

COMMITTEE REPORT

Team: East Area
Date: 27 July 2006

Ward: Heworth
Parish: Heworth Planning Panel

Reference: 06/00338/GRG3
Application at: Council Depot Foss Islands Road York YO31 7UL
For: Section 73 application for the variation of conditions attached to outline planning permission (03/00737/GRG4) relating to the redevelopment for a retail scheme of the Council Depot and adjoining land at Foss Islands Road, York
By: City Of York Council
Application Type: General Regulations (Reg3)
Target Date: 11 April 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 the reserved matters approval appears as the next 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 of the area around the petrol filling station.
- 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 and 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:

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:

CYS1

Land allocated for shopping sites

CYS2

Out of centre retail warehouse criteria

CYSP7

The sequential approach to development

CYSP8

Reducing dependence on the car

CYHE4

Listed Buildings

CYNE7
Habitat protection and creation

CYNE8
Green corridors

3.0 CONSULTATIONS

3.1 INTERNAL.

3.2 City Development.

No policy issues. Alteration to the condition restricting the net sales area selling sports goods tightens up the restriction that no more than 50% of the net sales area in ANY unit selling sports goods shall be used for the sale or display of clothing or footwear (previous condition was for 50% for the total of all units). This is a minor change and has no policy implications.

Alteration to the condition restricting the amount of sales floorspace used for the sale and display of the items restricted for sale in the non-food retail units. It is now proposed to read that this level shall not exceed 15% in ANY unit as opposed to the previous condition was for 15% for the total of all units. This is considered a minor change to clarify that the restriction will be applied on a unit by unit basis. No policy implications.

3.3 Highway network management.

No objections.

EXTERNAL.

3.4 Environment Agency.

Environment Agency understand that conditions 18,23, 24, 25 and 26 shall be carried over to the new application. On this basis have no further comments to make.

3.5 Yorkshire Water.

Comments as previous.

3.6 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.

3.7 Heworth Planning Panel.

No objections.

3.8 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.

3.9 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 or that any changes will be materially harmful or have policy connotations. 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 issue here is whether the proposed variation of the conditions 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 As outlined in 1.2 above, the application site has three extant outline planning permissions and one reserved matters permission. This application deals with policy issues that arise from the alterations, rather than the detailed design and layout issues which are dealt with as an amendment to the reserved matters permission which is the next agenda item.

4.4 The three outline permissions (original outline decision and two section 73 amendments) mean that it is somewhat confusing when looking at the site history and so the purpose of this amendment is both to introduce a number of amendments to the scheme details and to consolidate the three permissions into one. For the purposes of the application, it is still assumed that the development will continue in a phased manner and that revised conditions will reflect the Section 73 amendment (04/004420/GRG4) approved 7th June 2005.

4.5 It is a material consideration that permission has already been granted for this scheme and unless there has been a material change in circumstance, then the principal of the scheme cannot be revisited here. The extent of the changes are relatively minor and mainly relate to the minor layout and design changes which are dealt with on the amendment to the reserved matters permission next up on this agenda.

4.6 However, there are alterations requested to the conditions on the outline approval, from which the reserved matters will be based. The main changes are directly related to the agreement reached that Homebase are to operate from one of the units on the non-food retail park. This has led to an alteration in the footprint of the building comprising the non-food retail units because, given their trading requirements, they require a larger unit and the inclusion of a garden centre. The key issue here therefore is to ensure that these changes are in line with the agreed details and that the retail floorspace restrictions already in place are not compromised.

4.7 The site is allocated in the draft local plan for retail use and historically it has been agreed that the non-food retail units will have a footprint of 6970sqm (although there is no conditioned limit on this) and a gross floorspace of 10220sqm (this allowed for mezzanines). It is not the intention of the applicant to seek any alteration to this agreed floorspace area although the footprint of the garden centre shown on the revised site layout accompanying the revised reserved matters application confirms that the footprint of the now 4 units is 6967sqm's (plus the 706sqm garden centre) encompassing a gross floorspace of 8990sq.m. Control on the floorspace area is the important factor here as it is this that potentially impacts on the shops in the City centre. The footprint area over which this is contained is not so important providing this does not impact on levels of car parking within the site and local visual amenity, neither of which the revised footprint does. There are no confirmed occupiers for the other 3 units as yet and therefore they will, if they so wish, make up the floorspace shortfall (1230sqm still spare) on a first come first serve basis by the use of mezzanine flooring. Condition 12 is recommended to be revised to ensure that this is understood and to ensure that the 10220 sqm floorspace area actually appears in a condition for the first time.

4.8 The significant alteration shown on the revised proposed layout is the introduction of a Homebase run garden centre (706sq.m) attached to the southern elevation of the main Homebase Unit and this was submitted to be shown to be in addition to the restricted floorspace area of 10220sqm. However officers consider that this would constitute a potentially significant change that could not be dealt with as part of a Section 73 application and that introducing such a change would require a revised retail assessment to be carried

out. Whilst there are no objections to a garden centre on the site (it is classed as a 'bulky good' which will not impact on the City Centre shops and is not one of the restricted items that cannot be sold from this site; see condition 8), the Council do expect this garden centre floorspace to be included in the 10220sqm floorspace restriction and therefore future occupiers of the unoccupied units simply have less space available. The applicant's agent has agreed this.

4.9 Amendments are also sought to the conditions restricting a) the net sales area selling sports goods and b) restricting the amount of sales floorspace in the non-food units set aside for those goods outlined in condition 8. In both cases the changes tighten up on this restriction and are a minor change which have no policy implications.

4.10 The amendment to condition 23 is considered acceptable and is a minor change which officers consider does not effect future control or local amenity. The details required now specifically relate to the restaurant only rather than across the entire site where no such extract systems are required. Separate environmental legislation now also exists to control any harm that arises from these.

4.11 The comments of the York Natural Environmental Trust and the York Cycle Campaign are noted and acknowledged. However, the scheme does already have planning approval and the Council cannot now revisit these details. Even if members refused these changes, the existing planning permission, including layout can still be implemented in full. Given that there are no policy implications of the changes and the layout changes are minor, officers do not consider that full revised applications are necessary.

5.0 CONCLUSION

5.1 The alterations proposed do not appear to present any significant issues from a planning point of view given that neither the approved footprint nor the gross floorspace already agreed is to be changed. There are no changes in the permitted uses proposed and as such officers have concluded that the changes do not require the retail or transport assessments carried out and agreed to facilitate the determination of the original outline permission to be revisited. The changes in wording to the conditions are minor and in some cases actually tighten control rather than loosen it.

5.2 Subject to:-

- a) The Secretary of State allowing the Authority to determine this application
- b) Amendment of the S. 106 Agreement to refer to this variation application
- c) Imposition of the conditions as listed below (the changes to wording are highlighted in bold for members information and ease of reference).

it is recommended that the application be approved.

6.0 RECOMMENDATION: Approve subject to Section 106 and SOS

- 1 OUT1 Approval of Reserved Matters
- 2 A phasing programme shall be submitted to and agreed in writing by the local planning authority and the development shall be implemented in accordance with the agreed phasing programme.

Reason: To ensure that the Local Planning Authority is satisfied with the details of the phasing of the development.

3 OUT2 Full details to be submitted

4 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.

Flood risk assessment received 9th February 2006
Dwg No. 221 B (Harris) Simplified site layout received 9th February 2006
Dwg No. H/06 P1 (White Young Green) Foss Islands Road junction details received 9th February 2006.

Reason: To achieve an acceptable form of development.

5 Note: Conditions 4 to 6 relate to the food retail element of the scheme;

The amount of non-food sales floorspace should be limited to no more than 15% of the net floorspace granted permission for construction of the original foodstore.
n.b. the current scheme proposes 3,721 sqm (net) with 558 sqm of non-food goods.
This equates to 15%

Reason: To minimise the impact of comparison goods sold at the store competing with York City Centre retail outlets selling the same goods.

6 The installation of a mezzanine floor other than for ancillary offices, staff facilities and storage, shall not be permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid the proposed development having an adverse impact on York City Centre.

7 The net retail floorspace shall not exceed 3,721 square metres without prior written approval from the Local Planning Authority.

Reason: To avoid the proposed development having an adverse impact on York City Centre.

8 Note: Conditions 7 to 11 relate to the non-food retail element of the scheme:

The following range of goods shall not be sold unless ancillary to the main range of goods:

- Clothing and Footwear
- Accessories
- Watches and Jewellery
- Music and Video recordings and Video and CD Rom
- Camera and Photographic equipment
- TV/Video/DVD and Hi-Fi equipment
- Toys
- Pharmaceutical goods
- Books/Magazines
- Leisure and Luxury goods (e.g. handbags, luggage, china, glass goods and cutlery)

- Any use falling within Class A2 of the Use Classes Order

Reason: To minimise the impact of comparison goods sold at these stores competing with York City Centre retail outlets selling the same goods.

- 9 No more than 50% of the net sales area in **any** unit selling sports goods shall be used for the sale or display of clothing or footwear.

Reason: To minimise the impact of comparison goods sold at these stores competing with York City Centre retail outlets selling the same goods.

NOTE: This replaces the previous condition which said
' No more than 50% of the net sales area in units selling sports goods, shall be used for the sale or display of clothing and footwear'.

- 10 The amount of sales floorspace used for the sale and display of those goods restricted in condition 7 **in any unit will not exceed 15% of the total net floorspace within that unit.**

Reason: To minimise the impact of comparison goods sold at these stores competing with York City Centre retail outlets selling the same goods.

NOTE. This replaces the previous condition which said.
'The amount of sales floorspace used for the sale and display of those goods restricted in Condition 7 will not exceed 15% of the total net floorspace'.

- 11 No unit shall be less than 929 sq m net and shall not subsequently be subdivided without the prior written consent of the Local Planning Authority.

Reason: To ensure that smaller units do not trade from the site which could have a detrimental impact on the vitality and viability of York City Centre.

- 12 Additional mezzanine floors (beyond those explicitly referred to in the original planning permission **allowing a total floorspace for the non-food units of 10220sqm excluding, for the avoidance of doubt, the foodstore, the restaurant and motorist repair centre** will not be permitted unless agreed in writing with the Local Planning Authority. **The garden centre shown on the southern elevation of unit 4 is considered part of the floorspace of unit 4 and shall not be occupied as a separate unit.**

Reason: To avoid the proposed development having an adverse impact on York City Centre.

- 13 No development shall take place until full details of a habitat relocation/creation scheme relating to the swamp area and to the established grassland components of the site have been submitted and approved in writing by the local planning authority. The details will include:
- i) The purpose and aim of the relocation proposals
 - ii) A review of the sites potential and any constraints exhibited on the site.
 - iii) Description of the target habitats and species profiles for the habitats to be relocated.
 - iv) The techniques and method statements to be employed by the site preparation and translocation process.
 - v) Timing of the works

- vi) Monitoring
- vi) Proposals for the aftercare and long term management of the translocated site.

All works are to be implemented as approved unless otherwise authorised in writing by the planning authority. The translocation work shall be carried out prior to the implementation of any other works that will affect the source site.

Reason: In order to mitigate against the loss of the swamp and grassland components.

- 14 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which takes account of the loss of existing habitats, which mitigates against the losses incurred and which ensures the provision of a green corridor through the site. The landscaping scheme shall illustrate the number, species, height and position of trees and shrubs to be removed and to be planted. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

- 15 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

- 16 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

- 17 The permission hereby granted for the use of the restaurant for the purpose contained within Class A3 (food and drink) of Part A of the Schedule of the Town and Country Planning (Use Classes) Order 1987, specifically excludes their use for the sale of hot food or drink for consumption off the premises.

Reason: The use of the restaurant for the sale of hot food or drink for consumption off the premises is likely to be detrimental to the amenities of nearby residents and/or detrimental to highway safety.

- 18 Prior to the commencement of any work on site, a detailed method of works statement shall be submitted to and agreed in writing by the Local Planning Authority. This statement shall include the precautions to be taken to ensure that noise does not cause a loss of amenity for neighbouring residents. In particular the statement shall include the hours during which demolition, construction and deliveries to and

from the site will be permitted. The approved method of works statement shall thereafter be complied with at all times, unless a variation of the statement is first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents.

- 19 Prior to commencement of the development hereby permitted, the method for any piling operations shall be agreed in writing by the local planning authority. All piling operations shall be done in accordance with this agreement.

Reason: To safeguard the amenities of local residents

- 20 Prior to the commencement of any work on site, a detailed scheme for controlling the noise of deliveries to and from the site shall be agreed in writing by the Local Planning Authority. This scheme shall include measures to control noise from reversing vehicles and noise from the unloading/loading of vehicles. The hours during which deliveries will be permitted shall also be included. The approved scheme shall thereafter be complied with at all times, unless a variation of the scheme is first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents

- 21 Details of the proposed hours of use for the development shall be submitted to the local planning authority for written approval. The use hereby permitted shall be confined to the hours approved.

Reason: To safeguard the amenities of local residents

- 22 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to the local planning authority for approval. These details shall include maximum (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the amenities of local residents

- 23 **In relation to the restaurant use hereby permitted** there shall be adequate facilities for the treatment and extraction of fumes so that there is no adverse impact on the amenities of local residents by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the amenities of local residents.

NOTE. The previous condition read as follows:

There shall be adequate facilities for the treatment and extraction of fumes so that there is no adverse impact on the amenities of local residents by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for approval. Once

approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained thereafter.

- 24 A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on the site.

Reason: In the interests of the safe and proper development of the site.

- 25 A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site.

Reason: In the interests of the safe and proper development of the site.

- 26 A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing on site.

Reason: In the interests of the safe and proper development of the site.

- 27 Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development of the site.

Reason: In the interests of the safe and proper development of the site.

- 28 A timetable of proposed remedial works shall be submitted to the local planning authority prior to any works being undertaken on the site.

Reason: In the interests of the safe and proper development of the site.

- 29 A method of sampling and validation shall be produced to ensure imported and excavated materials used on site are not contaminated. This should include, where possible, details of the origin of such materials. The methodology shall be submitted in writing and approved by the local planning authority prior to commencement of the development. The approved methodology shall be fully implemented during the construction of the development hereby approved.

Reason: In the interests of the safe and proper development of the site.

- 30 Floor levels shall be set at least to the minimum agreed level of 10.30 metres above Ordnance Datum.

Reason: To protect the development from flooding.

- 31 No development approved by this permission shall be commenced until:

a) A site investigation has been designed for the site using the information obtained from the desk top study and any diagrammatical representations (Conceptual Model). This should be submitted to, and approved in writing by the LPA prior to that

investigation being carried out on the site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken relating to ground and surface waters associated on and off the site that may be affected, and
- refinement of the Conceptual Model, and
- the development of a Method Statement detailing the remediation requirements

b) The site investigation has been undertaken in accordance with details approved by the LPA and a risk assessment has been undertaken.

c) A method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the LPA prior to that remediation being carried out on the site.

Reason: To ensure that the proposed site investigations and remediation will not cause pollution of Controlled Waters.

- 32 No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water run-off limitation to Greenfield run-off rates has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding.

- 33 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works including details of any balancing works and off-site works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

- 34 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interests of satisfactory and sustainable drainage.

- 35 Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason: To ensure that no surface water discharges take place until proper provision has been made for their disposal.

- 36 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within a twelve metre easement strip centred over the line of Tang Hall Culvert which crosses the site.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

- 37 Notwithstanding the submitted plans, full details of the proposed alignment and extent of the diversion of the Tang Hall culvert shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposals take into account the works to the culvert associated with the construction of the James Street Link Road.

- 38 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located within a thirteen metre easement strip centred over the Foss Islands High Level Culvert which crosses the site.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

- 39 Vehicular access shall be provided at all times to the existing chamber and control building compound on the Foss Islands High Level Culvert.

Reason: To enable access to this flood control installation.

- 40 Prior to the commencement of the development hereby approved, a CCTV survey of the Tang Hall Beck overflow culvert shall be undertaken and a remedial strategy shall be developed based upon the findings of this survey. The results of the survey and the remedial strategy shall be submitted to and approved in writing by the Local Planning Authority prior to any development commencing on site

Reason: To ensure that the Tang Hall Beck overflow culvert continues to function satisfactorily.

- 41 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located within a six metre easement strip centred over the Tang Hall Beck Culvert which crosses the site.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

- 42 For all manholes on the culverts, provision shall be made for machine access and the surrounding areas shall be constructed to adequately support plant and machinery, which may be required to deal with blockages and other maintenance requirements.

Reason: To enable the culverts to be maintained to minimise the risk of blockages occurring.

- 43 Prior to the commencement of the development hereby approved, the routes of all culverts shall be confirmed and located on the topographic survey.

Reason: To ensure that easement strips are correctly located.

- 44 During the construction phase of the proposed development, 24 hour access to the inlet screens on the culverts shall be maintained.

Reason: In the interests of maintenance and flood prevention.

- 45 Prior to works commencing, details shall be submitted and agreed in writing by the Local Planning Authority, of the car park signing necessary as a consequence of the

development. Such signing shall be provided to coincide with the opening of the car parking.

Reason: In the interests of highway safety.

- 46 Prior to works commencing, details of signing of pedestrian and cycle routes both to and from the site shall be submitted and agreed in writing by the Local Planning Authority, such signing shall match the existing signs within the City Centre, and shall be provided before the site comes into use.

Reason: In the interests of highway safety.

- 47 Before development commences the following details shall be submitted to and agreed in writing by the LPA:

- Segregated pedestrian/cycle route through the site
- Security and landscaping adjacent to the cycle route
- Other cycle and pedestrian access to (and potentially through) the site
- Car parking layout, including disabled, parent & child, internal visibility lines.
- Measures to provide safe crossing points within the site, affording priority to pedestrians and cyclists
- Pedestrian guard railing or similar measures
- Bus link through the site, including stop provision.
- Green Corridor

All the above such facilities shall be completed prior to any part of the development being brought into use, or alternatively in accordance with a timetable which has been submitted to and approved in writing by the LPA

Reason: In the interests of safety and good highway management.

- 48 Full details of the proposed CCTV facilities within the site and lighting for the car park and cycle route shall be submitted to and approved in writing by the LPA, prior to any part of the development being brought into use.

Reason: In the interests of safety and visual amenity.

- 49 Prior to works commencing a dilapidation survey shall be jointly undertaken with Officers of the Council, the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway.

- 50 Prior to the development coming into use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway.

- 51 The initial 10m of the access, measured from the nearside highway boundary, shall not exceed a gradient of 1 in 20 (5%). Elsewhere within the site the gradient of pedestrian and vehicular areas shall not exceed 1 in 12 (8.3%).

Reason: To ensure vehicles safely approach and enter the public highway and that the site is accessible to people with disabilities.

- 52 The development shall not come into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbing, footway and verge to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

- 53 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

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

- 54 Prior to the development coming into use the sight lines shown on the approved plans shall be provided free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

- 55 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

- 56 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

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

- 57 A safety audit (stages 2 and 3) carried out in accordance with the advice set out in the design manual for roads and bridges HD 19/94 and guidance issued by the Council, shall be submitted for the site access(es) and all off-site works, as specified, in the transport assessment.

Reason: In the interests of safety and good highway management.

- 58 All lighting shall be positioned and angled to prevent glare, reflection or distraction to highway users and the illumination shall comply with the recommendations of the Institution of Lighting Engineers Technical Report No. 5.

Reason: In the interests of road safety.

- 59 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users.

The junctions and associated works to Foss Islands Road and the Link Road, as indicated within the transport assessment and submitted drawings by White Green Young.

- 60 The operation and management of all the car park shall be undertaken in accordance with a car park management scheme, which shall be submitted to and approved in writing by the LPA prior to any part of the development being brought into use. The scheme shall specify that parking is limited to a maximum of 2 hours and shall not be revised without the prior approval of the LPA.

Reason: To ensure that the car park management is in accordance with Council policy to control long stay parking.

- 61 The development hereby permitted will not come into use until the James Street Link Road (phase 1) from James Street to Layerthorpe is completed and brought into operation.

Reason: In the interests of good management of the highway and road safety.

7.0 INFORMATIVES:

Notes to Applicant

1. 7. 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 retail capacity, the environmental impacts and the impact on the highway network. As such the proposal complies with Policies S3 and S4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies SP7, SP8, S1, S2, HE4, NE7, and NE8 of the City of York Local Plan Deposit Draft.

2. Notes to Applicant

1. In preparing the landscaping scheme required by Condition 13, the developer is encouraged to liaise with YNET. The Local Planning Authority would coordinate these discussions.

2. The developer's attention should be drawn to the Council's consideration that the indicative plan is unacceptable, with particular reference to the objective of providing a green corridor through the site.

3. You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed under Section 278 of the Highways Act 1980 (Highway Works).

4. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

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

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

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

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

E. Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.

F. There shall be no bonfires on the site.

5. The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s).

6. Additional mezzanines floors within the non food element of the scheme will be encouraged should this result in a significant reduction in the footprint of the building.

7. You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

Contact details:

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