby reducing overall energy use and help in the fight against Climate Change.

3.240 The LDF will contribute to the reduction of York's eco and carbon footprint through Sustainable Design and Construction and promoting energy efficiency through the application of the Energy Hierarchy. This will be achieved, among other things through ensuring future development and conversions will be a high standard of sustainable design and construction using innovative techniques promoting high standards of energy and water efficiency and ensuring all new development and conversions of more than 10 dwellings or 1,000m² of non-residential floorspace will offset at least 10% of the predicted carbon emission through on-site renewable energy generation.

3.241 The location and design elements of sustainability as expressed within GP4a are discussed elsewhere in this report. The main consideration here is the promotion of energy efficiency through the design and construction of the buildings and the use of on-site renewables. The applicant has indicated a willingness to achieve BREEAM 'very good' for all new build development. For the first floor elements of the proposal the applicants propose to use the BREEAM in use scheme. The Sustainability Officer is happy with this approach provided, subject to a viability assessment, that the rating achieved within the scheme is 'very good'. The requirement to achieve BREEAM 'very good' could be sought through the use of conditions.

3.242 The applicant is less clear that to achieve 10% on site renewable. Officers suggest a condition that would require the applicant to achieve the renewable requirement across the site so that if some elements of the existing building prove

difficult, because of their construction, to provide a full 10% renewable this could be achieved within the new build elements of the scheme. It is considered that the achievement of 10% renewable can be sought by condition. If no new elements are constructed and all the floor space were to be achieved through mezzanine installation the condition could allow for viability testing where a lesser renewable energy requirement may be acceptable.

3.243 Officers are satisfied that the BREEAM and renewables requirements, that could be sought through appropriate conditions, accord with the principles set out within the NPPF; the aims of which are reflected in both existing Local Plan policy, LDF evidence base documents and the objectives of the core strategy.

Flood risk and drainage

3.244 The NPPF in section 10 sets out guidance on meeting the challenge of climate change, flooding and coastal change. It says Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations.(para.94)

3.245 Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. (para. 100)

3.246 The NPPF says within section 10 that development should be steered to sites with the lowest probability of flooding (Para.101)

3.247 The Strategic flood risk assessment forms part of the evidence base to the LDF and says Strategic Flood Risk Assessment assesses the different levels of flood risk in the York area and provides maps of this information. The study also recognises the increasing threat of global warming and explains how climate change could increase flood risk in York due to more intense rainfall, which would increase peak rivers flows.

3.248 The application is supported by a flooding and drainage appraisal carried out by WSP dated April 2010.

3.249 The development is in low risk flood zone 1 and should not suffer from river flooding. The Flood Risk Management Team has no objections to the development in principle but require a condition to ensure that details of foul and surface water drainage works form part of a detailed scheme including the attenuation of the site to accord with the Council's flood risk assessment.

3.250 The Environment Agency are not objecting to the proposal provided the application is carried out in accordance with the submitted flood risk assessment.

3.251 There are no objections to the development on drainage or flood risk grounds.

Conditions

3.252 Paragraph 206 of the NPPF says that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

3.253 The same tests and further advice on the imposition of conditions, together with model conditions is set out within circular 11/95.

3.254 This application is in outline with all matters reserved. Reserved matters have to be submitted within three years of the date of the outline permission but not necessarily all at the same time.

3.255 The development is for an amount of floor space but is not specific about how this is to be provided.

3.256 If granted, in Officers view, the new permission would represent an overarching permission for all the shops in much the same way as the existing outline permission. The site would then effectively have two permissions with a potential third permission if the associated s.73 application, also on this committee agenda, were approved (the amendments through the s.73 could be applied or the parameters of the original consent could still be adhered to).

3.257 The outline application site area includes all the existing shops within the park (apart from Asda). The proposals do not provide certainty over how the new floor space is to be provided at the site so that some of the proposed new build may be constructed (or not) and some of the space may be provided through the construction of mezzanines (or not). This level of flexibility makes the application inherently difficult to control by condition not least because one could not be sure that any works undertaken formed part of the permission, or were carried out under a different consent or were carried out under permitted development rights. Furthermore it is difficult to pin point trigger points for the implementation of elements of the scheme. So for example it would be difficult to determine when a travel plan should be implemented or at what point any payment towards uplift in public transport should be made.

3.258 Circular 11/95 says that the objectives of planning are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. In Officers opinion at the moment there is no clear way forward to attach conditions that would meet the test of the circular given the

flexibilities of the consents. Therefore if members were minded to grant permission for this development this would need to be subject to extensive discussion about how a section 106 agreement and associated conditions could be framed so that the application could meet the tests set out in circular 11/95 and within the NPPF.

4.0 CONCLUSION

4.1 In terms of the principle of the development officers conclude the following:-

4.2 It is Government's current policy position that new retail development should be provided within and adjacent to town centres and to pursue sustainable development. The recent comments by Government Ministers following the issue of the NPPF, are pertinent. Government Ministers in defining "sustainable" said: "It's not sustainable to have a shopping centre outside the town centre...".

4.3 The Government, within the NPPF, have retained both the sequential test and the impact test in relation to new retail development together with clear advice that new development should be located in towns/cities first. At a local level policies in the draft local plan and the emerging Core Strategy both direct new development to the city centre first and in fact the Core Strategy, in its effect, aims to stop further out of town development. The GVA retail report 2008 says that the Council should seek to resist any further out of town shopping. Therefore, in principle, the location of new or extended unrestricted retail development in an out of town location is considered to be unacceptable. In a planning context this needs to be balanced against other relevant material planning considerations.

4.4 Specifically in relation to the sequential and impact tests the proposals at MCSP are considered to fail the sequential test and are considered to have either adverse or significantly adverse impacts on the city centre. For the reasons set out within the main part of this report, and in the context of NPPF advice, this in itself is sufficient reasons to refuse planning permission.

4.5 Furthermore it is concluded that the fallback position suggested by the applicant in relation to additional mezzanine floorspace and sub-division of units is no more than a possibility. In any case it is considered that fundamental changes in the size and distribution of the units proposed in the scheme is a completely different proposition to the introduction of an amount of first floor space within an existing modular layout or the subdivision of units in one area of the park.

4.6 Highway Network Management say that in the absence of sufficient uplift to public transport (TP) services through either car park charging or the payment of a sum to allow the provision of a bus service direct from the north side of York the development will not meet the modal split targets set out in the submitted travel plan and transport statement. The application is recommended for refusal on highway grounds and is considered to be contrary to advice within the NPPF, in particular

paragraphs 32 and 34 to 37 and the objectives set out in section 15 of the emerging Core Strategy and supported by the Local Transport Plan approved by the Council on the 7th April 2007.

4.7 In the current climate the benefit of additional jobs should not be underestimated. The level of jobs estimated as part of the development, as assessed by consultants on behalf of the Council, is around 161 FTE jobs in total. The Government say that significant weight should be placed on the need to support economic growth through the planning system. The economic benefits of this scheme, however, have to be considered in the context of the potential loss of other investments and the diversion of investment from the city centre as described in this report. Planning policy guidance, Officers consider, clearly supports city centre sites above out of town locations as representing a significantly better sustainable economic development option.

4.8 As identified in the Core Strategy, the city centre is the “economic, social and cultural heart of York.” Its value is not only in its draw for visitors and residents, but is a key part of the international brand of the city as it is recognized. York’s high street has bucked this trend in recent years, demonstrating relatively resilient high street footfall, with an increase of 13.5% between 2010 to 2011. Nonetheless, York’s vacancy rate is rising – it is currently around 10% and the council’s data indicated a rise of 2% in 2010, from 7.1% in 2009 for shop units in the A classes. However, vacancy rates are far better than the average 14% across the rest of the UK.

4.9 The developers of Castle Piccadilly site have formally said that the approval of schemes at Monks Cross will prevent the Castle Piccadilly scheme from coming forward and the land will be sold in parcels to maximise resale. The development of the Castle Piccadilly site has been a long standing aim of the Council and this scheme would potentially limit the opportunity to increase the market share of the city as a whole and the likely spin off of reinvigorating the city as a shopping destination.

4.10 The NPPF sets out three dimensions to sustainable development; economic, social and environmental. In an economic terms Monks Cross has a part to play but; if the economy of the city centre is to support growth and innovation, new retail development is required that will stem the signs of decline. The Castle Piccadilly site offers this opportunity if out of town development does not prevent it from coming forward. Furthermore there can be no guarantee that the jobs provided as part of MCSP development will be sufficient to compensate for the decline of the city centre and the secondary potential job impacts in other sectors.

4.11 In a social York through its Core Strategy and the Council’s Corporate Quality Commitment Statement aims to promote fairness and inclusion. The city centre is a centre for the community of York with good accessibility for all members of the

community, young, old, infirm, low income etc. Monks Cross with its free car parks, relatively low level of access via other modes of transport, location on the north side of the city with none of the other diverse facilities associated with the city centre such as libraries, post offices and social space does not fulfill this same purpose and the application details do not indicate an improvement. The further move towards out of town shopping development will, in Officers view, be a significant step back towards unsustainable travel choices which the Council is seeking to avoid.

4.12 In an environmental context the role of planning is contributing to protecting and enhancing our natural, built and historic environment. However the proposal would potentially result in a reduction in investment in historic buildings within the city. Furthermore despite the emphasis, in an environmental context, to minimising carbon emissions and pollution, the current proposals are unlikely to meet the objectives of reducing car trips because the modal split targets can not be achieved without further investment in public transport. Therefore the development and the site will continue to be accessed primarily by the private car.

4.13 The NPPF says that the planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable solutions involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life including making it easier for jobs to be created in cities, towns and villages; replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure. It is Officers opinion that for the reasons set out above the development proposed is not sustainable form of development in the context of NPPF advice and should, in principle, be resisted.

4.14 In relation to the details submitted within this outline application Officers conclude:-

4.15 From a design and landscape perspective, subject to appropriate conditions, the new elements of development can be accommodated within the site without detriment to the overall visual amenity of the area.

4.16 The Mountford Piggot development principles drawing is not considered by officers to contain sufficient levels of detail to reassure officers that the development would be carried out in accordance with local and national transport aims and that the sustainable travel aims could be achieved. The approaches and measures presented by the scheme are not sufficient to show how a step change in modes of travel will be achieved and therefore in this respect they do not accord with the Council's transport strategy and policies.

4.17 Officers are satisfied that the BREEAM and renewables requirements, accord with the principles set out within the NPPF; the aims of which are reflected in both

existing Local Plan policy, LDF evidence base documents and the objectives of the core strategy. The BREEAM and renewable requirements could be sought through appropriate conditions.

4.18 There are no objections to the development on drainage or flood risk grounds.

4.19 If members were minded to grant permission for this development this would need to be subject to extensive discussion about how a section 106 agreement and associated conditions could be framed so that the application could meet the tests set out in circular 11/95 and advice within the NPPF.

COMMITTEE TO VISIT

5.0 RECOMMENDATION: Refuse

1. The introduction of 8,693 sq.m. of additional retail floor space in an out-of-town location, together with amendments to existing planning controls to allow the introduction of additional smaller units and creation of 2 large units selling an unrestricted range of goods, is unacceptable by virtue of its impact on the ability to secure investment in vacant buildings and spaces in the city centre and particularly the Castle Piccadilly site, which in the opinion of the Local Planning Authority is suitable and available for development. It is also considered that the development will have significant adverse impacts on planned investment in, and the vitality and viability of, the city centre. The proposed development is therefore contrary to advice within the National Planning Policy Framework published on the 27th March 2012; the objectives set out in of the City of York Core Strategy Submission (publication version 2011) in particular policies SP1, SP3, CS2, CS3, CS4, CS15 and CS17 and policies SP7b, SP9, SP10, S1, S2 and YC1 of the Development Control Local Plan (approved for development control purposes April 2005).

2. It is considered that the adverse effect on investment and employment in the City Centre that would result from the development would not be outweighed by employment generated on site by the development. In addition the development represents a sequentially unjustified expansion of out of town shopping, contrary to national and local planning policy; maintains unsustainable travel choices; and hinders the promotion of fairness and inclusion through the enhancement of out of town facilities to the detriment of investment in the city centre. Overall the development does not achieve sustainable solutions in an economic, social or environmental context and is therefore contrary to the advice within the National Planning Policy Framework, which requires such dimensions to be taken into account in assessing the sustainability of development, and the aims and objectives set out in of the City of York Core Strategy Submission (publication version 2011).

3. It is not considered that the application adequately provides for additional or enhanced public transport facilities to address the increase in custom and catchment area of custom that development would generate. The development would therefore result in increase in car borne journeys to and from the site without available and realistic sustainable travel alternatives Furthermore the removal of part of the insulated bus lane and failure to provide adequate cycle storage facilities within the site would discourage rather than encourage alternative travel modes, contrary to advice within the National Planning Policy Framework, in particular paragraphs 32 and 34 to 37 and the objectives set out in section 15 of the City of York Core Strategy Submission (publication version 2011) and supporting documents including the Local Transport Plan approved by the Council on the 7th April 2007 and SP7a of the Development Control Local Plan approved for development control purposes April 2005.

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