



## 1.6 RELEVANT PLANNING HISTORY

1.7 06/00941/FUL: Variation of condition 5 of planning permission 3/104/141AD/PA to enable a wider range of goods to be sold. This application is also reported to this committee for a decision.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

### 2.2 Policies:

CYGP1  
Design

CYS2  
Out of centre retail warehouse criteria

CYSP7A  
The sequential approach to development

CYSP6  
Location strategy

CYS1  
Land allocated for shopping sites

CYL1A  
Sites for Leisure development

CYT13A  
Travel Plans and Contributions

CYT4  
Cycle parking standards

## 3.0 CONSULTATIONS

### INTERNAL:

3.1 Lifelong Learning and Leisure Team consulted. Response received 24 January 2007 - the following comments were made:

-The team supports this application because a modern gym facility in a new and very accessible site, as this, would be a valuable asset to the city.

-The Council and the Active York sports partnership are always keen to develop and support new facilities that will increase opportunities for participation in Sport & Active Recreation activities.

-This facility may attract a new sector of participants who will be attracted by the relationship to the retail unit, and may therefore increase physical activity rates in the city.

-Gym membership in York is higher than the national average. Active York's supply and demand analysis for fitness facilities (using Sport England methodology) indicates that the supply of fitness facilities in the north of the city is sufficient but has little capacity for increasing participation.

-The scheme proposes operating practices and membership rates that are comparable or lower than the rates for other commercial fitness facilities in the city.

-Despite the team's general support for the scheme, the team would be interested to know if the proposed equipment is IFI accredited (suitable for disabled participants), following the implementation of the DDA this should be the case.

3.2 City Development Team: The team has raised no objections due to the following reasons:

- Lifelong learning and Leisure Team are happy that the methodology used to assess quantitative need is sound, and the catchment defined is appropriate, albeit that they suggest there may be adequate provision of leisure facilities in the north of the City overall.

- On the basis of Leisure's comments and the defined catchments, they accept that need for a leisure facility has been identified in this catchment area.

-The supplemented sequential assessment (April 2006 and November 2006) now meets the requirements of policy and determines Clifton Moor to be the most viable sequentially preferable site for both the leisure and retail uses (noting Clifton Moor established retail function).

-The unit 3b which is being created by this proposal is regrettable, but unfortunately there is no condition on the outline permission to restrict the applicant subdividing units at Clifton Moor. We would normally push for no unit to be less than 1000sqm net in such locations.

- conditions are required to restrict the net sales area proposed, and to tie the retail use to the Leisure use, so that the unit could not operate independently.

3.3 Local Highways Authority consulted. Previous objections made by the Highways Authority have been removed after the submission of a Transport Impact Assessment on 22 December 2006. The reasons for removing previous objections are as followings:

- "The application has been supported by a robust Transport Statement which has assessed the change in traffic patterns that could arise from the change of use. The Transport Statement has identified that the traffic generated by the combined fitness/retail use, including the mezzanine floor, will generate less traffic than that which could be created by a non food retail use. Given the above officers do not consider that there are sufficient grounds to formally object and as such raise no objections."

## EXTERNAL:

3.4 Site notice posted and neighbours notified. expired 31 May 2006. One letter of objection received on 11 July 2006 from Town Planning and Development Consultants writing on behalf of Katrina Hall of Lancaster Park, Audax Close, Clifton Moor (before the submission of a Sequential Test Assessment and a Transport Impact Assessment). The following concerns have been raised:

- The principal ranges of retail goods at JJB Sports Stores centre around football, golf and other outdoor activities. None of these sports is provided at the proposed health and fitness centre,
- it is not considered that the catchment area used by the applicant to assess need is either realistic or related to the size and function of the proposed development,
- the applicant has not undertaken a detailed assessment of all existing health and fitness centres within the catchment area,
- most of the hotels offer public use of their facilities,
- the Roger Tym & Partners retail study 2004 is not a realistic source of information about demand for health and fitness centres,
- the conclusion made by the agent that a quarter of all households in York within the defined catchment area use health and fitness centre is inaccurate, as "use" does not relate to any actual demand for members for a private club.
- there is actually an excess provision of clubs, as there are at least 23 health and fitness clubs in the catchment area,
- the applicant's requirement to demonstrate need has not been achieved,
- there are already two fully equipped modern health and fitness centres at Clifton Moor, which are identical in range of facilities to that proposed,
- there is no evidence of local need for the type of facility proposed,
- there is no evidence to show that prospective customers demand a further facility with the proposed price range,
- the sequential test submitted by the applicant has not considered any vacant sites within the city centre or edge of centre and has not considered any sites that may be suitable and available for leisure development,
- the applicant's summary is based upon an incomplete sequential assessment,
- the applicant's assessment of existing facilities is incomplete, as Moat House Leisure Club is open to public membership and the impact of the proposed new facility on the club require to be analysed,
- the applicant has failed to assess any impact the development would have on the city centre,
- there is no data to substantiate the applicant's claim that not all customer trips will be car based,
- a full transport assessment is required before the impact of the proposed development in traffic terms can be objectively assessed,

3.5 Rawcliffe Parish Council. Response received 16 June 2006. The Council supports the application.

3.6 Clifton Without Parish Council. Response received 16 June 2006. The Council supports the application.

## 4.0 APPRAISAL

4.1 The main issues to be considered include the extent to which the proposed leisure use and the proposed mezzanine floor addition for retail use would affect the vitality and the viability of York's existing centres. The quantitative and qualitative need for the development proposed, together with its scale and its appropriateness in an existing out-of-town retail park will also form the basis of assessing the merits of this planning application. Other issues requiring consideration include the design of the proposed development, its impact on the character and appearance of the locality, and the extent to which the proposed change of use would alter the traffic patterns of the existing retail park.

4.2 The following deals with each of the 5 key policy tests in turn as set out in the National Planning Policy Statement no.6: "Planning for Town Centres":

1. Sequential Assessment
2. Need Assessment
3. Scale
4. Retail and Leisure Impact
5. Transport Accessibility and Impact

Sequential Assessment:

4.3 Paragraph 3.13 of the National Planning Policy Statement no.6 (PPS6):'Planning for Town Centres' states that "the sequential approach to site selection should be applied to all development proposals for sites that are not in an existing centre nor allocated in an up-to-date development plan document". Paragraph 3.14 and paragraph 3.19 further state that "in selecting sites, all options in the centres should be thoroughly assessed before less central sites are considered". However "where it is argued that otherwise sequentially-preferable sites are not appropriate for the particular development proposed, applicants should provide clear evidence to demonstrate why such sites are not practicable alternative in terms of 'availability', 'suitability', and 'viability'. Draft local plan policy SP7a sets out the sequence of sites to be assessed, namely: Central Shopping Area / City Centre; Edge of Centre / District Centres; other accessible out-of-centre locations.

4.4 In the case of the development proposed, a sequential assessment has been carried out by the applicant in line with SP7a. A number of sites have been looked at, which include all relevant City Centre Sites, the district centres of Acomb and Haxby, and the Monks Cross out-of-town shopping centre to establish whether an alternative available, suitable and viable site exists. It has been concluded that none of the sites assessed are feasible options. The test conducted has been examined by the City Development Team and has found to be satisfactory, in that it has met the requirements set out in PPS6 as briefly described above. In view of the above test, it is considered that this site is the most sequentially preferable for the health and fitness centre and ancillary retail use as proposed.

Quantitative and Qualitative need Assessment:

4.5 Planning Policy Statement no.6 further states "need must be demonstrated for any application for a main town centre use which would be in an edge-of-centre or

out-of-centre location and which is not in accordance with an up to date development plan document strategy" (Paragraph 3.9, 2004). In light of the fact that the leisure use of the proposed nature is regarded as city centre use, its need must be justified in this location.

4.6 As stated by the Applicant, other than the broad guidance in PPS6 there is no established formula or recognised procedure to demonstrate need for leisure related development. Hence whether or not the approach taken by the applicant is regarded as pragmatic and sensible is a decision of the Local Planning Authority.

4.7 In order to demonstrate the need of the leisure use, a total of 13 major health and fitness centres (excluding the relatively small centres and facilities located in hotels) have been identified and assessed. In addition, the household survey produced by Roger Tym & Partners Study, which comprises data relating to leisure development has been reviewed. Based on the household survey, it has been concluded that a quarter of all households in York use health and fitness facilities. According to the applicant, this equates to a population of 45,378 within the defined catchment area which have a theoretical demand for health and fitness centres (this accords with the findings of the Council's Leisure Strategy). Based upon the size of the population identified and utilise that with the existing 13 health and fitness centres within the identified study area, the applicant's study has concluded that within the catchment area there is a capacity exist for 18 health and fitness centres. Thus, there is a 'quantitative need' for further health and fitness centres.

4.8 With regard to the 'qualitative need', the applicant has concluded that the proposed sport and health fitness club would satisfy an identified need in terms of both quality and price, as the proposed facility would provide modern facilities offering a variety of choice of fitness equipment. It is also considered by the applicant that the proposed development would satisfy the demand for health and fitness centres within a certain price range.

4.9 The above quantitative and qualitative need assessment has been looked at by the Council's City Development Team in consultation with the Lifelong Learning and Leisure team. On the basis of Leisure's comments (see paragraph 3.2 above), together with the consideration that the conclusion drawn by the applicant accords with the findings of the Council's Leisure Strategy, the Local Planning Authority contends that there is a quantitative and qualitative need for the proposed leisure use.

4.10 In terms of need for the retail element of the scheme, the Roger Tym Retail Study identifies need for a significant amount of retail floorspace in the City to 2011, albeit that this is to be concentrated in the first instance to the City Centre. The result of the sequential test show that Clifton Moor is the most sequentially preferable site for the health and fitness facility, and since the proposed retail use would be ancillary to the health and fitness use, it is considered unreasonable to consider the additional retail need separately. In any case, due to the floorspace given over to leisure use, the proposal would result in a net reduction in retail floorspace. Planning permission would therefore be required and a full Retail Impact Assessment to revert the extended unit back to retail use.

#### Scale of Development and Impact Assessment:

4.11 PPS6 further requires the Local Planning Authority to "consider the impact of the proposal on the vitality and viability of existing centres within the catchment area of the proposed development, including the likely cumulative effect of recent permission, development under construction and completed developments" (paragraph 3.15)

4.12 Based on the 'need' assessment produced by the Agent as briefly summarised in paragraph 4.6 above, which has concluded that there are further needs for health and fitness centres within the catchment area, it is not considered that the proposed creation of a 2555sq.m health and fitness centre would create a condition prejudicial to the vitality and viability of the existing centres. City Development Unit has raised no objections on the scale of the proposed leisure facilities.

4.13 With regard to the proposed mezzanine floor retail use, due to the fact that JJB have been operating from a relatively large out-of-town site in Clifton Moor for several years, its intention to move to Unit 3 is regarded as having little measurable additional impact on either the City Centre and District Centres.

#### Accessibility Assessment:

4.14 There were initial concerns raised by the Local Highways Authority regarding the change in traffic patterns that could arise from the change of use proposed. However, earlier objections have been removed following the submission of a robust Transport Statement, which have identified that the traffic generated by the combined fitness/retail use, including the mezzanine floor, will generate less traffic than that which could be created by a non food retail use. It is therefore considered that the proposal is sited in an accessible and a sustainable location.

4.15 By virtue of the proposed plant room extension a total of 18 car parking spaces in the service area facing Stirling Road will be removed. However, PPG13: Transport (published 2001) stresses that it is important to discourage users of the building from driving to the site by restricting the availability of parking in order to restrict vehicle movements. Furthermore, Appendix E of the City of York Draft Local Plan 2005 stated that each development proposal is assessed "using the maximum standard as a starting point". Having taken the above into account, together with the fact that the proposed losses will not reduce the amount of customer parking spaces and hence create a condition prejudicial to highway safety, planning permission cannot be refused on this basis.

#### Design / Appearance:

4.16 The proposed plant room extension would be a flat roof structure and would be sited in the service area facing Stirling Road. Due to its scale (in relation to the retail park) and its siting, together with the screening effect provided by nearby trees, the proposed structure will not be highly visible from public view. It is therefore not considered that its design would detrimentally affect the visual appearance of the retail park.

4.17 Other than the above, the proposed alterations to infill existing exits and to form new exits are considered minor in nature and are considered to be in keeping with the character, design and external appearance of the original building.

Other considerations:

4.18 In determining the merits of this application the assessments carried out by the applicant have been looked at by the City Development Team and the Lifelong Learning and Leisure team. Their comments, which are based on these assessments submitted by the applicant, have raised no general concerns about the methodology adopted by the applicant, and the information/data used to justify quantitative and qualitative needs of the proposed leisure development. Furthermore, as stated by the Applicant, given that there is no established formula or recognised procedure to demonstrate need for leisure related development, no evidence can be found which suggests that the conclusions drawn by the applicant are incorrect. On this basis planning permission cannot be refused on this basis.

4.19 Since receiving the letter of objection from Town Planning and Development Consultants the Council have received a more comprehensive sequential appraisal and the submission of a transport statement. These assessments are found to be acceptable in the determination of this application. Hence the concerns raised regarding the lack of details submitted by the applicant has been resolved.

4.20 The concern raised by the Council's Lifelong Learning and Leisure team regarding the equipment to be provided within the health and fitness centre and whether or not they will be suitable for disabled participants are not material planning considerations that could influence the decisions of a planning application. The need to comply with the requirements set out under the Disability Discrimination Act will be regulated by other statutory regulatory bodies, such as Building Control.

4.21 Having taken the above into account, it is considered that the proposed development accords with the national planning policies and the policies set out in the City of York Draft Local Plan 2005. Hence, this application is recommended for approval.

## **5.0 CONCLUSION**

The proposed development will not create a condition prejudicial to the vitality and viability of York City Centre or district centres and will not be detrimental to the character and appearance of the locality. It is also considered to be acceptable in terms of siting, design and materials and it will not adversely alter the existing traffic movement. The development is in accordance with the national and local planning policies.

**6.0 RECOMMENDATION:** Approve

1 TIME2



- 2 The development hereby permitted shall be carried out only in accordance with the following plans:-

6798 01 A, 6798 12, 6798 05 B, YK/FC/001, 659805/03, 6798 11 B, and 6798 08 C as received by the City of York Council on 28 April 2006 and on 26 January 2007

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

- 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 The Class A1 use hereby permitted (as shown on approved plans 6798 08 C and YK/FC/001 received on 26 January 2007 and on 28 April 2006) , the net area of which shall be restricted to not more than 1,279sqm, and proposed in association with the D2 Gym/Fitness Club, shall only be used for ancillary retail purposes by the D2 unit operator. The retail area shall not be let as a separate unit by the operator to any other end user, or for any other use specified within the A1 Use Class other than the retail of ancillary goods complimentary to the Health and Fitness Centre.

Reason: In order to prevent the unit being used as open retail and conflicting with retail uses in the city centre.

- 5 A maximum of 50% of the Class A1 net floorspace hereby approved shall be used for the sale of small scale sports equipment (including sports clothing and footwear), the remainder being for the sale of bulky goods ancillary to the D2 Health and Fitness Centre.

Reason: To minimise the impact of comparison goods sold from this unit competing with goods sold from York City Centre retail outlets.

- 6 The plantroom hereby permitted shall be used for the storage of machinery and equipment in association with the operation of the Class D2 health and fitness use hereby approved only.

Reason: So that Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried on without planning permission by virtue of Article 3 of the Town and Country Planning (Use Classes) Order 1987.

- 7 The site shall hereafter be occupied in accordance with the aims, measures and outcomes of a Travel Plan that has been previously submitted to and approved in writing by the Local Planning Authority.

**Reason:**

To ensure the development complies with advice contained in PPG 13-Transport, and in Policy T20 of the City of York deposit Draft Local Plan, and to ensure that adequate provision is made for the movement of vehicles, pedestrians, cycles and other modes of transport to and from the site, together with provision of parking on site for these users.

- 8 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.

- 9 All details of exterior lighting within the site shall be submitted to and approved by the Local Planning Authority in writing before their installation on site.

**Reason:** To ensure that the proposed development does not adversely affect the amenity of the locality.

- 10 Additional mezzanine floors, beyond those hereby approved, will not be permitted unless agreed in writing with the Local Planning Authority.

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

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

1. 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 the vitality and viability of York's existing centres and the character and appearance of the locality. As such the proposal complies with Policies GP1, S2, SP7a, SP6, S1, L1a, T13a and T4 of the City of York Local Plan Deposit Draft.

### **Contact details:**

**Author:** Billy Wong Development Control Officer

**Tel No:** 01904 552750