

## COMMITTEE REPORT

**Date:** 4 October 2018                      **Ward:** Guildhall  
**Team:** Major and                              **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 18/01218/FULM  
**Application at:** Proposed Lidl Store James Street York YO10 3DW  
**For:** Erection of food store (use class A1) with associated access, parking and landscaping  
**By:** Perio News Ltd, S Harrison Developments And Lidl UK  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 19 September 2018  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The proposal is to demolish the existing warehouse and erect a single storey foodstore. The site will be accessed from the existing access point on James Street close to the junction with the access to the Foss Island Retail Park. 130 parking spaces are proposed including 4 electric vehicle charging points, 8 disabled parking spaces and parent and child parking. Cycle parking spaces are provided for customers. A landscaped strip is to be provided along the frontage as well as a larger grassed area in the North of the site. Replacement tree planting is provided as some street trees will be removed to provide visibility splays.

1.2 The site is 0.97ha and contains a large warehousing building. Access is off James Street and also via the bus depot to the south. Along the frontage is a pavement with a large telecoms installation towards the South of the site. The frontage has significant planting, much of which is overgrown. There are a number of semi-mature trees towards the north of the site which are within the highway verge.

1.3 The site sits opposite the entrance to Hazel Court and close to the traffic light controlled Foss Islands Retail Park junction. This part of James Street is characterised by industrial units and trade units but the site also sits opposite the entrance to St Nicholas Fields and in close proximity to Foss Island Retail Park and the Morrisons supermarket.

### 2.0 POLICY CONTEXT

2.1 Policies:

Publication Draft Local Plan 2018

EC1 Provision of employment land  
EC2 Loss of employment land  
R1 Retail hierarchy and Sequential Approach  
R4 Out of centre retailing  
D1 Placemaking  
D2 Landscape and setting  
CC1 Renewable and low carbon energy generation and storage  
CC2 Sustainable design and energy efficiency  
ENV4 Flood risk  
ENV5 Sustainable drainage  
T1 Sustainable access

### Draft Development Control Local Plan 2005

GP1 Design  
GP4a Sustainability  
GP9 Landscaping  
GP15a Development and flood risk  
T4 Cycle parking standards  
T5 Traffic and pedestrian safety  
E3b Existing and proposed employment sites

## **3.0 CONSULTATIONS**

### INTERNAL

#### Public Protection

3.1 No objections, conditions are recommended.

#### Design, Conservation and Sustainable Development (Landscape)

3.2 The vegetation along James Street is a combination of planted trees and self set vegetation. While unkempt it does provide screening of the buildings behind and relates to the naturalistic planting of St Nicholas Fields on the opposite side of James Street. Foss Islands Retail Park also has good quality planting along James Street and this has become a strong component of the street's character. It is important to retain and/ or enhance the existing vegetation where possible and to give context with neighbouring sites. To achieve this, it is suggested that more significant tree planting should be achieved. The removal of much of the vegetation to accommodate highways works is acceptable given that trees are semi-mature but only where losses are mitigated with new tree planting. Further tree planting is suggested; also shrubbery behind the trip rail, increased size of replacement trees, and improved planting beds for replacement trees. Revised plans have been requested.

#### Design, Conservation and Sustainable Development (Archaeology)

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3.3 Any works which go beyond the upper 3m of the archaeological deposits have potential to impact on archaeology in the ground. Further information has been submitted to confirm that there will be no works beyond this level. Conditions are therefore not required.

#### Flood Risk Management

3.4 No objections in principle, conditions are suggested.

#### EXTERNAL

#### Environment Agency

3.5 No objections to the proposal as represented by the FRA.

#### Neighbour notification and publicity

3.6 Asda Stores Ltd has made the following objections to the proposal:

- loss of employment land stating that the application is contrary to policy EC2 of the emerging Local Plan;
- inconsistencies in the retail impact assessment resulting in an underestimation in the impact on the city centre, Walmgate and Hull Road local centres;
- highway impacts including concern that the visibility splays at the junction can not be achieved; the turning lane is not wide enough; a Road Safety Audit should be undertaken; parking over-provision; inappropriate trip generation rates have been used; inadequate information in relation to impact of proposals on the highway network; and no control over commuter parking.

3.7 An additional representation has been received from a local resident. They support the parking provision but feel the parent and child parking could be resited closer to the building. Also comments are made in relation to the possibility of removing the steps from the pedestrian access and altering the keep clear box at the access. (Officer note – level pedestrian access is provided from near the vehicle access but because of the change in levels it cannot be provided at the Southern pedestrian access.)

### **4.0 APPRAISAL**

#### 4.1 KEY ISSUES

- Loss of employment land;
- Retail impact;
- Highways considerations;
- Design and character;
- Landscaping.

#### PLANNING POLICY

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## National Planning Policy Framework (NPPF)

4.2 The National Planning Policy Framework (NPPF) sets out the Government's overarching planning principles. Para.11 refers to the presumption in favour of sustainable development and requires that where there are no relevant development plan policies or the policies are out of date then permissions should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Para.80 states that significant weight should be placed on the need to support economic growth and productivity. To ensure the vitality of town centres, the NPPF states that planning decisions should take a positive approach to their growth, management and adaptation.

## Publication Draft York Local Plan 2018

4.3 The Publication Draft Local Plan ("2018 Draft Plan") was submitted for examination on 25 May 2018. The emerging Local Plan policies contained within the 2018 Draft Plan can be afforded some weight at this stage of its preparation subject to their conformity with the NPPF and the level of outstanding objection to the policies in accordance with paragraph 48 of the NPPF. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.4 It is considered that in accordance with paragraph 48 of the NPPF, taking account of the stage of preparation of the 2018 Draft Plan, the lack of significant objection and the degree of consistency with the NPPF the policies outlined in paragraph 2.1 carry moderate weight.

## The Development Control Local Plan 2005

4.5 The Development Control Local Plan (Incorporating the Fourth Set of Changes) was approved for development management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF but are of very limited weight.

## LOSS OF EMPLOYMENT LAND

4.7 In accordance with the requirements of policy EC2, when considering an application for a loss of an existing employment site, evidence should be provided that the buildings are no longer viable in terms of market attractiveness, business operations, condition and/ or compatibility with adjacent uses; and the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period. The applicant has provided a marketing

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and viability report indicating that the site has been predominantly vacant since 2010 when the previous packing manufacturer vacated the premises. The buildings have been marketed for 5 years with little interest. There has been no interest in any manufacturing use or storage (apart from a recent short term use).

4.8 The report goes on to state that the building does not meet the employment demand that exists in York, for the following reasons;

- The location on James Street is not suited for warehousing use.
- The configuration of the site with a tight access across forecourts owned by third parties is not satisfactory for warehouse use.
- The layout as existing does not facilitate tail gate loading.
- Internally the floor structure is not designed to take high point loads associated with racked storage.

The report further confirms that these issues could not be addressed by refurbishment.

4.9 In relation to the impact on employment land provision during the plan period, the report indicates that the Publication Draft of the York Local Plan sets out at Table 4.1 York's employment land requirement. It states that during the plan period up to 2038 38.1ha of employment land will need to be allocated. The table is based on the latest objectively assessed development need set out within the Employment Land Review Update (2017). Policy EC1 of the new Local Plan provides a list of sites where this employment need will be met. This includes large employment allocations as part of York's strategic sites. The report states that the emerging York Local Plan proposes to allocated 52.02ha of employment land which is considerably more (37%) than the 38.1ha of land deemed to be required. Assuming this list of sites remains largely unchanged upon adoption of the new Local Plan, the application site will not form part of these strategic allocations and the Report states that its loss will not harm the supply of sites required to meet the employment needs of the district until 2038.

4.10 Economic development officers have confirmed that, as a result of the nature of the building, the loss of employment land is acceptable. Discussion with Make It York indicates that there is demand for warehousing and industrial units but not at this location.

4.11 There is currently an insignificant level of employment on site as the building has most recently been used for the storage of props for TV shows. Officers understand that previous to this, when the building was more fully in use, levels of employment were low. The proposed supermarket will create 40FTE jobs

4.12 Weight is given to the lack of interest in the site as an employment site, and this weight, and the over-provision of employment land within the emerging Local Plan ensure that the proposal is acceptable in relation to policy EC2. The NPPF

(para. 80) states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and significant weight should be placed on the need to support economic growth and productivity. This proposal is considered to achieve this by bringing back in to use a site which is currently not attractive as an employment site as evidenced by the lack of interest over a period of 5 years.

## SEQUENTIAL TEST AND RETAIL IMPACT

4.13 The proposal is for 1,267sqm (net) and 1,956sqm (gross) of new retail floorspace in an out of centre location. Para.86 of the NPPF requires that a sequential test is applied to planning applications for main town centre uses which are not in an existing centre. Main town centre uses should be located in town centre then in edge of centre locations; only if suitable sites are not available should out of centre sites be considered. A Sequential Test assessment has been undertaken by DPP Planning in their Planning and Retail Statement and SCI which was produced in May 2018. The assessment considers a number of sites as agreed at pre-application stage. The NPPF para.87 goes on to state that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale when applying the sequential approach. Sites at Castle Piccadilly/ Castle, York Central, Hungate, Acomb District Centre, Haxby District Centre, Hull Road Local Centre and Walmgate Local Centre have been considered but no sites have been identified which are suitable, viable and available at the present time. As such the sequential test has been passed and it is accepted that there are no sequentially preferable development sites within or on the edge of York City Centre at the present time.

4.14 Policy R1 of the emerging York Local Plan Publication Draft (February 2018) sets a Retail Impact Assessment threshold of 1,500sqm (gross). Para.89 of the NPPF also requires that applications for retail development outside town centres, which are not in accordance with an up-to-date plan, should be accompanied by an impact assessment if the development is over a locally set threshold (or if there is no locally set threshold, the default threshold is 2500m<sup>2</sup> of gross floorspace). The proposed development comprises retail space that amounts to 1,267sqm (net) and 1,956sqm (gross). A full Retail Impact Assessment by DPP Planning was provided alongside the planning application. The parameters and base data for this assessment were agreed at pre-application stage. The predicted turnover for the proposed development is set out within the assessment. This indicates that in monetary terms it is anticipated that less than 4% (£0.26m) of the proposed development's convenience trade and 9.5% (£0.1m) of its comparison trade will be diverted from the City Centre. This equates to approximately £0.36m of expenditure being diverted from York City Centre, thus equating to a negligible impact of 0.1% on the centre overall. In monetary terms, it is anticipated that the proposal will result in approximately £0.32m of expenditure being diverted from Acomb District Centre, thus equating to an impact of just 0.1% on the centre. No real impact is expected on

Haxby District Centre and a 1.9% impact on the Walmgate Local centre. The proposal will have a negligible impact on Hull Road centre. It is agreed that there is limited impact on the City Centre, District Centres and Local Centres.

4.15 In terms of notable out of centre impacts DPP Planning note the following:

- Foss Islands: Asda (8.4%) Morrisons (4.2%) Sainsburys (3.3%)
- Monks Cross: Aldi (4.2%), Asda (1.1%)
- Clifton Moor: Tesco Extra (0.3%), Iceland (6.4%)
- Tesco Extra, Tadcaster Road (0.9%)
- Aldi, Water Lane (2.6%)

It should be noted that these stores are also out of centre so they are offered no policy protection. In addition whilst the Asda and Sainsbury's on Foss Islands fall within the city centre boundary (as shown on the city centre insert map), in retail terms this element of the city centre is 'edge of centre' as it is 300m from the Primary Shopping Area.

4.16 The proposal is considered consistent with policies R1 and R4 of the emerging Local Plan. Evidence has been provided to indicate that there are no sequentially preferable development sites within or on the edge of York City Centre which are suitable and available at the present time. The impact test has shown that the greatest impact will be on the Asda at Foss Islands which is edge of centre and therefore offered no policy protection. A condition is recommended to restrict the amount of comparison goods sold at the proposed store to no more than 231 sqm net floorspace to safeguard the vitality and viability of the city centre.

## HIGHWAYS CONSIDERATIONS

4.17 The access to be used is an existing access but changes to the visibility splay at the access point have been agreed to improve highway safety. These changes and other amendments to the public highway to increase the off-road cycleway and provide a pedestrian island, will require a S278 agreement. These matters will be secured via condition and an update will be provided at committee.

4.18 Parking provision is above maximum parking standards as laid out in Annex E of the DCLP which recommends maximum parking levels of 1:30 for customers. The NPPF (para.106) states that maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network or for optimising density of development in city centres and other locations that are well served by public transport. Para.109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. During pre-application discussions, officers requested that parking levels were compared with those at the

Aldi on Water Lane. This provides one parking space per 17.4sqm GIA compared with one space per 15.0sqm GIA on the current application. Cycle parking for 20 bikes is to be provided and the site is easily accessible by public transport and from the city centre.

4.19 Policy T1 of the emerging Local Plan requires that development maximises the use of more sustainable modes of transport. Development proposals should demonstrate that there is safe and appropriate access to the adjacent adopted highways; safe and appropriate links to local services and surrounding walking and cycling networks; provide suitable access for a range of transport modes whilst giving priority to pedestrians and cyclists; create safe layouts for all; and provide sufficient cycle storage. The proposal is considered to meet the requirements of this policy – comments from Highways officers will be reported at committee in relation to the access arrangements which have been developed in discussion with the applicant. Linkage to the existing cycle network and level access for all to the site has been provided.

4.20 Servicing will be limited to one or two daily movements. The access has been designed to accommodate the manoeuvres of the largest service vehicles.

## DESIGN AND CHARACTER

4.21 The proposal replaces the existing warehouse with a modern supermarket. The new building has a monopitch roof and will be approximately 1.5m lower than the existing. The existing building sits close to the highway but the new store will sit in the South West corner of the site allowing parking and landscaping to be sited between the building and highway.

4.22 The building is of a contemporary design with grey metal cladding and glazing to the elevations. Materials are metal cladding panels in dark grey to the top third of the building with white cladding to the rest of the building and a small brick plinth. The glazed front of the store will face predominantly on to the parking area while the elevation facing the highway contains the glazed entrance, trolley bay and signage zones. While the elevation facing the highway lacks any particular architectural interest, it is also approximately 30m from the public highway. A landscaping strip of between 7m and 12m, and car parking, separates the building from the highway with some new tree planting to soften the impact.

## LANDSCAPING

4.23 The existing vegetation, while overgrown, relates well to the naturalistic planting on the opposite site of James Street at the entrance to St Nicholas Fields. The Foss Islands Retail Park and Morrisons also has good quality specimen tree planting with low level shrubbery. This soft landscaping has become a key feature of the area.



4.24 New landscaping is to be provided along the frontage of the site and in the Northern corner. The security fence along this frontage boundary will be removed and replaced with a knee high trip rail. This will result in a visual opening up of the site in line with the Morrisons site further along James Street. The Northern corner will be kept as meadow grassland. Siting of the attenuation tank in this area restricts more large scale planting. A mix of tree and shrub planting and grassed areas are proposed along the frontage.

4.25 The proposal requires a widening of the access which will result in the loss of 6 street trees and a tree sited within the site. Two more mature birch trees to the right of the access will be retained. The loss of these trees has been accepted as a result the need to provide adequate visibility and semi-mature stature of the trees. The losses are to be mitigated by replacement tree planting within the site. These trees are to be of a similar girth as those removed. A replacement landscape scheme is anticipated detailing the size, location and species of these trees. Planting is proposed around the entrance points to the site with replacement trees around the access and additional trees along the frontage. Implementation of the landscape plan, maintenance and replacement of planting should be conditioned.

## **5.0 CONCLUSION**

5.1 The site contains an empty warehouse. The proposal results in a loss of an existing employment site but it has been assessed that there is no existing demand for such buildings in this location and the requirements of policies EC1 and EC2 are met. A sequential test has been undertaken and a retail impact assessment provided to indicate that there are no sequentially preferable sites and that the impact on the vitality and viability of the city centre will be acceptable. To this extent the proposal is considered to comply with policies R1 and R4 of the emerging Local Plan.

5.2 Highways impacts have been assessed and an update will be given at committee in relation to recommended planning conditions. The proposed highway scheme results in the loss of 6 street trees which are to be replaced on a like for like basis in terms of their size but within the site. Improvements have been made to increase the level of landscaping along the frontage.

5.3 The proposal represents the redevelopment of a brownfield employment site which is considered unlikely to return to its current use. The proposed retail use is sequentially acceptable and has been assessed in terms of its impact on city centre vitality. The retail use is compatible with neighbouring uses and the building will be a visual improvement on the existing derelict site. Subject to the proposed conditions, it is considered that the proposal will comply with relevant policy and it is recommended that the application be approved.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS2 Apprvd plans and other submitted details

3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or any order amending, revoking or re-enacting that Order, or the description of development associated with this permission, no more than 231 square metres net floorspace of the retail development hereby authorised shall be used for the display and sale of comparison goods.

Comparison goods are defined as follows:-

- i) Clothing, footwear and fashion accessories(including jewellery and watches);
- ii) Music, Video/DVD recordings and computer games;
- iii) Cameras(including camcorders) and other photographic equipment;
- iv) Electronic Goods(incl TVs, Video, DVD, PC's and hi-fi equipment;
- v) Toys;
- vi) Books, and stationery;
- vii) Household Textiles;
- viii) Sports Goods;
- ix) Gardening Equipment and Furniture;
- x) Camping Equipment and tents;
- xi) Luggage;
- xii) Mobile phones and communication equipment..

Reason:- To safeguard the vitality and viability of the City Centre and to secure compliance with paragraphs 86 to 89 of the National Planning Policy Framework.

4 LC3 Land contamination - remedial works

5 LC4 Land contamination - unexpected contam

6 Prior to first occupation of the site a noise report shall be provided to the Local Planning Authority demonstrating that the combined rating level of any building service noise associated with plant or equipment at the site does not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or

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intermittent characteristics. The site shall not be occupied for use until this noise report has been approved by

CYC and any further noise mitigation measures required to meet the required standards have been implemented and are fully operational. All plant and machinery at the site shall be adequately maintained and designed to ensure the noise requirements set out above are not exceeded at any time in the future (inclusive of acoustic features).

Reason: To protect the amenity of local residents

7 Before the occupation of the retail accommodation four (4) Electric Vehicle Recharging Points shall be provided in a position to be first agreed in writing by the Council. Within 3 months of the first occupation of the accommodation, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years

Note : Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge at both 3kw (13A) and 7kw (32A).Charging pointes should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. This ties in with a key theme of the NPPF, in that developments should enable future occupiers to make green vehicle choices and it explicitly states that 'developments should be located and designed where practical to incorporate facilities for charging plug in and other ultra low emission vehicles'.

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

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

Reason: In the interest of satisfactory and sustainable drainage.

9 No commencement shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The information shall include site specific details of:

i) the means by which the surface water discharge rate shall be restricted to a maximum rate of 58.5 (fifty eight point five) litres per second, and

ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance shall be achieved.

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

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

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

11 The landscaping scheme as detailed on plan XXX 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 in the interests of the character and appearance of the area.

12 HWAY40 Dilapidation survey

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

Reason: In the interests of highway safety.

14 Prior to occupation, cycle parking areas shall be provided within the site in accordance with the approved plans, and these areas shall not be used for any purpose other than the parking of cycles.

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

15 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic

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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.

Details to be provided at update

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

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Amendments to highway details; additional tree planting.

#### **Contact details:**

**Author:** Alison Stockdale Development Management Officer (Tues - Fri)

**Tel No:** 01904 555730