

COMMITTEE REPORT

Team: East Area
Date: 27 July 2006

Ward: Heworth
Parish: Heworth Planning Panel

Reference: 06/00333/REMM
Application at: Council Depot Foss Islands Road York YO31 7UL
For: Section 73 application for the variation of condition 1 (schedule of approved plans) of reserved matters decision notice 04/04381/REM to show amended site layout and elevational changes (redevelopment for retail scheme including Morrisons superstore, petrol filling station, non-food retail units, vehicle servicing and MOT centre, restaurant, new accesses, public transport provision, car parking and landscaping) proposed Foss Islands Retail Park...
By: Keyland Gregory (retail) Ltd And Wm Morrison Supermarkets Pl
Application Type: Major Reserved Matters Application (13w)
Target Date: 16 May 2006

1.0 PROPOSAL

1.1 This application is submitted in accordance with Section 73 of the Town and Country Planning Act 1990. It seeks to vary the details of the approval of reserved matters application 04/04381/REM (which referred to the outline approval 03/00737/GRG4) for the redevelopment of this former Depot Site . A Section 73 amendment to that outline approval appeared as the previous agenda item.

1.2 The changes proposed are as follows:-

- alterations to the elevations of the Morrisons supermarket.
- incorporation of Homebase to operate from one of the units in the non-food retail park area. This involves the introduction of a garden centre and consequently requires a revised footprint in order to accommodate Homebase's trading requirements.
- a reduction in the size of the petrol filling station canopy and a reconfiguration of the general layout.
- minor alterations to the car park layout.

Planning History

1.3 In November 1999, an outline application was submitted which sought permission for a non food retail park development on a site falling generally within the site of the current planning application but including additional land to the south and excluding certain parcels to the north. At the 2nd March 2000 Planning and Transport Committee, Members resolved to approve the application subject to the referral of the application to the Secretary of State and subject to the signing of a Section 106 Agreement.

1.4 On 28 September 2000, Members approved a revision to the scheme, which involved the resiting of the restaurant and associated car parking. The application (comprising the revision) was referred to the Secretary of State who confirmed that the application would be left to the determination of the Local Planning Authority. Negotiations relating to the Section 106 Agreement proceeded but were not completed due to the nature of the scheme and the precise site area changing over time.

1.5 The outline planning permission was issued on 9th December 2004 following referral of the application to the Government Office for Yorkshire and Humber, the completion of a Section 106 Agreement. The outline application, which included details of the siting and means of access for consideration at that stage established the principle of the development and set limitations on the amount of food and non food retail floorspace, as follows:-

- Non-food retail units with a footprint of 6,970 sq m (75,000 sq ft) and gross floorspace of 10,220 sq m (110,00 sq ft)
- A foodstore of 6,718 sq m (82,000 sq ft) for occupation by Morrison Supermarkets, to include a petrol filling station.
- A restaurant of 372 sq m (4,000 sq ft)
- Relocation of Kwik Fit 643 sq m (6,830 sq ft).

1.6 That outline permission was then amended by planning permission 04/04420/GRG4 dated 24th February 2004. This was also a Section 73 application and was sought in order to allow the redevelopment of the site in phases and introduced a phasing condition to allow for this. A number of the other conditions were also amended. A further outline permission was then issued on 2nd September 2005 which further varied condition 4 (non-food sales floorspace be limited) of 04/04420/GRG4

1.7 A reserved matters application was submitted in December 2004 illustrating the same layout and footprint as that indicated at the time of the outline application, but also including details of the cycle, bus and pedestrian route onto and through the site from Foss Islands Road to the James Street Link Road. This is the only reserved matters approval granted so far.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Listed Buildings Grade 2; Chimney At Works Depot Foss Islands Road 0024

Floodzone 3 Flood Zone 3

Floodzone 2 Flood Zone 2 CONF

DC Area Teams Multiple (Spatial)

City Boundary York City Boundary 0001

Conservation Area Central Historic Core 0038

Areas of Archaeological Interest City Centre Area 0006

Listed Building - Grade II

2.2 Policies:

CYGP1
Design

CYGP3
Planning against crime

CYGP4
Environmental sustainability

CYGP11
Accessibility

CYHE2
Development in historic locations

CYT4
Cycle parking standards

CYT13
Car park standards in York CC/District C

CYHE7
Security shutters in historic locations

CYNE8
Green corridors

3.0 CONSULTATIONS

3.1 INTERNAL.

3.2 Highway Network Management.
No objections raised.

Whilst the application increases the ground floor area of non-food retail, the figure is still below that which was considered as part of the Foss Basin masterplan and as such is considered acceptable.

3.3 Environment and Conservation .

The Morrisons superstore building has some elevational changes which bring the two storey element aspect of the southern elevation closer to the listed chimney and a slightly more solid frontage wall where previously there was an overhanging canopy. However, given the strong vertical emphasis of the chimney and the fact that the seating and landscaping around the chimney remains the same, these changes are not considered to affect the setting of the listed chimney.

Changes to the non-food retail terrace of buildings are acceptable and have no impact visually from outside the site.

3.4 Landscape Officer.
No objections.

3.5 Structures and Drainage.

Insufficient information has been provided at this stage by the Developer to determine the potential impact the proposals may have on the existing drainage systems. Details are therefore awaited before construction commences to satisfy the drainage conditions placed on the original permissions.

3.6 Environmental Protection Unit
No comments in respect of this application.

EXTERNAL.

3.7 Heworth Planning Panel.
No objections.

3.8 Environment Agency.

The Flood Risk Assessment dated Feb 2004 concludes that Finished Floor Levels should be set at least to the minimum agreed level of 10.30 metres above ordnance datum. If the Morrisons building is to have floor levels of 10.30AOD then this remains acceptable. Lower would not be acceptable.

All comments made in previous correspondence as to the design and installation of the culvert are still applicable.

3.9 Yorkshire Water.

No comments to make on this application. Original comments and conditions apply.

3.10 English Heritage.

No comments to make.

3.11 Foss Internal Drainage Board.

Has no objections to the proposals, however the planning and drainage authorities are reminded that no works undertaken by the developer of the site should be allowed to have a detrimental effect on water levels on the River Foss or the Osbaldwick/Tang Hall Beck.

3.12 York Cycle Campaign.

Object. Plans do not make the most of the opportunity to link up the Foss Islands cycle route with a possible link into the city centre, possibly through the new Hungate development. The development could be excellently served by high quality cycle routes which provide a much needed traffic free access into the city centre from the residential areas further out such as Heworth, Tang Hall and Osbaldwick. The plans presented do not make the most of this opportunity and the cycle facilities provided are badly designed and unattractive.

- Development has been designed as a car based development.
- impact on traffic generation
- wider effects on local shops in the York area.
- non-cyclists often won't cycle because of volume of traffic and this development can only increase this.
- cycle and pedestrian facilities give the impression of not being very well thought through - they are indirect and discontinuous.
- unclear where / how cyclists will get on and off the route.
- unclear how they will get onto the future link road.
- unclear how cyclists will access the proposed cycleway along the Foss or from the new Hungate development. This appears to have been ignored but could be a huge benefit to the city.
- unclear how cyclists access the cycle parking for the supermarket via the cycle route.
- proposed green corridor is not sufficiently wide to provide a continuous, fully viable 'green corridor' or a pleasant environment for cyclists or pedestrians. Understand that this was originally agreed upon by the planning committee.

3.13 York Natural Environment Trust.

States that the way these applications have been presented, that is simply as minor amendments intended to consolidate conditions and plans for the Morrisons scheme to be an attempt to obtain by stealth, planning consents for what amounts to a new scheme. It should be subject to a new outline application which only if approved should then require a

new reserved matters application. Applications should be subject to a full public consultation in a form which makes their true intent clear and should ultimately be referred to the Sec of State for approval.

- plans lack clarity and fail to provide a clear key. Scale is misleading.
- drainage plans are unsustainable.
- width of the tree belt alongside Foss Islands Road specified in the original application as 10 metres now averages only 7 metres and falls as low as 5 in places. This is insufficient to provide the depth of ameliorating and screening originally specified and will be inadequate for its purpose.
- the green corridor is inadequate. In both the previous and this application it appears as only a transport corridor with some disjointed elements of embellished landscaping provided.
- as a route for people, the footway / cycleway is disjointed and made hazardous by being mixed up with motor vehicle roads. Will not be a pleasant experience for people using it as a link between the river foss corridor and St. Nicholas fields.
- During consideration of the 'Morrisons' scheme, it became clear that the failure of the green corridor concept had resulted from failure to resolve at the outline stage, conflicts between space needed for landscape, and habitat provision, space needed for a safe and pleasant pedestrian/cycle route, space required for a bus route and space aspired to by developers to maximise car parking. It is essential in the new 'Morrisons/Homebase' scheme that these conflicts are resolved and provision made for a continuous, fully viable green and wildlife corridor, accommodating a safe and pleasant pedestrian/cycle route, segregated from motor traffic, before the outline application is determined.

4.0 APPRAISAL

4.1 Section 73 of the 1990 Town and Country Planning Act provides for applications for planning permission without complying with conditions previously imposed on a planning permission. The Local Planning Authority can grant such permissions unconditionally or subject to different conditions, or they can refuse the application if they decide the original conditions should continue in the same form. The proposal here is to vary some of the original conditions and if approved, a completely new decision notice would be issued.

4.2 The key issues are whether the proposed alterations in design and layout are acceptable and whether the proposed variation of the wording allows the Council to retain the necessary control over the development in terms of details and timescale. The precision and enforceability of any reworded conditions is also a key consideration.

4.3 Only 5 conditions were attached to the reserved matters permission 04/04381/REM and only condition 1 of these is sought for amendment here. This referred to the schedule of approved plans and cover all detailed aspects of the scheme. However, these approved plans include the detailed site layout and elevations plans of all the buildings and therefore the details controlled by this condition are important and far reaching. The changes are detailed below.

Supermarket.

4.4 The position and footprint of the supermarket and the retail floorspace area remains identical to that approved (7618sqm). The changes proposed are cosmetic and come about because the internal first floor accommodation within the building has been moved further west (towards Foss Islands Road) and this results in alterations to the appearance of the elevation facing the car park by moving the two storey element much closer to the secondary entrance on the south western corner of the building. This secondary entrance is important as it is adjacent to the listed chimney, shown on the approved scheme to be circled by seating with a paved and landscaped area to the rear. The changes to this secondary

entrance are relatively minor but whilst they don't bring the nearest part of the supermarket any closer to the chimney, a solid wall replaces space previously underneath the overhanging canopy of the building (the canopy has now been deleted). Whilst this is regrettable and one would have hoped, avoidable, the actual additional impact on the listed chimney is minor. The vertical emphasis of the chimney is such that it remains the dominant structure and therefore the proposed alterations to the Morrisons facade at this point does not materially alter this relationship. The seating, paving and landscaped area around the chimney are unaltered and so officers have concluded that there is no greater impact on the setting of the listed chimney as that approved.

4.5 The main entrance is at the other end of the same elevation facing towards the transport corridor. This main entrance is unchanged.

4.6 The building follows the same design principles throughout and these are the same as approved. They comprise facing brickwork with contrasting horizontal banding and coloured panels at high level. The roofing over the two storey offices and the mansard roofing are to be in natural slate with an aluminium standing seam roof to the main entrance and 'towers'. The alterations are very minor and it remains acceptable in terms of its external appearance and design.

Non-food retail area.

4.7 This is the area of most change. The issues surrounding the slight alterations to the unit sizes and consequent retailing issues are considered in the previous report and are not relevant here. The issue here is the alteration in design and appearance brought about as a result of these changes.

4.8 The incorporation of Homebase into the scheme requires a different footprint for this non-food retail 'terrace'. The approved layout shows 6 retail units of differing, but fairly equal, sizes. The trading requirements of Homebase means that they will occupy a much larger unit area and this impacts not only on the Homebase unit itself but also on the layout of the other units as well. The size of Homebase means that only 4 separate units will now occupy this terrace and consequently elevation changes are required to reflect this. Additionally, there is also the need to accommodate the new garden centre attached to Homebase.

4.9 The footprint of this terrace alters because the unit occupied by Homebase will be slightly deeper and longer than that approved. However the main changes to the footprint are to the rear of the building adjacent to the sites eastern boundary with adjacent warehousing. The turning area for service vehicles has moved further south to behind the relocated Kwik Fit building but officers do not consider this to be unacceptable and not materially harm the overall appearance of the site.

4.10 The incorporation of this larger unit also has consequent changes to the front of this terrace as store entries and the relationship of these to the first line of car parking in front of the stores need to be modified. It must be stressed however that the length of the building remains the same and from the main public views within the site and from Foss Islands Road, the building will appear almost identical in appearance to that approved. For the information of members the general appearance of this row of buildings is as follows:

4.11 The front elevations of the non food retail units and the motorist centre would be in a single plane, varying in distance from Foss Islands Road boundary between 36 metres to the south and 88 metres at the northern end. They would measure 8.2 metres to eaves. In a similar vein to the Monks Cross retails development, each unit would have taller tower feature entrances with signage above the entrance doors. The entrance features would project to 10.2 metres above ground level. The elevations would be finished in silver

coloured cladding panels. The plinth would be in faced blockwork. The roof would be of composite panelling, coloured goosewing grey. A glazed canopy projecting some 2.5 metres from the face of the retail terrace building would run along the front elevation.

4.12 The Motorist repair centre.

Very minor change replacing the five doors on the southern elevation with four. No impact.

4.13 The Petrol Filling Station.

This remains in the same place on the site and access into it is the same. The extent of the canopy has been reduced and the general layout reconfigured slightly. An LPG storage area has been replaced with a jet wash. These changes are limited and acceptable. Indeed it offers improvements inasmuch that it widens the landscaped strip close to the site entrance off Foss Islands Road and additional tree planting is shown in here which will assist further in screening views of the petrol station areas from Foss Islands Road.

4.14 The restaurant.

The freestanding restaurant is 4000sqm in size and is located just behind the 10 metre wide landscaped belt adjacent to Foss Islands Road. The approved scheme shows a contemporary structure, 4.1 metres high to eaves level, with glazing and brickwork to the elevations, and a flat roof in composite panels coloured goosewing grey. Given the relatively low roof height of the structure it was considered acceptable as it would have a limited visual impact along Foss Islands Road. The proposed amendment introduces a different design which is higher and offers accommodation over 2 floors. It also significantly alters the design and shows an entrance feature similar to those on the non-food retail terrace to the east. This change was considered unacceptable by officers as it makes the restaurant much more visually noticeable from Foss Islands Road and results in a design completely at odds with the simple, lightweight design previously approved. As a result the applicant has agreed to withdraw this change at this stage and will instead resort back to the approved design. For the purposes of this application therefore, there are no alterations to the restaurant.

4.15 Central Green / Wildlife Corridor.

The extent, layout and character of this remains unaltered.

4.16 Landscape Belt to Foss Islands Road.

The extent of this landscaped belt running along the extent of the Foss Islands Road site frontage remains unaltered.

4.17 Highway layout.

There are a number of very minor alterations to the car park layout but the number of spaces remains as approved. Cycle and pedestrian routes are unaltered and there is no additional impact on highway, cyclist or pedestrian safety as a result of these amendments. Details conditioned and these remain unaltered and will require discharging before development commences.

4.18 Drainage.

No change to the approved plans. Details conditioned and these remain unaltered and will require discharging before development commences.

5.0 CONCLUSION

5.1 The changes are relatively minor and mainly consolidate the existing approval for the details of landscaping, siting and external appearance of the development. These are the only factors for determination here. The main changes are to the non-food retail element of

the proposal but these do not materially affect the layout of the site or the appearance of the building. The important landscaping details remain largely unaltered.

5.2 Given that the changes are relatively minor, it is considered that the details can be altered and agreed by substituting the approved plans for those submitted here. This requires an alteration to the schedule of plans condition 1. Conditions 2-5 remain unaltered and will be re-appended.

5.3 Subject to:-

a) The Secretary of State allowing the Authority to determine the variation of the outline application 06/00338/GRG3. (previous item on agenda)

b) Variation of the S. 106 Agreement to refer to this variation application

a) The conditions as set out below and supplementing those on reserved matters approval 04/04381/REM,

it is recommended that the application be approved. The changes are highlighted in bold type for ease of reference.

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

- 1 **The development shall not be carried out otherwise than in complete accordance with the plans as originally submitted and later amended by the revised drawings listed below and received on the date indicated, or as may otherwise be agreed in writing with the Local Planning Authority.**

Dwg No. ELBFIR/D006 rev.B (Halcrow Yolles) received on 9th February 2006

Dwg No. PL207.M.03 N (Planit) received on 9th February 2006

Dwg No: 3527-24-GA03 (Watson Batty) received on 28th March 2006

Dwg No: 3527-24-03 V (Watson Batty) received on 28th March 2006

Dwg No: 3527-24-PFS 05 & 08 (Watson Batty) received on 28th March 2006

Dwg No: 3527-24-06A (Watson Batty) received on 9th February 2006

Dwg No: 3527-24-07A (Watson Batty) received on 9th February 2006

Dwg No: 3527-24-08A (Watson Batty) received on 9th February 2006

Dwg No. 201 N (Harris) received on 9th February 2006

Dwg No. 252 F(Harris) received on 9th February 2006 (excluding details of motorist repair unit - see 212 B)

Dwg No. 209 D (Harris) received on 9th February 2006

Dwg No. 251 F (Harris) received on 9th February 2006

Dwg No. 242 (Harris) received on 9th February 2006

Dwg No. 250 G (Harris) received on 9th February 2006

Dwg No. 241B (Harris) received on 9th February 2006

Dwg No. 212 B (Harris) received on 13th April 2006

Dwg No. 207B (Harris) received on 15th February 2005 and approved 17th March 2005 (restaurant unit as originally approved)

2 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- Entrances to retail units and motorist centre
- Seating around base of listed chimney
- Details of pedestrian/cycle routes at crossing points with access roads

Reason: So that the Local Planning Authority may be satisfied with these details.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

4 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

5 Notwithstanding the details illustrated on the submitted plans, the high level culvert chamber compound adjacent to Foss Islands Road shall be bounded by brickwork walls, in accordance with details which shall have previously been agreed in writing by the Local Planning Authority.

Reason : In the interests of the visual amenities of the locality and security of the compound.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to highway safety, visual amenity, setting of the listed building, drainage and flooding. As such the proposal complies with Policies of Regional Planning Guidance Note 12, Revised Spatial Strategy for Yorkshire and Humber (2004), Policies T10 and E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP4, GP11, HE2, T4, T13, NE7 and NE8 of the City of York Local Plan Deposit Draft.

Contact details:

Author: Matthew Parkinson Development Control Officer
Tel No: 01904 552405