

Notice of meeting of

Planning Committee

To: Councillors Cunningham-Cross (Chair), Galvin (Vice-Chair), Boyce, D'Agorne, Firth, Funnell, Healey (Substitute), King, McIlveen, Merrett, Reid, Simpson-Laing, Watson, Watt and Williams

Date: Thursday, 17 May 2012

Time: 10.00 am

Venue: The Park Inn Hotel, North Street, York

AGENDA

Members please note: The site visits will commence at 9.30am on Tuesday 15 May at the Memorial Gardens.

1. Declarations of Interest

At this point, members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Exclusion of Press and Public

To consider the exclusion of the press and public from the meeting during consideration of any part of the report in relation to agenda item 4c, during which any exempt information may be discussed.

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is **5pm on Wednesday 16th May 2012** Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

4. Procedural Points

This item invites Members to determine the following planning applications:

a) Monks Cross Shopping Park, Monks Cross Drive, Huntington, York. (11/02199/OUTM). (Pages 5 - 78)

A major outline application for the erection of additional retail floorspace (class A1) comprising either extensions to existing stores, new buildings and/or new or extended internal first floors to existing stores. Alterations to car park layout, landscaping and associated highway works. Alterations to the planning controls for the existing and proposed retail units to allow a maximum number of 31 units, maximum food sales of 6,968 sq.m., minimum unit size of 455 sq.m., a maximum of 8 units less than 455 sq.m., permit up to two large units (up to 4,645 sq.m. net sales area) to sell a broader range of goods than simply bulky goods. [*Huntington and New Earswick Ward*] [Site Visit].

b) Monks Cross Shopping Park Monks Cross Drive Huntington York (11/02208/FULM) (Pages 79 - 122)

A major full application for the variation of condition no. 3 of approved application 3/66/650K-3/61/207G (original outline permission for Monks Cross Shopping Park) to reduce the minimum unit size, to increase the net sales area for two units and to restrict the amount of food sales. [*Huntington and New Earswick Ward*]

c) Land Including Huntington Stadium to the West of Jockey Lane, Huntington, York. (11/02581/OUTM). (Pages 123 - 248)

An outline planning application for a mixed-use development comprising, the demolition of existing buildings and the erection of a 6,000 seat community stadium with conference facilities (use class D2) and community facilities (use classes D1 non-residential institution, D2 assembly and leisure and B1 office), retail uses (use class A1), food and drink uses (use classes A3/A4 & A5) recreation and amenity open space, with associated vehicular access roads, car parking, servicing areas and hard and soft landscaping. [*Huntington and New Earswick Ward*] [Site Visit].

DOCUMENTS CIRCULATED AT THE MEETING.

5. Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Laura Bootland

Contact Details:

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- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
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Contact details are set out above.

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PLANNING COMMITTEE**SITE VISITS****TUESDAY 15 May 2012**

TIME (Approx)	SITE	ITEM
9.30am	Bus leaves Memorial Gardens.	
9:45am	Car Park to the side of Marks and Spencer, Monks Cross Shopping Park, Monks Cross Drive, Huntington.	4a
10:30am	Huntington Stadium Car Park, Huntington.	4c

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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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COMMITTEE REPORT

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

Reference: 11/02199/OUTM

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

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

1.0 PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Relevant Planning History

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

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

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

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

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

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

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

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

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

2.0 CONSULTATIONS

INTERNAL

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

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

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

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

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

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

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

2.7 Life Long Learning and Leisure - No comments

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

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

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

EXTERNAL

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

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

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

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

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

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

2.15 Harrogate Borough Council - No objections

2.16 Selby District Council – No objections

2.17 East Riding of Yorkshire – No comments received

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

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

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

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

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

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

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

- More shops at Monks cross would be fantastic
- The doom and gloom predicted for the city centre contradicted by UK economists
- Development would give York residents more choice
- York centre does not have space for large stores want to be able to access large shops without having to travel away
-

2.20 A number of letters of objection have been received from or on behalf of other interested parties and these are referred to separately below:-

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

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

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

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

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

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

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

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

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

3.0 APPRAISAL

3.1 Key Issues:-

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

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

Policy background - Retail

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

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

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

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

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

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

3.6 The NPPF states Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. It also states that Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

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

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

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

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

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

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

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

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

Yorkshire and Humber Plan (2008)

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

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

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

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

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

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

'Planning for Growth' Ministerial Statement (2011)

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

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

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

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

Current and Emerging Local Level Policies

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

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

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

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

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

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

Draft York Local Plan (2005)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Local Level Documents:-

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

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

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

Other National Level Documents

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

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

Weight to be attached to Existing and Emerging Local Policy

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

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

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

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

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

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

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

3.50 In essence, in this case:

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

3.51 **Principle of the development considering:-**

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

Sequential Test and Impact Assessment

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

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

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

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

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

Sequential Test

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

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

3.58 The NPPF says that main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available, should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Impact Assessment

Health Check Assessment

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

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

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

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

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

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

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

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

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

Impact

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

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

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

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

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

Impact on existing, committed and planned investment

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

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

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

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

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

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

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

Impact on town centre vitality and viability

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

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

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

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

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

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

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

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

Conclusion of sequential test and Impact Assessment

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

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

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

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

Cumulative Impact

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

Planning reference 11/2581/FULM).

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

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

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

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

Fallback

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

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

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

Mezzanines

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Provision of smaller units

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

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

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

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

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

Transport

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

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

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

3.130 Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
 - give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
 - create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
 - incorporate facilities for charging plug-in and other ultra-low emission vehicles;
- and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.146 Retail evidence demonstrates that mezzanine floors can generally trade at

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Economic Development - Employment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusions - Principle of the Development and Consideration of Sustainability

3.183 The following conclusions can be drawn from the above sections

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Design and Landscape

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

3.197 The section goes on to say that 'It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

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

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

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

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

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

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

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

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

New Build

3.206 The three areas of new build are:-

- An extension to the Marks and Spencer unit

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

Marks and Spencer extension

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

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

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

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

Management Suite

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

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

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

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

'Gateway' building

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

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

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

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

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

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

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

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

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

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

Mezzanine floors

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

Changes to unit sizes

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

Cumulative Impact – design and landscape

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

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

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

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

Parking and Access Arrangements

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

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

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

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

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

Sustainability - Building Design

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flood risk and drainage

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

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

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

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

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

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

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

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

Conditions

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

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

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

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

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

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

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

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

4.0 CONCLUSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE TO VISIT

5.0 RECOMMENDATION: Refuse

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

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

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

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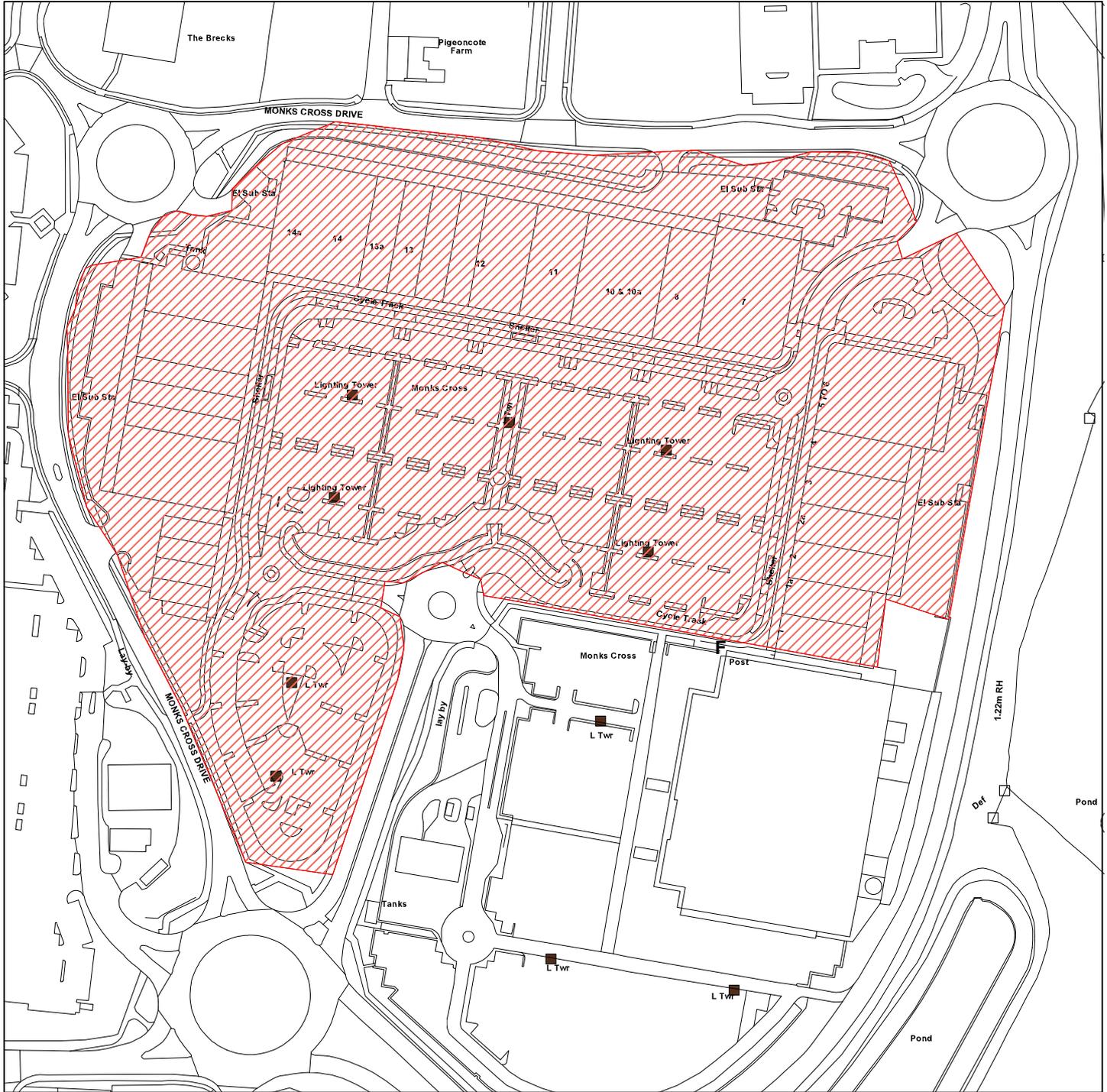
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11/02199/OUTM

Monks Cross Shopping Park



GIS by ESRI (UK)



Scale : 1:2500

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	
Date	08 May 2012
SLA Number	Not Set

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COMMITTEE REPORT

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

Reference: 11/02208/FULM

Application at: Monks Cross Shopping Park Monks Cross Drive Huntington York
For: Variation of condition no. 3 of approved application 3/66/650K-3/61/207G (original outline permission for Monks Cross Shopping Park) to reduce the minimum unit size, to increase the net sales area for two units and to restrict the amount of food sales

By: The Monks Cross Shopping Park Trust

Application Type: Major Full Application (13 weeks)

Target Date: 20 December 2011

Recommendation: Refuse

1.0 PROPOSAL

1.1 This is a section 73 application for the variation of condition no.3 of planning approval 3/66/650AK- 3/61/207G which is the original outline planning permission granted for the erection of the Monks Cross Shopping Park (MCSP). Condition 3 of the planning permission says as follows:-

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

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

1.2 Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission.

1.3 The site currently consists of 26 separate retail units (as identified by Appendix – 1 planning report supplementary), car parking and ancillary facilities as well as Asda supermarket and car park. This site area is the same as that submitted as part of the original outline planning permission in 1994. The site is bounded by Monks Cross

Drive to the north and west, Monks Cross Link to the east and Jockey Lane to the south. Access to the site is via an access point from the roundabout on Jockey Lane and via an access point from the roundabout to the north from Monks Cross Link. The majority of the trees to the periphery of the site are covered by a Tree Preservation Order (TPO no.CYC 274)

1.4 The proposal seeks to amend the planning controls in condition 3 of the planning permission (set out above) and proposes a number of planning controls on the use of the retail space to allow greater flexibility within the individual units of the retail park. These are:-

- maximum of 31 units
- maximum food sales of 6,968 sq.m.
- Minimum unit size of 455 sq.m.
- A maximum of 8 units less than 455 sq.m.
- Permit up to two large units (upto 4,645 sq.m. net sales area), permitted to sell a broader range of goods than simply bulky goods.

1.5 The application is supported by suggested conditions which would allow the above planning controls to replace those that exist. The conditions are worded so that the proposed controls do not apply to the Asda supermarket.

1.6 The application has been submitted in conjunction with an outline planning permission for the erection of additional floor space within the park. The outline application to be considered is on this agenda (planning reference 11/2199/OUTM).

1.7 The same planning documentation has been submitted for both this and the outline proposals. These documents are:

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

1.8 Two further applications for the variation of conditions within the MCSP were originally submitted. These applications have now been withdrawn.

Relevant Planning History

1.9 The application site area consists of an area which covers the main MCSP. The following site history can be attributed to and can be considered relevant to the application site:

Application Reference Number: 11/02208/FULM

Item No: 4b

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

NOTE: the above permission and the subsequent reserved matters application also related to the Asda supermarket. The Asda Supermarket building and car park form part of the application boundary but the proposed amendments to the conditions do not include the Asda site.

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

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

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

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

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

- Certificate of Lawful proposed use was issued in relation to former BB's cafe to allow the unit to be used for class A1 retail. The certificate confirmed that the change would constitute permitted development and thus could take place without the need for planning permission.

- In November 2008 planning permission was granted for a variation of condition 3 (referred to above) of the original outline planning permission in relation to unit 18 (planning reference 08/01515/FUL) allowing the upper limit of 15000square foot to be increased to 15,210 square foot.

- Permission was submitted in March 2009 for external alterations and construction of first floor within unit 16, the Clarke's unit. No decision has been issued on this application. (planning reference 09/00580/FUL)

- In July 2010 planning permission was refused for the erection of 3 no retail buildings (total floor space 1440 sq m) for Class A1 (retail), and/or Class A3 (restaurants and cafes) and/or Class A5 (hot food takeaway) with modifications to existing car park, introduction of new servicing, landscaping and highway works (this was the resubmission of an earlier withdrawn application). The application was refused by planning committee because of loss of car parking and the loss of trees covered by a Tree Preservation Order.

- In September 2010 permission was granted for the erection of 2 storey infill unit to create sandwich shop (use class A1), cafe (A3) Drinking Establishment (A4) or Hot Food Take-Away (A5) (Planning reference 10/2058/FUL). This permission was subject to a restriction to the specified uses and no other use within class A1.

2.0 CONSULTATIONS

INTERNAL

2.1 Highway Network Management - No objections are raised to the application. The application seeks to amend conditions which limit the way the existing floor area is divided and restricted in terms of the range/type of goods sold. No changes to the car parking levels are proposed and the total floor area will remain unchanged. The level of trips generated by retail destinations are based upon a trip rate per GFA or car space based upon the nationally recognised TRICS database. As neither the total GFA or number of car spaces proposed are proposed to be changed from that currently available, from a highways perspective, the application could not be clearly demonstrated to lead to any material change in the total number of trips generated.

Integrated Strategy - Much of the Integrated Strategy response has been incorporated into the report. Integrated Strategy overall consider that the proposals fail the sequential and impact tests and that the proposals when considered in conjunction with the stadium proposals could create a substantial risk to the soundness of the core strategy which could risk its withdrawal.

2.2 Economic Development – No comments received to this specific proposal

EXTERNAL

2.3 Ryedale District Council – States that taken cumulatively the applications represent relatively significant additions and changes to the current MCSP which exerts a significant influence in attracting customers from Ryedale. Malton is identified in the Ryedale Core strategy as the principal town centre where most

opportunities exist to accommodate new retail development. A key need identified within the centre is for new purpose built comparison units. Principally concerned about the provision of smaller units at MCSP. The lowering of the minimum unit size has the potential to partially change this format which could have direct competition with town centres which are also seeking to attract this format. This has the potential to undermine the key principles of the retail sequential test - the promotion of town centres first- and divert investment away from nearby town centres. There are currently two planning applications being considered in Malton which make provision for purpose built comparison units as part of a larger scheme. The Council have concerns that the supporting retail information does not consider the issue of diverting investment from neighbouring centres such as Malton.

2.4 Harrogate Borough Council - No objections

2.5 Selby District Council – No objections

2.6 At the time of writing this report there are 878 letters of objection. The Letters cover the following points. The total number objections will be updated at planning committee :-

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

development within the city that supports sustainable, environmental, social and cultural goals rather than short term economic gain. Developments at Monks Cross pay very little attention to policy aims

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

- Sequentially there are plentiful of sites in the city centre and edge of centre
- Undermine future prosperity of York, trade draw from the city centre would mean that only tourist shops and cafes would be left in the centre
- Undermine existing and potential strategies for developing a sustainable city including traffic reduction and improving air quality
- Contrary to the City's aspirations to promote fairness and greater equality as its out-of-town location on one side of the city it will be hard to reach for young, those on low incomes and those who do not wish to use a car.
- Decline in the city centre will discourage inward investors, could cause far more loss of jobs than it creates
- The Council should refer these applications to the Secretary of State for public inquiry given the size of the combined applications and the potential impact on the future of York.
- Particular concern about any proposal that reduces the size of the units at Monks Cross.
- Cost of buses is high and their availability is low; therefore bus use is not an option in many cases for accessing out-of-town shopping
- Out-of-town parking should not be free
- If land at Piccadilly or to the rear of the railway station can not be developed because it is too expensive there should be no development until these sites become economically viable
- Lack of inward investment will be a major concern for the maintenance of historic buildings in the city
- Scheme has more disbenefits than benefits
- York will lose its unique qualities
- There is no shortage of retail space for car borne shoppers with Clifton moor Monks Cross, Designer outlet, Tesco, B.&Q
- Trade to centre diverted will mean fewer tourists
- Empty shops in York could be used for the development
- Increased congestion will contribute to climate change
- There are areas in York that have been left to be run down such as Piccadilly. New development should go to these areas
- The Council should do the hard job of regenerating areas such as Micklegate and Piccadilly instead of taking business away
- The schemes are unnecessary
- A huge carbon footprint will result
- Planners should be focusing on attracting good quality development in the centre
- As a business employing 80 people have found that the vibrant city centre is key to attracting and retaining top quality people, the scheme will reduce the attractiveness with a likely impact on the businesses future expansion and employment options.
- Only beneficiaries are the developers and the businesses concerned in the development
- The city does not need more shops it needs more affordable homes.
- Environmentally regressive step

- York is wonderful for walking and cycling we should not be pushing people out of town to shop
- Out of town retail outlets create a dehumanisation of shopping
- There will only be tourist attractions left, nothing for residents
- Out of Town shopping is bland and soulless has no sense of community to locals
- The whole idea of park and ride has been to free up the city for tourist and residents to encourage those on the periphery to shop in the city
- Monks Cross is a boring place to shop and Marks and Spencers already has enough stores
- Independent retailers says shop would close as a direct result of the development
- Present road system around Monks Cross can not cope with the extra traffic
- Panders to national and multi-national interests to the detriment of local people
- Empty shops in the city centre will be off-putting to tourists and will lose repeat visitors
- The approval of the schemes will be regretted in years to come
- Will set a precedent for yet more out-of -town retail development
- York's status as a cycling city is surely not compatible with the proposed development
- Jobs created would be off-set by job losses within the city centre
- Leeds is competing against other centres by building new shopping within the city centre
- Reports by GVA Grimley should be taken into account The Council have relied on their judgement before it would seem perverse to start and ignore them now.
- Speed of traffic on the northern ring road gets slower every year additional traffic to shops will cause even greater congestion
- Far too many empty buildings in the city centre to justify further development out of town
- The city centre can not survive on gift shops and cafes
- It is important that York has real people going about their business tourists enjoy atmosphere as much as attractions
- A large number of jobs will simply transfer to Monks Cross creating further traffic problems and pollution
- With the current economic conditions it is the worst time to be putting pressure on the city.

2.7 At the time of writing there are 11 letters of support. The Letters cover the following points. The total number of support letters will be updated at planning committee:-

- More shops at Monks cross would be fantastic
- The doom and gloom predicted for the city centre contradicted by UK economists
- Development would give York residents more choice
- York centre does not have space for large stores want to be able to access large shops without having to travel away

2.8 A number of letters of objection have been received from or on behalf of other interested parties and these are referred to separately below:-

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

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

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

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

2.11 York Conservation Trust - has undertaken a survey to every retailer in the city centre (approximately 700) excluding national chain stores, public houses and restaurants. 140 replies were received. The questionnaire asked what the effect on the business would be of a loss of sales of 5, 10 and 15%. Of those replies received it was calculated that with 5% loss of business job loss would be 190 jobs, with 10% loss the job loss would be 377 and with a 15% loss the job loss would be 724.

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

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

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

3.0 APPRAISAL

3.1 Key Issues:-

- Policy background
- Principle of the development considering:-

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- Sequential assessment and retail impact
- Fall back position
- Transport
- Economic Development -Employment
- Conclusions -Principle of the development and sustainable development
- Conditions

3.2 This section 73 application is to consider the variation of existing planning conditions attached to the original outline planning permission for MCSP to allow the reduction of unit size to 455 sq.m (from 929 sq.m) except for up to eight smaller units, which will have no unit size restriction, up to 2 units with up to 4,645 sq.m of floor space, each to have the ability to sell an unrestricted range of goods, and a cap on convenience goods sales area to 6,968 sq.m net. It is proposed that the number of units be capped at 31.

Policy background - Retail

3.3 The recently published National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied and confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a development plan is not up to date Local Planning Authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Ministerial Forward highlights that sustainable development is about positive growth, making economic, environmental and social progress for this and future generations. The policy framework sets a clear presumption in favour of sustainable development within every decision.

3.4 The NPPF retains and defines the 'presumption in favour of sustainable development'. It is defined in the NPPF by five principles as set out in the UK Sustainable Development Strategy:

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

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

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

3.6 The NPPF states Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. It also states that Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

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

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

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

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

3.11 The assessment should cover the impact of the proposal on:

- Existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.

- Town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

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

Yorkshire and Humber Plan (2008)

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

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

3.15 Retail services to diversify and grow York are encouraged through Policy Y1 and investment is to be delivered in locations, through Policy E1, where it will have maximum benefit and secure competitive advantage. Policy E2 seeks to strengthen the role and performance of existing city and town centres, with the centres of sub-regional cities being a focus for retail development, amongst other uses, and for district centres to be the focus for local services and facilities. No further development of new, or large scale expansion of existing, regional or sub-regional shopping centres should be permitted and proposals for small scale expansion should be assessed in line with PPS6. Policy E3 seeks to make use of appropriate located previously developed land and current allocations.

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

'Planning for Growth' Ministerial Statement (2011)

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

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

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

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

Current and Emerging Local Level Policies

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

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

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

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

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

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

Draft York Local Plan (2005)

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

3.27 Policy SP7B states that York City Centre will remain the main focus for retail development and that the Central Shopping Area, as shown on the proposals map, will be the City Centre for retail purposes in terms of the sequential test and will be the focus for retailing activity. A number of sites are identified for mixed use developments that include retail use, including at Hungate, Heworth Green and Castle Piccadilly (Policy SP9).

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

3.29 Policy S1 allocates Castle Piccadilly for comparison goods retailing to meet the need for new retail development to 2011 and sites are allocated at George Hudson Street for comparison / convenience goods retail and at Foss Island for convenience / bulky goods retail.

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

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

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

3.32 The Core Strategy is at an advanced stage, though the policies remain to be examined for soundness and the weight to be attached to the policies needs to be considered in that context. The Publication version was issued in September 2011 and submitted to the Secretary of State on 14 February 2012. The Inspector held an

Exploratory Meeting on 23 April 2012, and has decided to suspend the examination of the emerging Core Strategy for six months pending further technical work. The technical work is broadly intended to add detailed justification to the strategic work already carried out and presently appears unlikely to affect the broad thrust of the Core Strategy; this would include additional evidence to clarify and explain, and not to dramatically change, the Core Strategy's implementation intentions.

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

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

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

3.36 Policy CS2 for York City Centre seeks to provide around 28,000 sq.m of comparison retail by 2020, in the Castle Piccadilly and the Stonebow area, with between 20,000 and 25,000 sq.m net of comparison retail on York Central post-2020 (the latter following the development of Castle Piccadilly and the Stonebow area, subject to retail impact testing). Part 3 of the Policy refers to the retail space of Hungate as being ancillary.

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

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

3.39 Policy CS15 seeks to protect and enhance the retail role of the City Centre and Policy CS17 deals with the distribution of retail growth. The emerging policy seeks to support the vitality and viability of the City Centre, with the Central Shopping Area continuing to be the primary focus for new comparison goods retail development. The phasing approach is set out namely to give priority to Castle Piccadilly pre-2020 and to prioritise York Central thereafter. Other out-of-centre retail developments will be considered in the light of the sequential approach and the impact on existing centres and retail allocations. Convenience retail development will be directed to the

City and District Centres and the smaller centres at an appropriate scale including a new local centre at British Sugar / Manor School referred to above.

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

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

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

Other Local Level Documents:-

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

- City of York Council Annual Monitoring Report (2011)
- City of York Core Strategy Supporting Paper – Retail (2011)
- City of York Council Topic Paper – Population, by Arups (2011)
- Visit York: York Big Attractions Group Visitor Model 2010 (2011)
- Lynn Jones Research : Visitrac City Surveys – York's Scores for Quarter 3 2011, published by Visit York (2011)
- City of York Council Retail Topic Paper (2010)
- York New City Beautiful – Towards an Economic Vision (2010)
- City of York Council Retail Study, by GVA Grimley (2008)
- City of York Retail Study 2004 – Report to Executive (2004)

Other National Level Documents

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

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

Weight to be attached to Existing and Emerging Local Policy

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

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

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

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

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

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

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

3.50 In essence, in this case:

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

3.51 Principle of the development considering:-

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

Sequential Test and Impact Assessment

3.52 This is a section 73 application for the variation of condition 3 of the existing outline planning permission for the site granted in 1994. The original permission restricted the minimum unit size to 929 sq.m.(10,000sq.ft) and for units above 1393 sq.m. (15,000 sq.ft.) restricted the unit to the sale of certain types of goods (see full condition in section 1). The proposed variation to the condition proposes to limit on the number of units at the site to 31 and to allow the reduction of unit size to 455 sq.m. (from 929 sq.m.) except for up to eight smaller units, which will have no size restriction, up to 2 units with up to 4,645 sq.m (net sales area). each to have the ability to sell an unrestricted range of goods and a cap on convenience goods sales area to 6,968 sq.m. net (there is currently no cap on the level of convenience goods).

3.53 There is significant retail evidence supporting the planning application. This is set out in a planning report, which includes a retail assessment, and two supplementary documents prepared by Indigo planning and within an evidence base document produced by Cushman and Wakefield. There is no clear distinction between the information submitted to support this section 73 application and the outline planning application also on this agenda. Officers have therefore set out all the arguments within there planning statements some of the statements may not be directly relevant to this proposal which does not include additional floor space.

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

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

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

Sequential Test

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

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

3.58 The NPPF says that main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available, should out of centre sites be considered. When considering edge of centre and out of

centre proposals, preference should be given to accessible sites that are well connected to the town centre.

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

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

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

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

- There is substantial expenditure capacity for additional comparison goods floorspace with limited opportunities to accommodate this need in the City Centre or its edge (Indigo Planning report. There is sufficient expenditure capacity on any site that may be deemed sequentially preferable.
- Retailers require different formats including both high street and out-of-centre formats and a large proportion of the existing retailers at Monks Cross Shopping Park (85%) have dual representation, i.e. in centre and at the Park.
- The Council's Integrated Strategy section, in considering planning application ref: 10/01012/FUL, indicated that Castle Piccadilly would have a long timescale, retail at Hungate would be small scale and unsuitable, York North West would not be available in the short term, Foss Islands is out-of-centre and Stonebow and the Telephone Exchange are not appropriate to the present time.

- The sequential test is largely hypothetical and the proposals seek to reduce the amount of retail floorspace permissible and impose controls.
- The Practice Guidance recognises that there will be some situations where it is difficult to accommodate large developments due to conservation and heritage issues and York City Centre has significant heritage issues.
- It is highly unlikely that Castle Piccadilly will be developed in the next five years given the sensitive nature of the site and its constraints in terms of heritage, land assembly issues and the need for a CPO (compulsory purchase order), and present market conditions.
- There is no evidence that the owners of Stonebow House are bringing the site forward for development, office space has recently been refurbished and the site is not available.

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

3.64 DJD conclude in terms of suitability that the Castle Piccadilly site is capable of contributing directly to the vitality of the Central Shopping Area and that there are no specific policy restrictions that would render the site unsuitable particularly given the support in Planning Briefs and draft policies for retail-led development at Castle Piccadilly. DJD consider that there is the potential to create a high quality development that would contribute significantly to the vibrancy of the city centre. There is Developer interest with emerging proposals for a major retail-led development to include two large anchor stores and large space users and the Council are working with the adjacent land owners through the principal of a Conditional Concession / Development Agreement.

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

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

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

3.68 The needs identified within this application are for greater flexibility over the use of the Shopping Park; the flexibility to sub-divide space to allow for smaller stores and the provision of larger anchor stores. The needs are not specifically defined in terms of operators but generalised in terms of a need to accommodate specific requirements. It is evident that the MCSP proposals are speculative, yet the existing array of permissions, which are generally quite flexible for out of centre retailing, provide a complex dimension to the assessment of the this application and the outline application.

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

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

3.71 In respect of the proposed smaller units (vary the lower limit of unit sizes to 455 sq m with up to 8 units below that level) DJD consider that there are potential vacant units and space available within the City Centre, as well as within the Castle Piccadilly development to accommodate smaller floorplate stores. The focus of the sequential test work provided by the applicant has been on larger sites and this in some respects disregards the potential availability of existing buildings, including redevelopment opportunities to accommodate the need for smaller stores. There has been a history within the City Centre of proposals coming forward for the redevelopment of space, particularly post-war style buildings which are approaching the end of their useful life. DJD consider that the level of detail provided by the applicant on the sequential assessment is not sufficient to demonstrate why these smaller units could not be appropriately accommodated in sequentially preferable locations and that notwithstanding this the Castle Piccadilly site also has the potential to accommodate smaller units.

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

3.73 It is recognised that in the case of MCSP there is a potential fall back situation in that a number of smaller units already exist or could be sub-divided, four adjacent to the existing Debenhams store and a further 3 within the Phase 3 scheme (Julia Avenue). The Phase 3 scheme is now omitted from the MCSP proposals, although this sub-division could still occur within the existing consents. This situation is the making of the previous planning permissions for those units and the absence of certain planning controls. Although the implementation of this fallback position may not be desirable there are no controls upon it and thus the implications of this would have to be accepted. However, DJD consider that the flexible introduction of small units throughout the scheme as proposed by this application could have a more significant impact which could undermine the ability to secure investment in vacant

space and buildings within the city centre. They also conclude that the flexible introduction of smaller units within the main shopping park could also set an undesirable precedent that would make it extremely difficult to defend against the sub-division of retail premises throughout out-of-centre locations, not just at Monks Cross.

3.74 Paragraph 27 of the NPPF says that where a proposal fails the sequential test this will, of itself, be sufficient reason to refuse planning permission. The emerging core strategy and the draft local plan take a similar stance.

Impact Assessment

Health Check Assessment

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

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

3.77 The DJD report reviews the health check information used by the applicants within their submission documentation together with other evidence.

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

3.79 Consideration of impact requires the health of York City Centre, and other centres within the catchment area, to be carefully considered. DJD conclude that based on their assessment of the City Centre as a whole it is a 'vital and viable City Centre but with some particular issues of concern. The performance of the centre over recent years can be expected to have declined due to the general economic conditions, albeit that the evidence of decline is less pronounced than arguably is the case for other main centres. Larger units which have been brought to the market have tended to be reoccupied and vacancy levels overall are significantly better than in many other centres. However there is concern about the vacancies arising

particularly in peripheral 'secondary' streets. There is also concern that the levels of footfall are not growing and ongoing concerns regarding the cost of car parking which is a distinct competitive disadvantage when compared to the out of centre model with free and plentiful parking provision'.

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

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

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

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

Impact

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

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

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

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

- The proposals at Monks Cross will come forward over the course of 10 years and impact has been tested at 2016 and 2021 (50% by 2016 and the remainder by 2021). The turnover of the Stonebow House, Castle Piccadilly and Telephone Exchange proposals, for the purposes of the impact assessment, have been added to the turnover of the City Centre. The levels of projected impact are *de minimis* and negligible in terms of the overall turnover of the City Centre's comparison goods retail offer, and will be more than compensated through the positive trading effects of the new retail developments at Stonebow House, Castle Piccadilly and the Telephone Exchange.
- In 2021, York City Centre's turnover will be £896.6m, compared to £449.1m in 2011, following the development of the former Terry's site, the remainder of Monks Cross and York Central.
- The impact assessment does not take account of the 'fallback' that presently exists nor the added controls that are proposed.

Impact on existing, committed and planned investment

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

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

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

3.90 The preferred developer for the Castle Piccadilly scheme has claimed that the level of impact on their scheme will be significant. Jones Lang La Salle (JLL) acting

on behalf of LaSalle UK Ventures Fund (The Fund) submitted an objection to the MCSP proposals in February 2012. (summarised in the section 3 above)

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

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

Impact on town centre vitality and viability

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

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

3.95 DJD consider that the reduced scale of the MCSP proposals renders the solus impact to a level which is not considered to be significant in itself however the impacts arising from the provision of the proposed large units are considered to be adverse on an individual basis without restrictions on their scale and use. The impacts arising from the smaller units within MCSP are considered to be significantly adverse.

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

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

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

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

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

Conclusion of sequential test and Impact Assessment

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

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

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

Fallback

3.103 As part of the planning submission the applicants assert that they have a fallback position (i.e.what the applicant could do without the need for planning permission) in relation to two areas of the existing use of the site. Their main argument for the fall back position is explained in the planning report and supplementary planning reports. Based on the application as originally submitted (which related to MCSP, MCSP II and Julia Avenue) it is asserted that without the need for further planning permission, mezzanine floors could be placed within the existing buildings which would allow 5,200 sq metres of floor space to be created immediately and that there is nothing preventing further mezzanines at a scale of 200sq metres per unit from coming forward, giving the potential for the Monks Cross shopping park to have total cover mezzanine. The applicant says that this could amount to a total additional floor space of 27,072 sq metres. The amended submission again refers to the largely unfettered nature of existing permissions at

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

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

3.105 Within this section 73 application there is no new floor space and therefore the argument made in respect of the mezzanine floor space is not directly relevant to this application. The issues in relation to the sub-division of units is however relevant and this is considered below.

Provision of smaller units

3.106 Development Control Practice advises that a fall back position is a material consideration in the decision making process, of which Permitted Development (PD) rights given by the General Permitted Development Order (GDPO) comprise an element. Thus when making a decision on a planning application it may be argued with some effect that a development carried out to slightly reduced dimensions or at a marginally lesser level, or perhaps on a revised location nearby, could be implemented using permitted development rights. The weight to be given to such a

material consideration varies according to whether what could be built using the GPDO would have a broadly similar or worse impact to what is proposed; and the reasonable likelihood or possibility that, if permission were refused, permitted development rights would in fact be resorted to. The practice guide indicates through the Burge case (House of Lords judgement *Burge v S.O.S.* 14/7/1987) that the weight to be attached to the fall back position should be on the balance of probabilities rather than the balance of possibilities.

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

- First, the relevance of a fall back position should be judged having regard to the likelihood of it being implemented. There is a difference between a purely 'hypothetical' fall back position, and a position which actually could be implemented. If there is a realistic prospect that the fall back position would be brought forward, then it would be appropriate to attach significant weight to it in judging the impact of the proposal in question.
- Second, when comparing the impact of a proposal with a fall back position, it will be relevant to consider the impact of the proposal as a whole rather than just the 'incremental' impact of the difference between the two. This applies to all impact assessments, where the relevant test is the cumulative impact of the proposal in question.

3.108 The applicant says in relation to MCSP that four units are capable of further sub-division without the need for planning permission; thus a further 8 units sought in the planning application is a reasonable fall back scenario. Consequently it is the applicant's opinion that there is no material change in what is currently permitted, to what is sought in terms of the allowance for small-scale units. It is also argued that the cap on the total number of units will restrain the number of small units in any event.

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

3.110 Currently the small units in MCSP are provided in a specific location of the park. Except for the unit occupied by Game, the small units provide much of the 'amenity' or 'leisure' facilities that allow the park to provide a balanced shopping facility. These facilities, it is considered, are an essential element of the offer of many retail parks and therefore it is anticipated that replacements would need to be provided before it would be reasonably likely for them to be changed to A1 uses or sub-divided. This view is supported by the application submission which shows new coffee areas within the scheme and by the fact that despite the suggested demand for smaller units within MCSP the lead set by the change of the Games unit to A1 retail has not resulted in other such changes. Furthermore the 4 existing smaller units are set together at one side of the development; the introduction of 8 units potentially anywhere within the site would change the nature of the park by allowing much greater diversity to its shape and character. The park would be much more able to replicate the characteristics of the city shopping street rather than the larger modular development that distinguishes MCSP from the city at the moment.

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

Cumulative impact

3.112 This application is being considered at the same Planning Committee as the application for a new retail offer and stadium at land known as Monks Cross south (Planning reference 11/2581/FULM).

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

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

investment and vitality and viability.

Transport

3.115 Highways Network Management does not raise objections to the application. The application seeks to amend conditions which limit the way the existing floor area is divided and restricted in terms of the range/type of goods sold. No changes to the car parking levels are proposed and the total floor area will remain unchanged. The level of trips generated by retail destinations are based upon a trip rate per Gross floor area (GFA) or car space based upon the nationally recognised TRICS database. As neither the total GFA or number of car spaces proposed are proposed to be changed from that currently available, from a highways perspective, the application could not be clearly demonstrated to lead to any material change in the total number of trips generated.

3.116 Whilst Officers accept Highway Network Management's view about the difficulties of assessing changing levels of traffic within the area; what can be drawn from the proposals and their interpretation within the DJD report is that MCSP is currently fully occupied, and evidence in the report shows that the market share of MCSP has risen despite any perceived shortcomings of its current format. The introduction of smaller units and two large format stores that may sell the full range of goods available within the city centre is that as a destination MCSP is likely to benefit from the uplift in the available offer at the site. So that, in officers view, MCSP will become a more attractive option providing a range of unit sizes more aligned to that available in the city centre. Which will, it is considered, generate additional customer numbers.

Economic Development

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

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

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

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

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

3.122 In terms of the employment generation the figures submitted relate how employment will be generated as a result of floor space increase. No figures or discussion has been taken on jobs that may come forward as a result of this application.

3.123 The Economic Development section have not commented on this application directly but as can be seen from the outline application the effects on the economy as a result of the proposals are broken down into two areas direct impacts and indirect impacts. The direct impacts being the impact on jobs and employment and the indirect being the fundamental questions about the role of the city centre in the overall York economy, as well as challenges as to the way that role is managed and supported in future.

3.124 The direct jobs have not been quantified by the applicant however it is anticipated that there would be some level of additional jobs through the increased attractiveness of the site.

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

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

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

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

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

3.129 Economic development conclude on the outline application that approving that application will accelerate current trends of change in the city centre economy – away from retail, toward other uses and this will require support and intervention from economic development and planning teams to enable and support this evolution. In terms the section 73 application the proposed smaller and larger units within the scheme are considered to contribute to the change anticipated through the outline proposals and in a similar way would need support and intervention from economic development.

Conclusions - Principle of the Development and Consideration of Sustainability

3.130 The following conclusions can be drawn from the above sections

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

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

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

3.134 Furthermore it is concluded that the fallback position suggested by the applicant in relation to sub-division of units is no more than a possibility. In any case it is considered that fundamental changes in the size and distribution of the units proposed in the scheme is a completely different proposition to the subdivision of units in one area of the park.

3.135 Highways Network Management does not object to the principle of the development given that there is no additional floor area proposed within the scheme. Nevertheless Officers do consider that the proposals within this application do have the potential to create a change in the character of the shopping centre so that it becomes a more diverse, more attractive proposition as a shopping destination. Whilst this may be difficult to quantify, the qualitative changes proposed could also lead to a significant uplift in the attractiveness of the centre which would impact on overall traffic levels at the site.

3.136 There is no clear indication that the change in controls proposed within this scheme will affect the overall number of jobs within MCSP. No separate information has been provided by the applicant in relation to employment as a result of the application.

3.137 As identified in the Core Strategy, the city centre is the “economic, social and cultural heart of York.” Its value is not only in its draw for visitors and residents, but is a key part of the international brand of the city as it is recognised. York’s high street has bucked this trend in recent years, demonstrating relatively resilient high street footfall, with an increase of 13.5% between 2010 to 2011. Vacancy rates in York centre are better than the average the rest of the UK, but the rate is rising.

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

3.139 The NPPF sets out three dimensions to sustainable development; economic, social and environmental. These dimensions, it says, give rise to the need for the planning system to perform a number of roles. In an economic sense it should build a strong, responsive and competitive economy. Monks Cross has a part to play; it forms part of a diverse area which through the current policy objectives will provide a good mix of employment, retail and leisure opportunities that will complement each other without any one sector becoming dominant or competitive with adjoining areas or to any greater degree with the city centre. The economy of the city centre, if it is to support growth and innovation, needs to safeguard it’s historic characteristics, heritage and attractiveness whilst making space for new development that will stem the signs of decline by bringing forward modern retail development. The Council’s planning policies expect the Castle Piccadilly site to achieve this if out of town development does not prevent it from coming forward.

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

3.141 In an environmental context the role of planning is contributing to protecting and enhancing our natural, built and historic environment. Concerns have been expressed in the letters of objection particularly by the Conservation Trust and the Civic Trust that the reduction of investment in the city centre will mean a significant reduction in the investment in historic buildings within the city. Furthermore the emphasis, in an environmental context, is on minimising carbon emissions and pollution. As described above, the current proposals are unlikely to meet the objectives of reducing car trips because the modal split targets can not be achieved without further investment in public transport therefore the development will be accessed primarily by the private car.

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

Conditions

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

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

3.145 The applicant has suggested conditions to replace condition 3 of the original outline permission. Circular 11/95 says that the objectives of planning are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. In officers' opinion the suggested conditions do not meet the objectives and tests set out within the circular. Therefore if Members were minded to grant permission for this development this would need to be subject to discussion about how conditions could be framed so that the application could meet the tests set out in circular 11/95 and within the NPPF.

4.0 CONCLUSION

4.1 For the reasons set out in paragraphs 3.130 to 3.142 above the principle of providing larger units with unrestricted sale of goods and smaller units within the MCSP is considered to be unacceptable.

COMMITTEE TO VISIT

5.0 RECOMMENDATION: Refuse

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

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

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11/02208/FULM

Monks Cross Shopping Park



GIS by ESRI (UK)



Scale : 1:2500

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	
Date	08 May 2012
SLA Number	Not Set

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COMMITTEE REPORT

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

Reference: 11/02581/OUTM

Application at: Land Including Huntington Stadium To The West Of Jockey Lane Huntington York

For: Outline planning application for a mixed-use development comprising, the demolition of existing buildings and the erection of a 6,000 seat community stadium with conference facilities (use class D2) and community facilities (use classes D1 non-residential institution, D2 assembly and leisure and B1 office), retail uses (use class A1), food and drink uses (use classes A3/A4 & A5) recreation and amenity open space, with associated vehicular access roads, car parking, servicing areas and hard and soft landscaping.

By: Oakgate (Monks Cross) Limited

Application Type: Major Outline Application (13 weeks)

Target Date: 21 December 2011

STRUCTURE OF THE REPORT

To assist Members a broad outline of the structure of the report is provided, a more detailed schedule will be provided at the meeting to assist Members.

Section 1

Introduction and background information

Details of the application site and the development proposal

Section 2

Internal consultation responses

External consultation responses

Representations made in support and objections

Section 3

The appraisal of the proposal (includes reference to both national and local planning policy)

- Stadium site selection and alternative sites

Application Reference Number: 11/02581/OUTM

Item No: 4c

Page 1 of 123

- Enabling development – meeting the tests and the factors to consider
- Principle of development
- Retail considerations and issues
- Highway and traffic considerations and issues
- Economic considerations and issues
- Community benefits
- Design and visual impact
- Ecology
- Environmental sustainability
- Archaeology
- Flooding and Drainage
- Neighbouring amenity

Section 4

Guidance to Members

(This section of the report provides a summary of the key issues and material planning considerations and also provides a summary of the potential “benefits” and the potential “harm” associated with this enabling development proposal. Officer advice is also provided in relation to decision making options for Members)

1.0 PROPOSAL

INTRODUCTION

1.1 In planning terms this is perhaps one of the most complex applications which has been submitted to the Local Planning Authority for the City of York in the last decade, being a “major” development proposal and one which also has substantial “enabling development” elements.

1.2 The delivery of a Community stadium has been a priority for the city since 2003. This is set out in a number of Council strategy documents and is in both the most recent Council Plan 2011-2015 and the Local Development Framework Core Strategy.

1.3 The application seeks outline planning approval for the development of a new community stadium at the existing Huntington Stadium site. The development package also includes substantial new retail development on the site as a means of funding the majority of the new community stadium. The developer’s contribution would be secured by way of a Section 106 planning obligation whereby prior to commencement of the retail aspect of the development, the developer would pay to the Council money to partly fund (or to “enable”) the construction of the Community stadium. In normal circumstances, the proposed retail development would not be considered acceptable in planning terms because of the harmful impacts detailed in the report for this application. However a significant package of benefits would be secured through the delivery of the stadium. It would therefore be

appropriate for the Council to consider whether any harms and objections to the retail proposals are outweighed in the planning balance by the potential benefits that would be brought about by the retail development cross-funding or “enabling” the Community stadium.

1.4 If the planning judgment is reached that the benefits outweigh the harm then Leading Counsel has advised that it would be appropriate and lawful for the Council to approve the application. Further advice and guidance to Members in relation to enabling development is contained in this report.

1.5 Members should be aware that enabling development is not a new planning concept. Retail led enabling development has been used across the UK as a means of funding new stadium schemes. Some examples of stadiums that have been funded through retail led enabling development are in :Warrington, Chesterfield, St Helens, Grimsby and Southend.

1.6 This outline planning application seeks approval for the principles of the development proposed, with the only details for consideration being site access. An illustrative “masterplan” has been provided to show how the site could possibly be developed. If outline planning permission was granted, further approval for the details of the development would then be required in the form of “reserved matters” application(s). Members will be aware that specific retailers have been linked to this proposal although if permission were granted the permission would be for the land uses identified in the description of development rather than for any specific retail or commercial business.

1.7 This application involves complex planning considerations. There are a number of national planning policies that are relevant to the proposals – including those relating to retail development, transport and traffic, and sustainable development principles – and there are technical highway issues to be considered. Members will also need to consider any other material considerations, including a consideration as to what weight should be given to the benefits of the proposed community stadium and related community uses which would actually be enabled by the grant of planning permission for the retail elements of the proposal.

BACKGROUND

1.8 In 2003, discussions began between York City Football Club and the City of York Council to attempt to address financial difficulties which existed within the club. The football club received a loan of £2m from the Football Foundation in order to keep the club in operation. However, financial difficulties remain within the football club and significant work has been undertaken in conjunction with the Council to find a solution. Since 2003 it has been a priority of this council to build a new community stadium. This commitment has been set out the Council’s corporate priorities. In the Council Plan 2011 – 2015 reference is made to the ambition of the Council to provide a new Community stadium.

1.9 In 2008, the Community Stadium Project Team was set up to help deliver a community stadium which could be used by the professional sports clubs in the city as well as providing wider community benefits.

1.10 A number of options were explored for the siting of a new stadium, including upgrading Bootham Crescent. An initial shortlist of 32 sites was selected and later this was narrowed to four sites. The four sites were Mille Crux, Monks Cross South, Hull Road/University of York, and Bootham Crescent. The Community Stadium Project Team compiled a report analysing the various sites. This was presented to the Executive and it was decided that Monks Cross South was the best solution based on a number of factors including deliverability and planning risk. Monks Cross South was deemed to be a highly deliverable site because the council owned the existing Huntington Stadium site and the owners of the rest of the site, Oakgate, were supportive of the proposal.

1.11 As none of York City Football Club, York City Knights Rugby League Football Club or the City of York Council have sufficient funding to create a community stadium an alternative method of delivery was required. Within the above mentioned Executive report, different funding methods were discussed and it concluded that some form of enabling development was the only realistic way of delivering the stadium. Enabling development has been an approached used across the UK to help fund a number of community/sports stadiums.

APPLICATION SITE

1.12 The application site is approximately 3km north east of the city centre and located south of the existing Monks Cross Shopping Park in Huntington. Broadly the application site is bounded by Jockey Lane to the south and east, Martello Way and the Monks Cross Park and Ride to the west, and the retail units served off Kathryn Avenue and Julia Avenue to the north. The application site includes the existing Huntington Stadium.

1.13 The application site is 17.9 ha in size. The majority of the application site is allocated as a Premier Employment Site within the Development Control Local Plan (2005). Out of Centre Premier Employment Sites such as this are allocated for knowledge based activities within the 'Science City York' sector. The stadium site is unallocated 'white land'.

1.14 There are no Conservation Areas or Listed Buildings in close proximity to the application site. The site does not contain any trees which are subject to Tree Preservation Orders.

PROPOSAL

1.15 This application seeks outline planning permission with means of access to be considered. Members are being asked to consider a parameters plan showing proposed uses of different areas of the application site. Additionally indicative plans have been submitted highlighting how the site could be developed including the layout, building height, and level of development. However, issues of appearance, landscaping, layout, and scale are reserved for subsequent consideration should this application be approved.

1.16 The proposal involves a mixed use development comprising:

- Retail Unit A floor area 14,864 sq m proposed to be occupied by Marks and Spencer;
- Retail Unit B floor area 2787 sq m;
- Retail Unit C floor area 12,077 sq m proposed to be occupied by John Lewis;
- Two retail 'kiosks' with a total floor area of 186 sq m;
- Four individual restaurants with a total floor area of 1580 sq m;
- 1340 car parking spaces;
- A 6000 seat sports stadium (following demolition of Huntington Stadium) incorporating a community building and a hub linking the stadium to surrounding leisure uses;
- A multi-use games area (MUGA) of 2623 sq m;
- Associated infrastructure, open space, landscaping and car parking areas.

1.17 The application has been amended since the original submission. The significant changes consist of: the removal of a site labelled 'future development site' to the south of the application site, this was proposed to be developed as a combination of a petrol filling station, hotel, and restaurant; an additional fourth restaurant has been added to the proposal; the proposed community building has been relocated within the site and changed from a stand-alone building to a building integral to the stadium; and finally the proposed open space area known as 'Pocket Park' between the stadium and the retail units has significantly altered to contain a MUGA.

1.18 The sports stadium is proposed to be used by York City Football Club (YCFC) and York City Knights (YCK). The sports stadium, community building, and MUGA would be funded by the 'enabling development' consisting of the retail units and restaurants. Rent from the community building would be used to pay for maintenance and management of the sports stadium to help ensure its long term financial viability.

1.19 Vehicular access to the retail units and restaurants would be from the south of the site via a new roundabout off Martello Way and a new signalised junction off Jockey Lane. Service access to the larger retail units A, B, and C and vehicular access to the community building and sports stadium would be via Kathryn Avenue.

Vehicular access to the sports stadium for media, staff, Police, and team coaches would be via an access road to the north of the stadium with outbound traffic directed through the karting car park to the back of the swimming pool and leisure centre and exiting via Kathryn Avenue. Additional pedestrian access points are proposed along Jockey Lane and the existing Public Right of Way connecting New Lane to the Park and Ride site would provide access into the site from the west.

1.20 The indicative layout plans show the three large retail units towards the north of the site facing south towards the car park, the frontage is approximately 255 m in length and each unit would contain two storeys of retail floorspace. The proposed car park for the retail and restaurant units contains approximately 1340 spaces. To the west of Unit A and east of Monks Cross Park and Ride are the four restaurants and two retail kiosks. At the north west of the site is the 6000 seater sports stadium. The east stand would contain the community building which would have space available for lease and a central reception hub linking it to Courtney's Gym and Waterworld swimming pool. It is proposed by the Community Stadium Project Team that this space may be occupied by NHS, York St John University, the Council's Independent Living Assessment Centre, and a children's leisure operator.

1.21 The application constitutes a Schedule 2 Development within the Environmental Impact Assessment Regulations 2011 and therefore an Environmental Statement has been submitted with the application.

SITE PLANNING HISTORY

1.22 There is a significant planning history associated with the application site. The most relevant of these are:

- Outline planning permission was granted for development consisting of B1 (business) and B2 (general industry) uses with a total floorspace of 41,800 sq m in 2003 (98/02301/OUT);
- Application 06/01600/FUL was approved to extend the timescale for the submission of a reserved matters application relating to the above outline permission;
- A reserved matters application was submitted in 2008 in line with the above outline planning permissions; however the application was never determined;
- Monks Cross Park and Ride for 1160 vehicles was approved in 2002, the first 750 parking spaces were subsequently laid out (02/03173/GRG3);
- A data centre associated with an international bank was approved in 2009 (08/02623/FULM) but planning permission was not implemented.

2.0 CONSULTATIONS

INTERNAL

2.1 **Community Stadium Team** – The Community Stadium is an important project with significant city wide benefits. It has been a priority for the City since 2003. The scheme brings together sport, learning, health and play as part of a new community destination.

2.2 Since 2008 the Project Team has worked with the City's strategic partners and key stakeholders across the city to shape the Community Stadium that would benefit all York residents and meets the strategic vision for York.

2.3 In July 2010 the council agreed that the most sustainably deliverable site for the community stadium was Monks Cross South and that it could only realistically be funded by a significant enabling development. This followed examples of other retail led stadium enabled schemes across the UK including Warrington, St Helens, Salford, Grimsby, Southend and Chesterfield. A number of these schemes were approved at Call-In by the Secretary of State. In determining these schemes considerable planning weight was given to the needs of the clubs, their social and cultural contribution, economic benefits and the consequences of not securing the development.

2.4 The Community Stadium project would deliver the following benefits for the City:

- Provide a new high quality community stadium and focal point for sport, that is fully accessible and meets the needs
- Secure a sustainable future for the city's professional teams and the athletics club.
- Facilitate partnership working between the Council, NHS, York St John, libraries, independent living centre and a young person's play facility which will promote healthy lifestyles of the residents of York.
- Create a hub of health, wellbeing and learning which will address health inequalities and target hard to reach audiences.
- Enable a brand new county standard sports facility to sustain and grow the athletics offer in York.

2.5 The scheme is founded on a robust business case that ensures the stadium would be commercially sustainable long into the future offering the city and its residents far reaching benefits for generations to come.

2.6 If the scheme does not progress there are fundamental and significant impacts to the city:

- The future of the football, rugby and athletics sports clubs that use the existing facilities would be under threat.
- Reduction or cessation of the clubs' existing community sports programmes with a far reaching negative impact on community and grass roots sports provision.
- The £2m FSIF loan will be called in and Bootham Crescent would have to be sold.
- The Knights have no security of tenure at Huntington Stadium and their future will be under considerable threat.
- The Athletic Club will face increasing costs, an uncertain future in Olympic year and are unlikely to obtain a further certificate to hold competition events.
- There will be significant revenue pressure on the council for the operation of the existing stadium and adjacent leisure facility.
- There is no alternative plan for a new community stadium. It is also likely that it will have to be removed from the LDF core strategy.

2.7 Chief Executive Officer (City of York Council) - The provision of a community stadium has been an agreed strategic council priority since 2003. The Council has funded development of the business plan for the stadium and 4 million pounds of capital investment has been allocated to deliver the stadium project. The council attaches importance to the wide benefit which the community stadium would bring. The stadium would support significant economic growth for the City with a net increase of 430 jobs created in retail and service sectors. York's economy would grow by a minimum of £14.5m per annum, in addition to a stimulus of £11m per annum through the construction phases. The stadium would enhance the visitor offer and bring more people to the City. The wide range of community learning, leisure and health facilities at the Stadium would improve the health and well being of residents. Community groups would have access to the facilities to provide improved and new services for the benefit of all residents. There would be a proper quality base for professional sport in the city and for the extensive work which the clubs undertake weekly with some of the most vulnerable young people in the city. The Council Plan of 2011 reaffirms Council support for the Community Stadium and acknowledges that there are significant economic benefits and that the provision of new jobs is vital at a time of rising unemployment.

2.8 Integrated Strategy - From a planning policy perspective the Council support the provision of a Stadium and the additional community facilities in principle where they meet the needs of the city and local neighbourhoods and it is acknowledge that this is a key element of the proposals.

2.9 There is evidence available that the Castle Piccadilly site is available and suitable for retail development within the short to medium term and that it is a sequentially preferable site. It is considered that the sequential test has not been fully satisfied for the Stadium proposal.

2.10 Current evidence indicates that York City Centre is a vital and viable centre but with some particular issues of concern. The proposal under consideration would have a significant impact on the City Centre both in terms of trade diversion and loss of market share. It could also potentially have a significant impact on the Castle Piccadilly investment both in terms of operator demand and investor confidence. It is considered that the proposal would have significant adverse impacts and would therefore fail the impact tests set out in paragraph 26 and 27 of NPPF and is therefore not supportable in policy terms.

2.11 It should be established that there is an appropriate supply of sites in qualitative terms for the Local Development Framework timeframe (20 years) should the application be approved.

2.12 The proposal presently under consideration could create a substantial risk to the soundness of emerging LDF which could risk its withdrawal.

2.13 **Highway Network Management** – Concerns are raised regarding the proposed developed. These are presented as six key issues: traffic generation and mitigation; retail car parking; car parking charges; public transport; park and ride; and off site stadium related parking. These issues are covered in detail in the analysis section of the report. To summarise the Highway Officers comments conclude that it is not possible to support the application. The retail enabling part of the scheme would be a very significant car trip generator and the impacts this would place on the highway network have not been approached in line with the Council's policies and objectives. With the level of mitigation offered together with the total funding allocated by the developer through contributions, there remains a potentially severe level of harm to the highway network.

2.14 Officers in developing a Transport Masterplan together with the LSTF programme, sets out to deliver a genuine step change in travel in the northern quadrant of the city, aligned with LTP3 aims/objectives and Council Plan, with the clear overarching objective of reducing car trips and increasing journeys by bus, cycle and on foot. The approaches and measures presented by the MCS scheme do not accord with the Council's transport strategy and policies. This is compounded by the levels of retail car parking, an unwillingness to consider parking charges and an over all weighty reliance upon Travel Plan outcomes.

2.15 The proposal is considered to be unacceptable in highway and transport aspects due to its significantly harmful impacts on York's transport policy and highway network.

2.16 **Economic Development** - This application is a significant divergence from the current planning policy which has been developed with extensive consultation and professional input. This cannot be ignored lightly in terms of the potential long

term benefits of the existing LDF policies supporting the delivery of the longer term York Economic Strategy. The site is allocated for employment uses presently.

2.17 However, the conclusion of the Regional Economist Unit is that the net economic impact resulting from direct job creation is considered to be “reasonably significant”. The appendices attached to the consultation response indicate that changes to the high street/city centre are happening anyway and that this proposal would at worst accelerate these changes. It is demonstrated that the York economy is particularly resilient and that the city centre does not rely on retail alone. Appendix 2 details the City Centre Action and Investment Plan which the council has adopted to mitigate and manage these changes.

2.18 The building phase of the developments offers a boost to the economy and the Council. In association with Higher York, a Targeted Training and Recruitment program has been agreed which can maximise training and local job opportunities throughout the development timetable.

2.19 It is stated that encouraging new development by blue chip companies in the city will send a signal to inward investors that York is “open for business” and enhances the important retail, leisure and tourism offer. The development supports the achievement of three of the five Economic Strategy and meets the vision statement of the Economic Strategy for York to be “the most competitive city of its size, not only in the UK but globally, leading to increased growth in the overall economy and jobs”.

2.20 Design, Conservation and Sustainable Development (DCSD) – DCSD Design - Overall the proposed design and layout would deliver a distinct destination that would provide a range of related facilities and community interest. A key question here is whether the development would genuinely feel unique to York. Views of the Minster are referred to along Jockey Lane, but there is no reference to vantage points created by the development, that would provide a view of the City in the landscape. The layout of the retail stores with a continuous frontage facing the parking area follows a standard typology. The claims in relation to quality and sustainability are not entirely substantiated by the design code and there are some conflicts and inconsistencies between the illustration / description throughout the Design Code / Design and Access Statement. Should members be minded to approve this application the above mentioned conflicts and inconsistencies could be corrected before a formal decision is issued.

2.21 If the application is to be approved the Design Code requires refinement to adequately define the quality standards expected, specifically in relation to the stadium and community building elements. And ideally there should be assurances that the Parameters Plan allows sufficient flexibility to allow some further reconsideration of the relationship between the recreation area and the perimeter buildings including the restaurant kiosks to ensure that this key space acts as a

genuine fulcrum for the development leveraging maximum benefit from the co-location of the individual elements. This to secure, the best combination of hard and soft landscaped amenity space and 'park' with appropriate children's play provision where the restaurant kiosks provide both animation and passive surveillance and where the MUGA achieves a better relationship with the changing / management building and some better related viewing opportunity. Ideally the 'gateway' should be to this space not acting as a portal between the retail and the park and ride site.

2.22 DCSD Landscape - The proposal has evolved throughout the application process following recommendations made by Officers and has resulted in some positive changes. The removal of the 'site for future development' has resulted in the possibility to create a valuable addition to the local accessible green infrastructure. One part of the landscape infrastructure has been increased in width, and site conditions have been improved for the retention of existing trees. Additional car park trees have been added. Pedestrian circulation and retail 'boulevard' is clearer.

2.23 Some concerns are also raised. The loss of potential public open space/park at monk cross central activity hub, and reduced effectiveness as linchpin for the larger Monks Cross area. Poor relationship between restaurants and community hub; and restaurants have a negative impact on green setting of park and ride centre. Complete removal of the established mitigation planting that was part of the approved park and ride scheme along its northern boundary, results in a substantial detrimental loss of amenity and habitat, and loss of visual buffer between P&R and stadium, and is therefore objectionable. Design code is improved but still needs tightening up a little with a few more specifics.

2.24 DCSD Ecology - The land proposed for development has long been known to contain some wildlife interest, notably a small relict population of Great Crested Newt, a fluctuating population of Water Vole and some relict old wildflower grassland, as well as a good hedgerow landscape with a number of old, over mature trees. Together these provide a good foraging area for bats and there are some limited opportunities for roosting bats. No large roosting activity has though been observed. Such habitat can also provide opportunities for a good invertebrate fauna. Again, however, no rare or uncommon invertebrates have been observed.

2.25 The SUDS system around the perimeter of the site has been designed to retain or compensate for the wetland and grassland habitat lost within it. Equally the hedgerow and tree structure has been retained as much as can be reasonably required within the overall design.

2.26 In overall terms, whilst there is considerable interest in the existing site and any such losses are regrettable, there is insufficient interest to warrant any protected designation or outright objection and will occur for any application made on this site. However, the mitigation and compensation proposals set out in the application

adequately offset this loss and do provide an excellent opportunity to enhance and, equally importantly, maintain its wildlife value in the foreseeable future.

2.27 Around the Monks Cross area, there are already established elements of landscape and wildlife interest through which there are routes for public enjoyment. The mitigation proposals expand this benefit and link to it to provide a more continuous corridor around Monks Cross that enhance the opportunity of establishing a naturalistic corridor around the area both for public access and as a wildlife corridor. They also provide a new link to a further site of wildlife interest adjacent to the Malton Rd. The proposed mitigation area when linked to the existing Park and Ride mitigation area and the landscaped corridor also provide an excellent educational area for future use.

2.28 **DCSD Sustainability** – Concerns are raised regarding the location of such a development, an out of town location for a retail development is considered to be inherently unsustainable. In terms of the stadium it is acknowledged that it will significantly improve facilities for the City football and rugby clubs but the provision of retail / hospitality on the site also potentially undermines the existing offer in the City Centre with fans no longer able to support local shops. Access to the proposed community uses is likely to be via private car as they are not located within communities.

2.29 From an economic sustainability perspective a total of 275 full time equivalent (FTE) jobs are estimated to be created during the construction phase of the development, with 50% of construction staff to be from the York area where possible. Whilst this is welcomed, the Sustainability Officer would like a higher percentage of staff to be from York and also clarification on what 'York area' means in reality

2.30 From an Environmental Sustainability perspective a number of measures are proposed which are positive in terms of waste management and water efficiency. A development of this scale requires as a minimum to provide 10% of its regulated energy demand from onsite renewable energy sources. Commitment needs to be secured on these issues through suitably worded planning conditions.

2.31 It would be highly beneficial for a development of this scale to include a site wide strategy for energy generation. Little has been submitted in this respect. A condition is recommended to be added to any approval whereby a feasibility study is carried out and submitted in order to determine if a site wide heating/cooling system would bring benefits and is cost effective.

2.32 From a social sustainability point of view some concerns are raised regarding the potential occupancy of the community building by an NHS out-patients facility given that the site is difficult to access by modes other than the private car.

2.33 DCSD Archaeology - This site lies outside the designated Area of Archaeological Importance. It lies adjacent to one designated heritage asset: 1) a temporary Roman Camp, MYO2025, designated as a scheduled ancient monument (national ref 1020976). The remains of this camp extend into that part of the site where Huntington Stadium is located. This portion of the camp is not scheduled. The site also includes a range of undesignated heritage assets including a second, almost completely excavated temporary Roman camp and a range of prehistoric features and deposits.

2.34 The site is therefore of archaeological interest. The development will have an impact on significant archaeological features and deposits preserved on the site. It will not have a physical impact on the site of the designated heritage asset (the temporary Roman Camp) as the scheduled site lies outside the red line of the application. It will, however, affect the setting of the designated asset and will also impact on the undesignated portion of this asset. The impact on the setting of the designated asset is not significant.

2.35 To mitigate the impact within the retail portion of the site trial trenches would be dug coupled with further excavation to identify and record a sample of any archaeological deposits identified in the trial trenches.

2.36 An archaeological project is proposed to record the remains of the camp prior to the redevelopment of the stadium site. The proposed method for this archaeological project is described as being an exciting and innovative response that would create a model of best-practice for community involvement in and delivering public benefit from archaeological projects.

2.37 Environmental Protection Unit - No objections raised to the principal of the redevelopment but a number of concerns are raised which need to be addressed in order to ensure that the development does not result in loss of amenity or environmental harm.

2.38 The current Huntington Stadium accommodates up to approximately 3500 people, with the proposed stadium likely to accommodate approximately twice this number. From a noise perspective a doubling in capacity is likely to result in a doubling in noise level which equates to a 3dB increase. This predicted increase would most likely be mitigated to some extent by moving the stadium 30m away from its current location and further away from the closest dwellings located in Forge Close. As a result it is unlikely to result in an increase in noise level during events of more than 1dB.

2.39 In addition, it is estimated that the number of events per year when the stadium will be used for matches is likely to increase from 20 to 40. During the daytime the noise from events is less likely to result in loss of amenity but EPU does have some concerns over evening use. Mitigation measures within the application

propose limiting evening events and times as well as management of crowds leaving the events. Further mitigation would be required for any PA system.

2.40 The principal noise concern about the proposed retail development relates to that associated with deliveries and plant/equipment associated with the units.

2.41 Noise traffic levels at the nearest residential dwellings are not predicted to increase by more than 3dB over existing.

2.42 Noise from construction works has been identified as having the potential for significant adverse noise impacts on local residential dwellings, although the exact details of this are not possible to predict at this point in time. In addition vibration from construction works has the potential to cause adverse effect, although once again it is not possible to predict the effect at this point in time. These issues could be controlled by a condition which requires approval of a Construction Environmental Management Plan.

2.43 Conditions are suggested in terms of lighting and control of odour. Given that this application is in outline it is not possible to consider these issues given the level of information available.

2.44 Based on the site's past use and the results of the ground investigations, the potential for land contamination is generally low. However, flytipped material (including asbestos cement sheets) and made ground were found at the site – both of which could give rise to land contamination and require further investigation. Further ground investigation is also required in the northwest corner of the site.

2.45 The on-site energy strategy is yet to be finalised as the site application is at the outline planning stage. As such, no assessment of the associated air quality impacts has been undertaken. Once a finalised energy strategy is developed, on-site emission sources need to be addressed at a detailed design stage in accordance with relevant legislation. The Environmental Protection Unit would recommend that the emissions and subsequent air quality impact from energy plant and other on-site emissions is considered, cumulatively, alongside operational traffic emissions, thus to assess the overall impact of the development proposal.

2.46 **Structures and Drainage** - The development is greater than a hectare in low risk Flood Zone 1 and a small area of land adjacent to Jockey Lane falls within high risk Flood Zone 3 and has suffered from river flooding in the past, and therefore a Flood Risk Assessment should be submitted and approved by the EA.

2.47 There are no objections to the development in principle but full details of foul and surface water drainage works are required prior to commencement should the application be approved. As the scheme would be split in terms of drainage outfalls then two drainage conditions are required.

2.48 Culture, Community and Health - The provision of a new community stadium for the city of York has been a council priority since 2003 and is an identified priority within the Council Plan 2011-15, to support the council to build strong communities by providing more and better opportunities for leisure and culture for the people of York.

2.49 The emerging Local Development Framework's Core Strategy, with its theme of building of confident, creative and inclusive communities, recognises the importance of providing accessible and varied opportunities for leisure and recreational activities in order to promote healthy lifestyles. The delivery of a stadium, which would cater for a range of community uses as well as being a home for the City's professional teams, is also identified as a key element of achieving this vision and is specifically provided for in Policy CS11. The city's Sport and Active Leisure Strategy recognises the clubs' role in the city and the need for a modern professional stadium that meets league and safety standards and can attract investors, players and spectators. This facility must cater for the full sports development continuum. It must be accessible by the community as a training and participation venue and as the route to excellence.

2.50 The clubs, and the stadia they play in, are important elements in the city's community sports infrastructure. They have a strong social and cultural connection with York and its citizens and are very much part of the city's heritage.

2.51 The facilities used by each of the professional clubs are no longer suitable for the spectator or business needs of the clubs. Extensive studies have shown that neither existing stadium has the scope to be modernised to meet the match or commercial standards required for the long term viability of the clubs. The only solution is a new purpose built facility.

2.52 The community stadium's tenants and partners would deliver key health benefits by addressing key recommendations set out in the Joint Strategic Needs Assessment, not least the city's target of increasing participation in active lifestyles (defined as 150 minutes of exercise per week) by 1% per annum.

2.53 The community stadium would deliver major benefits to community well-being in the city; providing with particular outcomes for sports infrastructure and the health and wellbeing agenda for York. It would contribute to civic pride and strengthen York as a city, a community and as a brand.

2.54 Lifelong Learning and Leisure – From a sporting perspective the application is supported. The need for a new purpose built sports stadium as a home for the city's professional teams and for major community sporting events in the city is a key priority in the City's Sport and Active Leisure strategy. The proposed synthetic

pitch facilities would help to address the shortage of mini soccer pitches in the city and the need for all weather training facilities.

2.55 The stadium facilities would also be available for local junior league finals which is a welcome addition to the city's sports facilities. The links between sport and fitness facilities is welcomed as is the provision of NHS health services which reflect the importance of physical activity on health and the need to increase participation in physical activity to reduce the cost of health care.

2.56 From a site user perspective, the green spaces and walkway need to be linked. It is desirable to see a link created between the existing park and ride lagoon "park" and the new off set environment area outlined in blue.

2.57 Whilst there is no requirement for a children's play area or teenager facilities it is felt that it would be beneficial to include such facilities. Concerns are raised that views through the site to Waterworld appear to be blocked by some of the buildings and facilities which may reduce people's awareness of these facilities.

EXTERNAL

2.58 **York City Football Club** – Support the proposed stadium and enabling retail development. Sport is incredibly important to the culture of a city and somewhere as large and significant as York deserves first class sporting facilities. The football club has been an integral part of the community since 1922 and has average attendances of around 3000 people. Work has taken place over the last 8 years and this application represents the only viable option to deliver a community stadium. The football club has a tremendous community ethos and interacts with 15,000 local children in over 100 schools every season. Facilities at Bootham Crescent are not suitable and therefore much of this work takes place away from the stadium. The proposed stadium would allow for an increase in community services to be provided as there would be suitable accommodation within the stadium which would benefit local residents.

2.59 The only way to repay a loan from the Football Stadium Improvement Fund is by selling Bootham Crescent. York City Football Club's long term survival as a full time professional football club depends on the approval of this application. If the application is not approved the club would have to go part time from season 2013-14 which would have a significant impact on current football aspirations and would result in the team competing in a lower division than at present. This would have an impact on the fan base but also mean the youth team programme would be abandoned to reduce costs.

2.60 The proposed stadium has the potential to provide better access for supporters and provide higher quality facilities. The new stadium would increase the commercial opportunities for the club whilst reducing maintenance costs which

would help to ensure that the club has a sustainable future. The stadium could attract new audiences which would increase interest in sport. The project could help to increase morale and pride in the City.

2.61 York City Knights – Support the application. Earlier concerns around the Business Case have now been resolved. The application is important to help secure the future of the club and the proposed stadium would provide a higher quality venue to host professional rugby league.

2.62 The proposed stadium would provide better income opportunities for the club and increase the quality of both hospitality and sporting facilities available. The proposed stadium would create a better environment for spectators. A new stadium would also allow the club to improve its offer of community programmes at both the stadium and proposed all weather pitch. The proposed community hub would add revenue to the stadium aiding its long term financial sustainability.

2.63 City of York Athletic Club - fully supports the planned retail and stadium development at Monks Cross. They believe that the proposed application is not the full picture and that this scheme is critical in enabling a modern, fit for purpose athletics facility to be provided at York Sports Village.

2.64 The current athletics facility is the only community synthetic athletic track in North Yorkshire. It is used by the Athletics Club, which has around 500 members, as well as many diverse groups including schools, youth, disability, church and special Olympic groups, social clubs and tri-athletes.

2.65 The track has numerous limitations which prevent many events from being hosted. Additionally there are significant issues with the maintenance of the facility resulting in difficulties obtaining a track certificate. The pole vault has been condemned; the high jump take off area and landing mats will almost certainly be condemned this year; the track is slippery and almost unusable in the wet for 'faster' races or hurdles.

2.66 The planned facility at York Sports Village would be a flagship site for access, participation, inclusivity and attainment for athletics in York. It would be a regional centre for excellence and form part of the Olympic legacy for the city. It would be possible to increase participation and retention levels, provide a quality sporting experience and more training opportunities as well as more local events and competitions because of increased access and better equipment

2.67 The club make it clear that that if this scheme does not proceed then a very vibrant athletic club that also boasts an impressive CV in terms of community work and indeed contribution to the social fabric of York would be forced to fold or, at best, restrict membership.

2.68 **Jones Lang LaSalle** - As the preferred developer for Castle Piccadilly, which is a key City Centre development site within the emerging LDF, objection is raised to this planning application. Securing the development of Castle Piccadilly is identified as being of strategic importance to the future of the City Centre. A major retail development at Castle Piccadilly is deliverable and a scheme is actively being prepared to accommodate a large department store and a range of modern shop units. The scheme would strengthen the retail function of the City Centre in line with planning policy objectives. Should this development at Monks Cross happen, the comprehensive redevelopment of Castle Piccadilly would not go ahead.

2.69 Out of town retail, as proposed within this application is contrary to planning policies at all levels. The proposal is also contrary to independent advice given to the Council in commissioned retail analysis of the city. There is evidence that York's extensive out of centre retail offer is already harming the city centre. The market share of comparison goods sales within York City Center has consistently declined and levels are unacceptably low for a centre of York's stature. The expansion and consolidation of existing out of town retail developments is one of the major causes of this decline. The Councils own retail study states that further out of town retail should be resisted. The proposal represents a massive increase in out of town retail floorspace, additionally John Lewis and Marks and Spencer are major high street names that traditionally anchor city centres. They offer a very wide range of goods that will attract people to shop out of town.

2.70 Local and national planning guidance requires a sequential test to be submitted which ensures that all City Centre options have been explored before less central sites are considered. Castle Piccadilly is a sequentially preferable site for retail development. In addition there are empty and soon to be vacant shops in the centre which could be utilised. Therefore the application clearly contravenes local and national planning policies.

2.71 Local planning policies state that out of town retail warehouses should not sell goods which compete with shops in the city centre. The proposed occupiers of these units would sell goods which directly compete with those on sale in the City Centre such as footwear, fashion accessories, homewares, furnishings and household textiles. Stores like John Lewis should be in the city centre. There is not the capacity for retail growth to accommodate this out of town shopping centre without significant harm to the city centre and potential future investment within it.

2.72 Even taking the applicants conservative estimates of trade draw, the proposal would have a significant impact on the City Centre by diverting 25.2% of the proposed floorspace's comparison goods turnover which equates to £38.9 million. Monks Cross is already the biggest local competitor to the City Centre. If the City Centre does not increase its retail offer and Monks Cross does the vitality and viability of the City Centre will be adversely impacted upon. The City Centre's market share would grow should this scheme be resisted and Castle Piccadilly goes

ahead, however if this out of town development goes ahead, Castle Piccadilly will not. This development would undermine investor confidence in the City Centre causing lasting damage.

2.73 The proposal is contrary to local planning guidance which states that the current site should be occupied by premier employment uses. Sites such as this are retained for uses such as Science City York which has significant potential to grow York's economy. Information contained within the City Centre Area Action Plan identifies the application site as a location for providing business uses that are either too large or inappropriate in central areas. This site should not compete with the City Centre which has long term ambitions of attracting private sector investment. The application site at Monks Cross is one of the key sites which are needed to support future economic and employment growth.

2.74 It would be perverse for the Council to go against their own advice and evidence base. The Council should follow the expert advice and resist any further out of town retail development in order to support forthcoming strategically important developments at Castle Piccadilly and York Central.

2.75 **GVA Grimley on behalf of the York Chamber of Trade** - The proposal would result in a significant detrimental impact on investment harm employment opportunities within existing communities and centres. It is considered that the application would cause the following harms:

- The proposals are contrary to the Local Plan as the anchor stores would significantly alter the character of the centre
- In emerging Council policy Monks Cross is not indicated as a site for further retail development. Sequential preference after the city centre post 2020 is for development at York Central
- It is considered that the applicants have not demonstrated compliance with the sequential approach as required by EC15 of PPS4 (also present in the NPPF).
- The proposal would create a precedent and pressure for the continued unplanned growth of retailing in the Monks Cross area. The combined proposal of Monks Cross North and the Oakgate scheme would elevate the role of Monks Cross to sub-regional or even regional significance. The proposal would therefore prejudice and prejudice the emerging LDF. There should therefore be proper independent scrutiny through a public inquiry.
- The additional travel generated by the proposals is likely to have a significant impact on the highway network arising principally from private motorised transport. The transport assessment does not accurately reflect pressure for parking arising from the increased attractiveness of the centre.
- The chamber of trades' view is that the proposals would alter the offer at Monks Cross in such a way that the impact on the City centre would be significantly adverse and the application should therefore be refused.

2.76 York Conservation Trust - Object to the application. A survey was carried out with City Centre businesses with 140 replies provided and analysed. The survey asked owners of shops what effect a 5, 10, and 15 per cent loss of income would have. At 5 per cent loss of trade 18 per cent of businesses say it would have a drastic impact to the point of possible closure. Should these close that would mean 190 job losses. At 10 per cent loss of trade 42 per cent of businesses say it would have a drastic impact to the point of possible closure. Should these close that would mean 377 job losses. At 15 per cent loss of trade 81 per cent of businesses say it would have a drastic impact to the point of possible closure. Should these close that would mean 724 job losses. On top of the job losses this would mean a significant reduction in business rates, equating to around £1.9m if there was a 15 per cent loss of income. Whilst statistics are never completely accurate, it is clear that the proposals would have a catastrophic effect upon the lives of many small businesses. This supports the findings of Mary Portas report. Many small businesses are custodians of listed buildings which make a significant contribution to York's heritage. Failure to invest in these properties would raise serious concerns to the Trust.

2.77 York Civic Trust - The Trust is in favour of a John Lewis coming to York and has never been opposed to a new community stadium. However, the Trust objects to this application for out of town retail which goes completely against national and local planning policies. The emerging LDF Core Strategy specifically states that the amount of comparison goods retail floorspace out of town will not be expanded. It states that the City Centre will be prioritised. National planning advice states that economic growth should occur in the City Centre which are the most sustainable areas. It is not clear that the level of retail development proposed which would virtually double the size of Monks Cross, is proportionate to the development of a stadium. It is the Trust's responsibility to protect York's historic environment and it is concluded that this scheme will have a detrimental effect upon York's historic core in the short and long term. More than 1000 of the cities 1600 listed buildings are in retail use. These buildings are mostly operated by small independent retailers, York has retained much of the character that sets it apart from other cities in England. The rich diversity and working heritage combines to create a city centre which is magnetically attractive. It is the reason why 7 million visitors come to York each year and why most residents are so protective of its enduring character. Shop owners need the incentive of high footfall in order to invest in and protect the historic buildings which are York's unique selling point. The Castle Piccadilly site is crying out for investment, this must not be jeopardised by out of town retail development. The planning policies must be adhered to and York should not take the risk of harming the current buoyant city centre. This application should be refused as it is a threat to the sustainability of the City Centre.

2.78 York Environment Forum – Approval of this application would imply a radical change in policy by the Council. The policies currently in place have been subject to extensive public consultation and have been agreed by the Council. These policies

are incorporated into the submitted LDF Core Strategy. The Forum does not believe that an unarguable case for overall public benefit has been made by the applicants. It is considered that an abandonment of well-established policies would be a mistake. Approval of this application could set unwanted precedents which would be difficult to counter. The application should be refused.

2.79 Sport England – Negotiations ongoing, current broad agreement that there are no objections subject to four conditions. These conditions would ensure that Huntington Stadium is not demolished until a contract is signed for the construction of a replacement athletics facility, a transitional arrangement has been agreed for the athletics club to train at an alternative venue for 12 months prior to the completion of the new athletics facility, alternative training facilities have been provided for York City Knights, and transitional arrangements are in place for York City Knights to complete first team fixtures prior to the new stadium being completed.

2.80 Highways Agency – Direct that planning permission not be granted pending resolution of discussions regarding highway mitigation works. - The Highways Agency are now in the process of lifting this Non Determination Notice provided that the submitted Travel Plan and wording in the Draft 106 relating to Hopgrove roundabout remains unchanged. An update will be provided on this issue at Planning Committee.

2.81 Environment Agency - No objections subject to conditions controlling flood risk, water quality, biodiversity, and land contamination.

2.82 Foss Internal Drainage Board – No development should be allowed until the Planning Authority is satisfied that surface water drainage has been satisfactorily provided for and that no increase in the rate of discharge occurs. There are no objections to the application subject to conditions.

2.83 Yorkshire Water – The proposed development is acceptable subject to conditions.

2.84 English Heritage – The proposed development lies immediately adjacent to the Scheduled portion of a Roman ‘practice camp’. The proposed development does not have a physical impact on the Scheduled Monument and do not have a negative impact on its setting. The application can be approved subject to the formulation of an appropriate archaeological mitigation strategy for the recovery of the archaeological deposits beneath the Ryedale Stadium.

2.85 Natural England – Bats and Great Crested Newts may be affected by this application. Views should be sought from the Council’s ecologist in relation to this application. The proposal would result in some habitat being lost and some being created, however there is insufficient information to determine whether there would

be a net gain or loss. The Council needs to satisfy itself that the landscape and visual impacts of the proposal are acceptable.

2.86 York Natural Environment Panel - The Panel welcome the removal of the 'site for future development' located close to the southern tip of the proposals. With reference to this area the Panel would add the following:

- As it is close to significant existing and proposed approaches its retention for landscaping in the long term is important to soften the development.
- The area represents an opportunity for structured landscaping using native planting typical of York that will both contribute to the aesthetics and biodiversity of the area.
- The indicative landscaping plan indicates trees planted at regular intervals – the planting should be less formal and denser, of a more naturalistic character, using native trees underplanted with shrubs. Adjacent to the treed areas would suitably be planted with scrub species leading into a wildflower rich meadow to provide a variety of habitats.
- The different habitats could be located in the site formally designated as 'site for future development' and would compliment the proposed wetland habitat.

2.87 The Panel would support landscape screening and bunding north of the access road running east from the proposed roundabout to minimise the visual impact of the development as viewed from the existing road and surrounding area.

2.88 For the ecological mitigation area (which appears to be pond creation for the most) to be a successful entity there will need to be sufficient supporting terrestrial habitat for Great Crested Newts. To such the Panel would advocate a wildlife underpass under the access road ('Martel Way') connecting the landscaped area with the Great Crested Newt mitigation area. The Panel would hope to see naturalistic structured landscaping details for the ecological mitigation area for the benefit of wildlife at the same time as a providing an aesthetic contribution.

2.89 Police Architectural Liaison – In the area crime and anti-social behaviour levels are more or less what would be expected on a retail site of this nature. The North Yorkshire Police Architectural Liaison Officer (York) was consulted at an early stage in the design process. A number of concerns were initially raised regarding operational policing and 'designing out crime' issues in respect of the proposed community stadium. As a result of continued dialogue between the North Yorkshire Police, City of York Council and representatives of the developer, issues regarding 'designing out crime' have been addressed and are included in a Vangarde Retail Park - Secure By Design intent drawing which has been lodged with the Architectural Liaison Officer (drawing no. 2009-216/109) This drawing graphically represents the developers intention to adopt where possible secure by design principles into the proposal, e.g. good natural surveillance complimented by CCTV coverage both in and around the proposed stadium and retail units. Windows, doors

and lighting meeting the relevant security standards and car parking areas meeting the requirements of the ParkMark - Safer Parking Award Scheme.

2.90 Based on the content of this drawing, the North Yorkshire Police have no 'designing out crime' issues to raise at this time in respect of the design and layout of the proposal. It is noted that at the time of writing this report, the drawing referred to above has not been lodged as part of the outline planning application.

2.91 The North Yorkshire Police wish to highlight that there are wider policing implications associated with the location and use of the proposed Community Stadium. They will continue to work closely with the developer to ensure that any concerns are addressed prior to a full planning application being submitted.

2.92 **East Riding of Yorkshire Council** – No correspondence received.

2.93 **Harrogate Borough Council** - No objections.

2.94 **Selby District Council** – No objections.

2.95 **Ryedale District Council** – Taken cumulatively, the proposed development alongside those at Monks Cross Shopping Park represent significant additions. Monks Cross Shopping Park exerts significant influence in attracting customers from Ryedale. Based on the information submitted by the applicants, it appears that the proposed development at Monks Cross South would have limited trade diversion from Malton Town Centre. Assuming nothing is submitted to the contrary the Council does not object to the application in principle.

2.96 **Huntington Parish Council** - No objections, however concerns are raised over the ability of the highway infrastructure to cope with the increase in traffic volume as a result of the proposed development.

OTHER INTERESTED THIRD PARTIES

Support

2.97 At the time of writing this report **1067 letters of support** had been logged as being received in relation to this application. Additionally the applicants submitted approximately 2916 forms which had been collected following public consultation events. Of these it is stated that 2809 were in support. Comments have been placed into categories for ease of reading.

Sporting issues:

- The development is vital to support York's professional and amateur sports clubs by providing a modern purpose built stadium;

- A new stadium will help the clubs progress and become more successful;
- The stadium would give fans and the general public better facilities as existing provision is inadequate;
- The football club needs a new stadium to survive;
- The current stadiums are out of date and costly to keep running the sports clubs have to move with the times;
- The stadium could give additional income to the sports teams, the community and the Council;
- A larger proportion of the cities population has a strong interest in York City Football Club than average home attendances suggest 13,000 supporters travelling to Wembley to watch the play-off final in 2010 is evidence of this;
- The future of York City Football Club is at risk if this application is refused;
- A new stadium would increase the sporting presence in the city as well as bringing people together;
- The proposal allows the capacity to be extended in stages to meet future needs;
- Some comments stated that the proposed stadium is a suitable size for York, whilst some had concerns that it wasn't big enough and stated that it would have been beneficial if the stadium contained terracing;

Transport and Accessibility;

- The site should be well linked by bus from all parts of the city and have good cycle storage for those who do not wish to arrive by car;
- The proposed stadium will have better access for all, including the disabled and elderly;
- The proposed stadium will be easier to get to by car than Bootham Crescent;
- Retail at Monks Cross is more accessible than the city centre for local residents who wish to use their cars;

Community:

- The football and rugby clubs have well established junior and youth teams which helps a number of young people in the city participate in competitive football, if the clubs go out of business this will be lost;
- This is a rare opportunity to provide a community facility at no cost to the taxpayer, enabling retail development, is the best and most viable way of providing a new stadium for York in the near future;
- The stadium would offer an excellent opportunity for live music and other sporting activities;
- The proposed development is beneficial to local residents around Bootham Crescent;
- NHS outreach facilities could help reduce the burden on the main hospital and enhance operational excellence;
- Sport can be a driver for the sporting, cultural, social and economic health of York;

- This mixed use development will allow people with different interests to benefit from the retail, stadium, and restaurants;

Economic/Retail

- The out of town retail proposed should be given the go ahead as well as in town investment at Castle Piccadilly;
- The proposal will not harm York city centre as it will continue to offer an attractive environment and will continue to receive a large tourist trade;
- York is a tourist city not a shopping city and the objections of traders does not stand up to scrutiny;
- If the proposal doesn't go ahead there will be no football club and this would also impact on the city centre;
- York City Centre currently loses a number of shoppers to other cities because it does not have a retail offer which is as good, this results in money leaving York;
- Other cities have expanded their retail offer whilst York has not, without investment in retail in the city money will drain from York into other areas;
- The proposals will create jobs which are needed with unemployment levels so high;
- The proposal would bring additional business to the area as the stadium could have other uses;
- John Lewis would bring a number of new visitors to the city which may utilise the park and ride facilities and visit the city centre;
- A John Lewis store would be a welcome addition to the retail offer in York, the city needs a decent department store;
- Out of town shops offer something different for shoppers, they do not directly compete with each other;
- The city already has three out of town shopping centres and they have not killed the city centre so this one will not either;

Objection

2.98 At the time of writing the report **1981 letters of objection** had been logged as being received in relation to this application. Comments are summarised below.

- Shopkeepers in the city centre are already finding it difficult during the current economic climate, the proposal would further reduce their income and chances of survival;
- York City Centre is more accessible than Monks Cross, particularly for the elderly and people with disabilities;
- There is already enough out of town shopping in York, more out of town shopping will harm city centre shops;
- The proposed development doesn't offer anything beneficial to the city centre or encourage people to use it;

- York's main shopping centre should be the city centre, there are numerous examples of town and city centres going into decline because of out of town shopping centres;
- York City Centre is not just for tourists, the residents of York enjoy wandering around, doing some shopping and having a meal and a few drinks;
- The thousands of free car parking spaces proposed at Monks Cross would give these out of town shops a significant advantage over city centre shops;
- York City Centre needs shops not more and more pubs and restaurants because shops are closing down;
- People prefer to shop locally and the city centre is more local for a large proportion of residents of the city;
- York has a safe and secure centre with an individual character, this should not be spoilt;
- The proposal would cause the demise of long established local businesses;
- The proposal would provide everything which the current city centre does for shoppers, this would provide an alternative city centre which flies in the face of government policy of encouraging healthy and vibrant city centre;
- There is vacant and un-used land in the city centre, John Lewis should be encouraged to come and locate in the centre of one of Europe's best and most popular cities;
- City centre shops cannot survive on tourists alone if local residents start to use Monks Cross;
- York has a healthy number and variety of independent shops which will suffer if this application is approved;
- York has enough chain stores, independent shops should be encouraged to promote diversity;
- Investment should go into the city centre, out of town shopping centres have no soul;
- There are already empty shops in the city centre without this development;
- The City Centre is already suffering a loss of trade due to a reduction in car parking numbers and increased parking costs, the proposal would finish the shops off;
- People who rely on the city centre would be left with a depleted series of shops, it will be much harder to shop for those who can only access the city centre, people should not be required to go out of town to shop;
- York city centre is crying out for a top quality department store, John Lewis should be in the centre;
- The products proposed to be sold at these out of town shops would directly compete with the city centre and take money away;
- Out of town shopping offers late night shopping, York City Centre needs to offer this to compete;
- There are some dilapidated buildings in York which could be turned into shops;
- York should not be allowable to turn into a centre which simply sells tourist tat as local residents use Monks Cross instead;

- Shopping is the main reason local residents go into the city centre, if these are at Monks Cross there is no incentive to go to the city centre which would affect local businesses;
- The application could harm local centres such as Bishopthorpe Road and Acomb;
- Hungate would be ideal for a new John Lewis store;
- Piccadilly is a disgrace, a derelict underused area that could accommodate new shops;
- The proposal is contrary to the LDF which looks to support the vitality of the city centre;
- Internet shopping will continue to grow making this a 'white elephant' in the future;
- The growth of Monks Cross will harm Malton which is very important centre to people in Ryedale and the surrounding areas;
- Further out of town shopping goes against advice contained in the recent Mary Portas Report on high streets;
- Independent specialist shops rely on passing trade, reducing footfall in the city centre undermines the viability of these businesses;
- Sheffield City Centre and Rotherham Town Centre have still not recovered from Meadowhall 20 years later, the same should not be allowed to happen in York;
- Do not want a repeat of American style ghost towns due to out of town shopping complexes;
- York is a great example of shopping diversity with independents and national brands trading together alongside pubs, cafes, restaurants, tourist attractions, this should not be risked or jeopardised;
- National stores generally have less local supply chains, harm to local independent shops also means harm to local supply chains;
- York already has enough M+S stores;
- The city centre is already under strain and shops are closing;
- Don't want to see more charity shops in the city centre because no one else can afford to trade;

Jobs economy:

- The proposal would result in a loss of jobs and services in the city centre;
- Approving this application would be short sighted and have lasting consequences;
- York can grow economically and create jobs without encouraging more shopping;
- Empty and derelict shops in the city centre would damage the life-blood of the city – tourism;
- There are a lot of other things in York which money should be spent on like upgrading bus services;
- The proposal would create unemployment in the city;
- This application would not create a net increase in jobs, more likely a re-location;
- The city centre should be treasured and maintained and investment should be directed towards the centre;
- York City Centre needs a strong economy to maintain investment in its ancient buildings;

- Large scale developers and chain shops do not have the same stake in the local community as local independent businesses;
- The attractiveness of the city centre is key to retaining good quality staff, this scheme would reduce the attractiveness of the city centre;

Environmental/access:

- The increased use of cars should be discouraged for environmental and health reasons;
- At the moment a lot of residents choose to cycle or walk into the city centre, the proposal would encourage more car use;
- People without cars would be forced to use buses which are expensive and inefficient and only available to those near suitable bus lines;
- The proposal goes against attempts to reduce carbon emissions;
- York is already very congested with cars, the proposal would make this situation worse;
- The proposal would result in more air pollution due to car travel
- York City Centre is easily accessible on public transport from the surrounding areas, Monks Cross isn't;
- People without a car would be forced to wait at a bus stop in all weathers to visit shops which should be in the city centre;
- The already congested ring road would not be able to cope with the additional traffic that the proposal would bring;
- The proposed development must have a large carbon footprint;
- This application will bring increased traffic congestion along the A64 and Hopgrove roundabout;
- York does not need an out of town community centre;
- Rugby already causes obstruction on the highway on match days, football at the stadium would add to this;
- The local roads in the north east of the city are incapable of accommodating the extra traffic this development would bring;
- The proposal goes against the Council's long term strategy for promoting sustainable transport;
- Out of town shopping is not suitable for people who like to use their bicycles;
- The whole purpose of the Park and Ride sites is to encourage people to come into the city without causing traffic congestion, the proposal goes against this principle;

Sport:

- The teardrop site would be a better location for a new sports stadium;
- Is it legitimate to allow these out of town shops just because there is a sweetener of providing a stadium?;
- Does York need another stadium when there is already provision;
- Building a larger capacity stadium doesn't mean more fans will attend;
- What benefit does this proposal bring for those who do not like sport?;
- The stated benefits to the football club fans does not warrant the likely negative impact on the rest of the residents;

- The stadium should be near the city centre so people can walk to it;
- Council tax payers of this city do not want money spent on a new stadium;
- There is no evidence that the new stadium would be viable;
- A new stadium should be provided by the football club;

3.0 APPRAISAL

3.1 Legislation requires Local Planning Authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

3.2 The National Planning Policy Framework (NPPF) was recently published which, alongside the Yorkshire and Humber Regional Spatial Strategy, Development Control Local Plan (DCLP) and emerging Local Development Framework (LDF) Core Strategy, provides the planning policy context for determining planning applications. All previous Planning Policy Statements and Planning Policy Guidance have been revoked however the PPS 4 'Planning for Town Centres: Practice Guidance on need, impact and the sequential test' can still be used to guide interpretation and practical application of the NPPF.

3.3 NPPF sets out the Government's planning policies for England and how these are expected to be applied, and confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a development plan is not up to date Local Planning Authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Ministerial Forward highlights that sustainable development is about positive growth, making economic, environmental and social progress for this and future generations. The policy framework sets a clear presumption in favour of sustainable development within every decision. The NPPF states Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. It also states that Local Planning Authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

3.4 When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate inter alia economic development. Where relevant they should consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies.

3.5 More specific policy guidance from the NPPF is set out in considering different aspects of the application in the appraisal below.

It is considered that the key issues in the determination of this application are:

- Stadium site selection and alternative sites;
- Enabling Development - meeting the tests and factors to consider;
- Principle of Development including:
- Retail Considerations including sequential and impact test;
- Highways and Traffic;
- LDF Implications;
- Economic Impacts;
- Community Benefits;
- Design and Visual Impact;
- Ecology;
- Environmental Sustainability;
- Flooding and Drainage;
- Neighbouring amenity;

Stadium site selection and alternative sites

3.6 The provision of a new Community Stadium has been a priority for the Council since 2003. It was identified as a “corporate imperative” in the Corporate Strategy for 2009-2012. Officers in the planning projects team were tasked with identifying and then short-listing potential sites for a new stadium and produced a site finding report in July 2010. This informed a report to Executive in July 2010 that included a draft business case for the project and details of feasibility work. This was supported by specialist planning and transport input from Savills and Halcrow. The site finding report remained confidential as it contained commercially sensitive information.

3.7 The Executive endorsed the business case for the stadium and agreed that that the most sustainably deliverable site was at Monks Cross South/Huntington Stadium and for athletics at the University. In doing so they accepted the principle that the majority of the funding would need to be delivered through enabling development secured by a Section 106 agreement.

3.8 The site finding report details the process of finding an appropriate site for the stadium (and community uses), sports pitches and enabling development, and the relevant planning and delivery issues relating to those sites. The methodology used was based on the objectives for the project included in the Executive report and the resulting site requirements. The report included 4 parts:

Part 1 – Site Finding

3.9 In order to create a long-list of potential sites for the community stadium project, there was first a search for brownfield/greenfield sites of a suitable size

within the York urban area. Then a search for green belt sites adjacent to the York urban area following a process of 'sieving out' areas of constraint – consistent with the spatial strategy of the emerging Core Strategy – including areas of highest green belt quality, nature conservation sites and areas in flood zones 3a and 3b.

3.10 This produced a long-list of 20 sites. These sites were analysed against a range of criteria, including both planning and delivery issues. This produced a short-list of sites at Monks Cross and Hull Road/Heslington East that were capable of accommodating the full community stadium as a single project, and sites that could form part of a split-site scenario: Haxby Road (Mille Crux including the former Bio-Rad site and Nestle North) and Bootham Crescent.

Part 2 – Appraisal of Short-listed Sites

3.11 The short-listed sites were analysed in detail with supporting work from Halcrow. This included a review of a number of issues including: accessibility, landscape, nature conservation, hydrology, environmental protection, archaeology, open space and sustainability. The report concluded that there were no constraints that would prohibit the development in principle on any of the short-listed sites.

Part 3 – Delivery and Planning Policy

3.12 The conclusions of development appraisal work was that the community stadium could only be delivered with a financial contribution from enabling development – the principle tool to fund the project. The site finding report concluded that an exception to planning policy may be necessary to deliver the value needed to fund the stadium, as has been the case with a number of other stadium developments in the UK, and a decision would need to balance the degree of planning harm associated with the enabling development against the wider social, cultural and economic benefits of the sporting and community development that it would help to secure.

3.13 Advice was obtained that the case for a sound S106 agreement would be weakened by splitting the enabling development from that which is being enabled. Three sites were identified that could deliver all facilities on one site – Hull Road South/Heslington East, Monks Cross North and Monks Cross South/Huntington Stadium.

3.14 A range of development options and enabling uses were produced for each of the short-listed sites with supporting work from Savills. The analysis showed that Monks Cross South/Huntington Stadium was the most viable option. The report identified that the site has the benefits of being a single site non-green belt solution and an opportunity to secure the future of swimming and health and fitness at Monks Cross. There would be minimal land assembly costs and there would be commercial interest in enabling development and scope for commercial support uses. The report highlighted that there is limited capacity in the city for further out-

of-centre retail development and that increases in traffic movement around Monks Cross had been an ongoing concern.

Part 4 – Conclusions

3.15 The short listed sites were evaluated and scored to produce a ranking. The scoring of the short-listed sites placed them in the following order:

1. Huntington Stadium
2. Mille Crux
3. Monks Cross South
- 4= Monks Cross North
- 4= Hull Road South
6. Nestle North
7. Heslington East
8. Land adjacent to Grimston Bar Park and Ride.

3.16 The development of the community stadium and associated enabling uses at Huntington Stadium and Monks Cross South combined was considered to provide the most balanced solution as regards planning policy, accessibility and environmental impact, with the community stadium replacing the existing stadium and enabling development on Monks Cross South, a site already committed for development. This option would allow the full stadium model and the enabling development to be delivered on a single site.

3.17 Mille Crux, considered to be the next best option, would involve a more complex split-site solution. The full community stadium would be developed at Mille Crux and Nestle North with some enabling development, additional enabling development would contribute to the stadium funding pot through the redevelopment of Huntington Stadium/Monks Cross South.

3.18 Monks Cross North and Hull Road/Heslington East were seen as considerably more constrained sites in planning terms. Monks Cross North is a more remote location and considered less conducive to exploiting sustainable modes of travel. Development of the stadium at Heslington East would require a review of the masterplan and S106 agreement and would therefore add considerable complexity to the project.

3.19 Given that the Council has already been through a thorough analysis of site selection for the proposed new stadium, it is not considered necessary to re-assess the stadium site selection in detail. The Development Control Local Plan pre-dates the Council proposals to provide a new Community Stadium and therefore makes no reference to it. The emerging Core Strategy supports the provision of a new community stadium and the Council Plan 2011-2015, also makes reference to the ambition of the Council to provide a new Community stadium. Neither document identifies a specific site for the Community Stadium. Both documents seek to direct community, sporting, and leisure developments towards centres and accessible

locations. However, given that the funding for a new stadium is proposed to be provided through enabling development, the availability of potential sites is severely constrained. Although this out of town location is not the most socially or environmentally sustainable of the potential sites the proposed location benefits from the fact that an existing stadium is located on the site and that there is an adjacent area of land which is allocated for development which allows an enabling development scheme. It is accepted that based on the evidence presented this is the most sustainably deliverable site if the council's vision is to be fully met.

Enabling Development – Meeting the tests and factors to consider

3.20 Within the application submission the proposal is referred to as 'enabling development' and a brief summary of what constitutes enabling development is presented below.

3.22 This application represents 'enabling development', whereby the delivery of a new sports stadium is 'enabled' by the funding gap being bridged by the proceeds of the commercial retail and restaurant uses proposed. The term 'enabling development' is used to describe development that would be unacceptable in planning terms but for the fact that it would bring overriding connected public benefits to justify it being carried out, and which could not otherwise be achieved. Determining the application requires balancing the degree of planning harm associated with the enabling development against the relevant wider social, cultural and economic benefits of the sporting development that it would help to secure.

3.23 The funding gap for the stadium is significant. The retail and restaurant element of the proposals would constitute enabling development because it would generate funds to partly meet the funding gap for the new stadium. The contribution would be secured by way of a section 106 planning obligation whereby prior to commencement of the retail aspect of the development, the applicant Oakgate Monks Cross would pay money to partly fund (or enable) the construction of the stadium.

3.24 A financial contribution contained within a s106 planning obligation must satisfy the provisions of regulation 122 of the Community Infrastructure Levy Regulations 2010 ("the CIL tests"). Regulation 122 states:
"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

3.25 It is considered that the CIL tests are capable of being satisfied in this case. As to the first test, the provision of community benefits enabled by the retail element of the proposal could in principle outweigh other planning harm caused by other

aspects of the proposal in favour of the grant of permission. Whether it is sufficient to do so in fact is a matter of planning judgment for the Local Planning Authority and the relevant issues in reaching a determination as to whether this CIL test has been satisfied are set out and assessed within later sections of this report under 'Principle of Development and in the concluding 'Guidance to Members'.

3.26 It is considered that the second test is satisfied because there is a sufficient geographical connection between the enabled and enabling parts of the development and because they are within the same application site.

3.27 The third test requires that there should be a reasonable relationship between the amount of the retail development proposed and the community benefits that the cross funding arrangement would achieve. In view of the potential planning harm that the retail development could cause the quantum of retail and restaurant development proposed has to be the minimum necessary to enable the sports stadium and associated uses.

3.28 The applicants have submitted confidential detailed financial appraisals. These examine the likely costs and revenues associated with the application proposals in order to establish the likely profit level. Such appraisals are based on best estimates, they represent a snapshot in time. The submitted information has been independently assessed by external financial advisors acting on behalf of the Local Planning Authority. The financial work was assessed on the basis of robustness and the accuracy of information provided.

3.29 Clearly this development would not proceed if the landowners and applicants were not able to receive some profit from their investment. It is considered right and proper that a developer be allowed a fair and reasonable return on their investment and this should reflect the risk involved in the development project. Based on the information given to the Local Planning Authority following an independent assessment of the likely profit to be generated by the proposed development, it is considered that the proposed development meets the third CIL test by being fairly and reasonably related in scale and kind to the development.

3.30 The legal principles for considering whether unacceptable development may become acceptable because of its enabling benefits for other development were explained in the Supreme Court in the case of *R (Sainsbury's Supermarkets Ltd) v Wolverhampton CC [2010 2WLR 1173]*. One of the key principles is that it is legitimate for a local authority to take into account the benefits of a proposed development provided that such benefits are related to or connected with the development itself.

3.31 Additional to the statutory and judicial approaches, English Heritage Development Guidance and previous planning decisions set out a series of key factors which are widely used in decisions about enabling development applications.

3.32 Although this is not a heritage case, these factors provide a useful framework in which to consider the planning balance in the present case.

3.33 Each enabling development consists of individual circumstances which create its own set of considerations. In this case there are four key factors which need to be considered when setting the context for and forming a view about the enabling development proposed.

3.34 The first factor to consider is whether the enabled development, the sports stadium, is considered to be necessary. Is the need for a new sports stadium sufficiently justified? The issue of need requires scrutiny given that any enabling development by definition brings a level of harm.

3.35 A second consideration is whether enabling development is the only reasonable way of securing the sports stadium. The enabling development proposed, retail and restaurant units, would not normally be granted planning permission due to significant planning harms discussed later in this report. Therefore, it is clear that all other options for securing the sports stadium should have been explored and ruled out before enabling development is considered acceptable. Is there another way of delivering a new sports stadium? Enabling development has been used in the delivery of a number of sports stadiums throughout the country, clearly the amount of enabling development and harm has varied depending on local circumstances.

3.36 A third consideration is whether the enabling development chosen is the least harmful way of providing the uplift required to fund the proposed sports stadium. Clearly there are a number of land uses which could generate funds to help support the creation of a new sports stadium. It is reasonable to examine whether potentially less harmful land uses could deliver the same public benefits.

3.37 A fourth consideration is whether by approving the application there is certainty that the sports stadium will be delivered and is economically sustainable in the long term. Clearly it is important to avoid a situation where the enabling retail development is constructed but the enabled sports stadium is not.

3.38 Equally there would be little point in delivering a stadium which could not be sustained in the longer term. For the Council to attach any weight to benefits offered by the enabling development, there must be a reasonable level of certainty as to its deliverability.

Is the Community Stadium Development Necessary?

3.39 York City Football Club is not in a strong financial position. It is understood that the club has debt which it has no current means of paying back. The existing stadium at Bootham Crescent has suffered from a lack of investment in recent years

meaning that it does not offer the level of facilities typically associated with more modern sporting stadia. Basic facilities such as toilet and catering facilities are below the standard the club would like them to be at and they consider that this hinders their ability to attract some sections of potential supporters. Bootham Crescent has limited and dated hospitality facilities which means that potential addition revenue streams are limited. A further concern of the football club is that there is not sufficient quality or quantity of space within the ground to carry out all of the community programs they aim to offer and those which are offered are limited in terms of capacity and the quality of service they can offer given the facilities available. It is the hope of the football club that a new stadium would allow them to pay off their debts and offer a higher level of service to supporters and the parts of the community which are engaged in their programs as well as allowing scope for an expansion of their existing community offer.

3.40 Huntington Stadium is much more modern than Bootham Crescent and is generally in a better state of repair. Seating areas for supporters are limited but are of reasonable standard and there are eight executive boxes. The stadium contains a sizable bar area which is used for corporate and social events to generate income for the stadium.

3.41 Both Huntington Stadium and Bootham Crescent offer dated or basic facilities for players in terms of changing rooms and physiotherapy facilities. The stadia have limited facilities for supporters in terms of catering and for those with physical disabilities.

3.42 It is considered that the presence of professional football and rugby clubs associated with the City name and providing a recreational activity for the significant number of local residents who watch their matches is a valuable community asset for the City. The City of York Council decided to offer assistance to the football club and set out within the City of York Corporate Strategy 2009/2012 that 'We will develop proposals to complete the building of a Community Stadium that will provide high quality sport, recreation and other community focused opportunities for the city'.

3.43 Analysis of the financial position of YCFC shows that in addition to existing debts, the club continues to make losses. This is further adding to the debt and the current position is not sustainable financially. Without a significant change in circumstances the football club are not likely to have sufficient funds to pay off debts and invest in the ground in the near future. It is considered that the proposed development included in this application increases the chances of future financial sustainability at the football club. The proposal is also considered to assist the long term sustainability of YCK by providing a new stadium which meets their needs. Huntington Stadium is currently costly to maintain in relation to the income it generates.

3.44 It is considered that the current condition and facilities on offer at Bootham Crescent and Huntington Stadium establish a need for a new purpose built sports stadium. The existing stadia meet basic standards, however a continued lack of investment has meant that they no longer meet expectations of a sports spectator in the current day. From a sporting facilities perspective there does not appear to be an urgent need for a new sports stadium as existing facilities allow the respective teams to continue to compete, however the financial position of the football club is such that from a financial viability position a new stadium is required sooner rather than later in order to help the club pay off its debts and continue to operate full time as a professional club. The options are for significant investment into existing facilities or a new purpose built sports stadium. Based on the information available both options require a level of investment which is beyond the two sports clubs in question.

3.45 In terms of the size of stadium proposed, the applicants have submitted information to justify a need for the proposed 6000 capacity stadium. Such evidence is considered an important consideration given both clubs currently have average attendances significantly below 6000 and a smaller stadium would require less funding and therefore less enabling development.

3.46 Evidence put forward by the applicant's highlights that historically both clubs have had stronger support bases. This combined with the size of the city's population suggests that there is the potential for both clubs to attract larger attendances. The applicants claim that given the size of York's population, an average attendance of 4,500 is a reasonable expectation should YCFC get promoted into the Football League. It is also suggested that that a number of football and rugby clubs have experienced increases in their attendances once they have moved into new stadia. Research undertaken by Five Lines Consulting supports this claim, the 'new stadium effect' outside of the Football League can be averaged at around a 20% to 25% increase. For clubs to sustain increased attendances over the long terms success on the pitch is paramount. It is considered reasonable to build a new stadium that allows some level of growth in terms of team success and the growth of a fan base. The potential new stadium effect combined with team promotion is likely to create a significantly stronger demand for tickets than at present. Whilst a smaller stadium may meet current needs in terms of average attendances, it is considered reasonable to allow some scope for growth and on-pitch success.

3.47 In terms of YCK, Super League entry requires a minimum capacity of 10,000. Whilst the proposed stadium is smaller than this, the proposal does include a west stand which is small in scale and of simple construction. This would allow it to be removed and replaced with a larger stand in the future. However, clearly any future expansion would need to be supported by a sound business case and a new funding stream.

3.48 The proposed stadium would be all seater, at present both Bootham Crescent and Huntington Stadium contain areas where spectators can stand. All seater stadia generally require more space per spectator. The reason why the proposed stadium is all seater is to meet the requirements of the Football Stadia Improvement Fund (FSIF) grant/loan which was given to YCFC. A number of sports fans prefer to have access to standing areas, however should the proposed new stadium not meet FSIF standards there is a potential £2m shortfall in funding for the new stadium as the loan to the football club may have to be paid back.

3.49 It is considered that a strong case has been made for the proposed size of the new stadium. The stadium meets current needs of both clubs whilst allowing short to medium term expansion opportunities. Long term aims of the rugby team to meet the Super League would require a further expansion. Given current attendances at the YCK it is not considered reasonable to attempt to construct a larger capacity stadium at this stage. The funding channels require the stadium to be all seater. A need for a new modern stadium has been established and the scale and type proposed is considered reasonable. In addition, a modern stadium could be valuable to the City in terms of hosting more community based sporting events such as local league finals.

Is Enabling Development the only Reasonable Way of Delivering a New Sports Stadium? –

3.50 The current financial position of York City Football Club is such that it does not have the resources to suitably upgrade Bootham Crescent or fund the construction of a new stadium. York City Knights do not have the resources to fund the construction of a new stadium. If it is accepted that a new sports stadium is needed and the current clubs cannot independently provide a new stadium, then clearly some level of external funding is required.

3.51 YCFC have been given a £2m loan from the Football Foundation in order to continue operating. This loan will be converted into a grant if a new stadium is provided. However, there is no evidence that there are any further substantial external grants available to support professional sports clubs to provide a new stadium in York. With similar circumstances elsewhere in the country a number of clubs have taken the enabling development route whereby other land uses have been approved alongside the sports stadium in order to help generate the level of funding required. The capacity of the stadia have varied as have the size and type of the enabling development. Given the lack of any evidence to suggest otherwise, it is considered that enabling development is the only reasonable way that sufficient funds could be generated to sufficiently contribute towards a new sports stadium for the city.

Is The Enabling Development Proposed, The Least Harmful, Financially Viable Option ?

3.52 Issues of planning harm resulting from the proposed development are discussed in detail within the next sections of this report. However, it is important to consider the broad issue of whether the type of enabling development selected is the only viable and feasible way of generating the necessary funds to enable a new sports stadium to be constructed. The current enabling proposal; comprised of substantial comparison goods retail and restaurants, is likely to have a significant adverse impact on the city centre as well as creating substantial car movements. It is important that other potentially less harmful land use options are explored before considering the planning merits of the current proposal.

3.53 The applicant has stated that retail development, of the type and size proposed, is the only reasonable way of filling the funding gap associated with the construction of a new sports stadium. Retail is proposed because it combines relatively high and shorter term income returns with lower costs than are associated with other types of development. In essence, the applicants contend that retail of the scale proposed is the most profitable and feasible use of the application site in the short term and therefore represents the only realistic opportunity to cross fund the proposed stadium.

3.54 It is understood that retail was chosen as the enabling development for the sports stadium on the grounds that it would provide a sufficient upfront revenue stream and it has close physical links to the existing Monks Cross Retail Park. As part of the planning application process the applicants were asked to justify the type of enabling development chosen by explaining why other types of development were not selected. Other land uses which the applicants were asked to consider were:

- Bulky goods retail;
- Convenience goods retail; Residential;
- Offices;
- Leisure; and
- A mix of the above uses

3.55 Responses received from the applicants whilst setting out some viability and commercial feasibility considerations in respect of the listed uses, crucially failed to provide a robust analysis of the viability and feasibility of a convenience retail enabler, or of a scheme comprised of a mix of the listed land uses. It is clear from the analysis presented, that some alternative land uses could theoretically provide sufficient financial returns to comprise part of a scheme capable of enabling the community stadium, though almost certainly as part of a mixed scheme as opposed to in isolation. It is unlikely, however, that the majority of these alternative land uses would, in either instance, be as highly or rapidly lucrative as comparison goods retail of the format proposed.

3.56 It should also be borne in mind, however, that a smaller or lower specification stadium would require less enabling development of any type: Whilst there is an argument for the need for a 6000 capacity stadium in terms of future demand,

clearly there is a balance to be drawn in terms of potential future needs of the sports club and harm and disbenefits associated with the enabling development.

3.57 Wider considerations, beyond just financial viability, also need to be taken into account when considering alternative enabling development types, particularly in the context of the timeframes for delivering the community stadium. Any alternative proposal would clearly require considerably more time simply to secure planning determination in the first instance. It would also be likely to be more lengthy and complex than the current proposals in terms of construction, leasing, and realising value. A more complex, mixed-use development approach would also be likely to incur greater risk, and therefore require a higher degree of developer profit than is currently proposed.

3.58 On the basis of the evidence provided, it is difficult to draw any firm conclusions on the availability of alternative enabling development approaches that would be viable and feasible in this instance, and it certainly is not possible to rule out the existence of alternatives. It is clear, however, that pursuing an alternative approach, even if viable and feasible, would be likely to introduce additional time, complexity and risk to the delivery of a new stadium.

Is there Reasonable Certainty that the Community Stadium would be Delivered if the Application is Approved?

3.59 The Community Stadium Project Team have produced a business case which looks at issues including the potential costs and funding mechanisms for the construction of the proposed stadium and how it will be managed, maintained and funded for the foreseeable future. The Business Case was approved by Cabinet in March 2012.

3.60 To provide confidence that there would not be a situation where the retail units have been constructed and are trading but the stadium is not built, the Local Planning Authority would ordinarily recommend a condition which only allows construction work to start on the retail units at the same time as construction work starts on the stadium. This would ensure that there is no harmful enabling development without the benefits of the enabled development. However, it is understood that the applicants have signed agreements with John Lewis and Marks and Spencer to occupy two of the proposed large retail units and that these agreements include clauses relating to the timescale for the opening of the units. For this reason, the applicants are not willing to consider any condition which links either the construction or opening of the retail units to that of the stadium. If planning permission is granted without such a condition, there is a risk that the retail units are constructed and occupied but for whatever unforeseen reason the sports stadium is not constructed, or at least is constructed a significant period of time after the retail units. In these circumstances Members need to be confident that the business case is sufficiently sound and robust and that there is a high likelihood that

following the S106 payment being made to the Council for £14.95m that the stadium will be delivered. Once the S106 payment is made to the Council the applicants can progress the retail and restaurant development, irrespective of the position in relation to the development of the stadium. This section of the report analyses and summarises some key elements of the submitted Business Case to provide members with information relating to any potential risks and what has been done to try and minimise these risks.

3.61 The funding and costs associated with the proposed stadium are presented within the table below.

Funding	
S106 contribution (£13.75, £1m fees)	14.75m
CYC capital towards Stadium	1.25m
YCFC capital	0.35m
	<u>£16.35m</u>
Costs	
Stadium	11m
External works	1.5m
Community floor space	3m
Stadium community sport programme	0.1m
Project costs	0.75m
	<u>£16.35m</u>

3.62 The proposed MUGA would be constructed and paid for by the applicants and therefore does not form part of the funding and costs table. The table also does not include funding and costs associated with the athletics facility and new training facilities for the rugby team as these are being funded separately by the Council as part of the £4m commitment to the entire project. Part of this pot of money would contribute to funding facilities not directly provided by approving this application. Therefore, it is not reflected in the above table.

3.63 Clearly any projection of costs for a development which would take place in the future contains an element of risk. This is unavoidable. However, information submitted by the Community Stadium Project team gives a reasonable degree of comfort that a 6000 capacity stadium could be delivered in line with the estimate. This includes cost estimates from contractors. A small contingency has been built into all costs to try and mitigate for changing costs, however, clearly there is always a risk that prices can increase by more than could reasonably be anticipated. Remaining costs covering external works, the MUGA, improvements to a sports provision, and project costs are also based on reasonably robust evidence.

3.64 The two largest sources of revenue, namely contributions from the applicants and the Council, are secured subject to the granting of planning permission. The

remaining £350K would be a contribution from YCFC does contain a significant element of risk as it is reliant of the disposal of Bootham Crescent. This disposal can only begin when there is vacant possession of the ground, i.e after the completion of the new stadium. YCFC have signed a legal agreement that provides some comfort the funds will be provided however, the risks cannot be entirely mitigated. Considering this represents only 2% of the overall funding package it is not critical to the delivery of the scheme. Cost reduction options have been presented showing that the scheme can be delivered for considerably less than this, although it may impact on the quality of the resultant stadium

3.65 The delivery of the proposed stadium relies on the requirement to provide a new athletics facility. This will be built to county standard. Sport England support the improvement of athletics facility in the city and have no objections to the proposed development providing a condition is attached to any permission which prevents the demolition of Huntington Stadium until a contract is signed for the construction of a new athletics facility. Sport England has advised that they would only accept a 12 month gap between the loss of the facilities at Huntington Stadium and the provision of new athletics facilities in the city. A substantial area of land at the eastern end of the Heslington East Campus was identified in the approved masterplan for outdoor sport and recreation uses and there is sufficient space to accommodate a new athletics track (although detailed planning permission would be required). There is a "Heads of Terms" agreement between the University of York and the City of York Council in relation to the proposed provision of a new athletics track on at the sports village on the Heslington East campus. However there is at this time no contractual obligation to allow the Council to construct a new athletics track on University land. Ideally there would be a written co-operation agreement in place with the University at this time to give a greater level of assurance that the athletic track will come forward according to an appropriate timetable. There is therefore some risk that any delay or uncertainty to secure and construct a new athletics track could impact on the timescale for the construction of the stadium. The situation could arrive where the retail development is open and trading but the stadium development has not commenced. Members should be aware that if for any contractual, financial or planning reason it was not possible to provide a new athletics track at the Heslington East site it would be necessary for the Council to provide this facility elsewhere in the city so that the stadium development could proceed.

3.66 A further consideration for Members is whether there is sufficient robustness to the Business Case to provide sufficient comfort that the proposed stadium is financially sustainable in the long term. The estimated financial operating performance of the Community Stadium is set out in detail in Chapter 9 of the Business Case. A detailed and strong evidenced financial model has been created by:

- Providing comprehensive benchmark figures to allow stakeholders to have confidence that the financial assumptions used are achievable.

- Testing specific income streams with commercial operators and commercial agents. Evidence to support this model is sourced from the following specialist advisors:
 - Edwards Symmons – stadia income / cost valuation
 - Gardiner & Theobald – stadia cost consultants
 - UHY Calvert Smith – accountants
 - Lawrence Hannah – commercial & property agent
 - DJD – economic impact and visitor numbers
 - Formalising heads of terms with commercial partners to establish accurate levels of rental income
 - Undertaking financial and due diligence work
 - Sensitivity and risk analysis on all operational figures.
- KPMG undertook a review of the business case along with financial due diligence. Their report concludes that the key underlying financial assumptions for the project and the Stadium as set out in the Business Plan are in general reasonable and wherever possible have been substantiated by external advice. The opinion concluded that overall the Profit and Loss account appears to have been prepared on a prudent basis and it is largely based on third party evidence.

3.67 The results of this financial modelling provides a sound base to conclude that the Community Stadium can be commercially sustainable, which neither leaves the sports clubs financially disadvantaged nor exposes the Council to a high risk of being requested to support elements of the scheme on an ongoing revenue basis.

3.68 All of the proposed space in the community hub has been pre-let and heads of terms have been signed with important stakeholders in the City. Evidence has also been provided that shows there would be demand for the use of space in this facility if one of the named community partners did not proceed in occupying the facility. These heads of terms do not commit any of the potential partners but they do show a sufficient level of interest to allow the Local Planning Authority to place weight on the identification of the proposed users. The evidence provided by Lawrence Hannah, Edward Symmons and KPMG support the revenue assessment in the Business Case.

Principle of Development

3.69 The remainder of this report assesses the application proposal in relation to national and local planning policies. Each element of assessment, such as retail considerations and highway and traffic issues, are presented clearly under a separate heading. However, clearly there will be some level of overlap between various elements and each section should not be considered in isolation from the overall report. Each section will start with a policy overview before assessing the application in respect of those planning policies. Any planning harms or disbenefits

associated with the proposed development will be highlighted alongside an analysis of any social, economic, retail and community benefits which would arise out of granting planning permission. Benefits and harms are brought out and assessed under each heading.

3.70 Should Members be satisfied in relation to the enabling development considerations presented earlier in this report and that the proposed location for the stadium is acceptable in principle. The next step is to identify and consider both the planning harm and the benefits of the development –proposal before undertaking the weighing up of the planning harms against the benefits. The fundamental benefits and harms are presented within this section of the report entitled ‘Principle of Development’.

3.71 In this sense the fundamental planning harms are considered to be retail, highways, and economic impacts, and the implications of approval of this application on the emerging Local Development Framework Core Strategy. Benefits are presented in terms of economic, retail and community benefits.

3.72 Other material considerations relating to issues such as visual impact, ecology and drainage are identified and assessed in subsequent sections of this report.

Retail considerations and issues

General policy context for assessing retail impact

3.73 This opening part of the retail impact section of the report looks at the broad overall messages of retail planning guidance and the context by which development plans should be created and planning decisions made. More detailed policy context is given later within this section of the report addressing issues such as the sequential test and impact test.

3.74 The NPPF states that LPA’s should draw up policies which ensure the vitality of town centres. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Town centres should be recognised as the heart of their communities and policies which support their viability and vitality should be pursued.

3.75 Well connected appropriate edge of centre sites for main town centre uses should be allocated where suitable if viable town centre sites are not available. If these cannot be identified, policies for meeting the identified needs in other accessible locations that are well connected to the town centre should be set as well as policies for the consideration of proposals which cannot be accommodated in or adjacent to town centres. Both retail and restaurant units are considered to be ‘town centre uses’.

3.76 Paragraph 23 of the NPPF states that it is important that the needs for retail uses are met in full and not compromised by limited site availability. The NPPF states that LPA's should assess the quantitative and qualitative need for land / floorspace for retail development and this should be used as the evidence base for making Local Plans, as should the role and function of town centres, the relationship between them and the capacity of existing centres to accommodate new town centre development.

3.77 The NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the Framework policies, the greater the weight that may be given). Weight may also be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections (the less significant, the greater the weight) and the degree of consistency of the relevant emerging plan policies to the Framework policies (the closer they are, the greater the weight). It is considered that the retail policies set out in both the DCLP and emerging LDF comply with the principles of retail guidance in the NPPF by aiming to direct development into existing centres.

3.78 There are two key considerations when assessing retail impact, these are the sequential test and impact test.

SEQUENTIAL TEST

Policy context

3.79 The NPPF maintains the requirement for LPA's to apply a sequential test to planning applications for main town centre uses, such as shops and restaurants, that are not in an existing centre and not in accordance with an up-to-date Local Plan. The sequential test looks to direct town centre uses into town centres. Only where no suitable town centre sites are available should edge of centre sites be considered. Out of centre locations, such as Monks Cross, should only be considered where in and edge of centre options are not available. Should this be the case out of centre sites which are well connected to the town centre should be given preference. Both applicants and LPA's should demonstrate flexibility on issues such as format and scale of development.

3.80 The Development Control Local Plan (DCLP) 2005 contains policies relating to the sequential test and city centre first principles. Whilst the DCLP has not reached Development Plan status it is considered that its retail policies are a material consideration given that they are broadly consistent with the aims of the NPPF. Policy SP7A 'The Sequential Approach to Development' seeks to ensure that

development outside York City Centre is highly accessible by non-car modes of transport, taking a sequential approach for new retail development; the hierarchy for retailing starting with the defined Central Shopping Area, then edge-of-city centre sites or Acomb or Haxby District Centres, then in other out-of-centre locations that are genuinely accessible. For major shopping developments outside the Central Shopping Area, evidence of retail impact is required to show that the proposal would not, together with other recent and proposed developments, undermine the vitality and viability of York City Centre's predominant use as a sub regional shopping centre, the defined Central Shopping Area, or the Acomb or Haxby District Centres.

3.81 Policy SP7B 'York City Centre and Central Shopping Area' states that York City Centre will remain the main focus for retail development and that the Central Shopping Area, as shown on the proposals map, will be the City Centre for retail purposes in terms of the sequential test and will be the focus for retailing activity.

3.82 Policy SP9 'Action Areas' identifies a number of sites for mixed use developments that include retail use, including at Hungate, Heworth Green and Castle Piccadilly.

3.83 City of York Core Strategy Submission (Publication Version, 2011) is at an advanced stage, though the policies remain to be examined and the weight to be attached to the policies needs to be considered in that context. The Publication version was issued in September 2011 and submitted to the Secretary of State on 14 February 2012.

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

3.85 Policy CS15 seeks to protect and enhance the retail role of the City Centre and Policy CS17 deals with the distribution of retail growth. The emerging policy seeks to support the vitality and viability of the City Centre, with the Central Shopping Area continuing to be the primary focus for new comparison goods retail development (clothing, footwear, household appliances, carpets, furniture, computers, books, music/videos, toys, audio-visual equipment, sports equipment and leisure goods). The phasing approach is set out namely to give priority to Castle Piccadilly pre-2020 and to prioritise York Central thereafter. Other out-of-centre retail developments will be considered in the light of the sequential approach and the impact on existing centres and retail allocations.

3.86 Paragraph 14.6 of the emerging Core Strategy states that the amount of comparison floorspace in out-of-centre retail destinations will not be expanded but

district centre type uses will be supported in these locations such as small scale convenience provision subject to retail impact assessments.

3.87 The DCLP and Core Strategy submission were created following the collection of a detailed evidence base. There have been a number of retail studies within the city in recent years. The 2008 Retail Study for the Council by consultants, GVA Grimley, is the most authoritative report on retail planning matters relating to the City. It was updated in part in 2010 to reflect revised capacity forecasts which in turn reflect the impact of the recession. The Study draws upon a household telephone survey, town centre health checks, a review of out-of-centre and competing retail provision, retail capacity assessments, a review of potential development opportunities and a broad retail strategy. The sequential approach policies reflect the conclusions of the local retail studies which identify a need to direct development into the city centre to strengthen its position and meet a need for new modern retail floorspace.

3.88 The Yorkshire and Humber Plan Regional Spatial Strategy (RSS) remains a material consideration however its weight is reduced by Government's stated intention to revoke it. Within the RSS, Policy YH4 defines York as a sub-regional city which are the locations to be the prime focus for shopping in the region. Policy E2 seeks to strengthen the role and performance of existing city and town centres, with the centres of sub-regional cities being a focus for retail development, amongst other uses, and for district centres to be the focus for local services and facilities. Policy E3 seeks to make use of appropriate located previously developed land and current allocations.

Applicants Case

3.89 The applicant submitted a sequential test in support of their application. In summary the applicants sequential test states:

- In respect of Marks and Spencer, their business model is for one substantial store in town and one full range store out of town. Given that Marks and Spencer's have an existing city centre store on Parliament Street, an out of town store is required to meet their business model.
- There are no sites within a sequentially preferable location which could accommodate a Marks and Spencer flagship full range store. York requires a range of large floorplate comparison goods units, rather than a single very large store which Marks and Spencer require.
- It is argued that Castle Piccadilly is not available for retail development within the next five years. A development at the site failed to come forward at a time of strong economic growth and it is therefore unlikely to come forward in the short to medium term as the economic climate is weaker. There is an urgent need for a new stadium and Castle Piccadilly will not come forward within a short timeframe and there is scope for both the stadium retail development scheme and Castle

Piccadilly to come forward given the fact that they will be delivered at a different time. There is sufficient retail growth capacity within York.

- Hungate is not suitable for large format retail stores given committed development already on site, the layout of the site and advice contained within the Development Brief for the site. The remaining part of the site is not large enough to cater for the proposed development.
- It is considered that the York Central site is neither suitable, available or viable. The site will not come forward for development for 15/20 years and there are concerns about its viability for large scale comparison goods retail.
- There are three large retail units proposed. Unit C is the smallest unit but should be seen as ancillary to the larger units since a certain quantity of retail floorspace has to be provided in order to enable the development of a new stadium. Likewise the proposed restaurants are an integral part of the scheme, and whilst there may be sites which could accommodate these uses in sequentially preferable locations, a practical approach has to be adopted to look at the proposed development as a whole. The ancillary leisure and community uses are considered to form part of an integrated scheme which is a key part of enabling a viable scheme.

ASSESSMENT OF SEQUENTIAL TEST

3.90 Drivers Jonas Deloitte (DJD) were commissioned by the LPA following the submission of this planning application to consider and advise on the application submission. Following the change in national planning guidance to the NPPF DJD produced an Addendum which considered the application in relation to the new framework. The findings of DJD have helped to guide the LPA within its consideration of the sequential test.

3.91 A sequential test can be approached in two ways. The first is to take the development proposed as a whole and determine whether it could in its entirety be accommodated on a central site. So in this case one would look at whether the entire development of retail and restaurants could be accommodated on any of the identified sequentially preferable sites. This rather basic level of assessment can create problems in that a developer could propose a development which is so large that it would be impossible to ever fit it within a city centre or edge or centre site. The second drawback is that it would not take account of empty shops within the city centre which may be able to accommodate parts of the whole development. For these two reasons a more detailed analysis is often undertaken whereby parts of the development are disaggregated from the whole and assessed in terms of site availability. So each element of a proposed development is assessed individually in terms of whether they satisfy the sequential test. This approach has been used by DJD within their assessment which is summarised below.

3.92 To set the context, PPS4 practice guide states that a sequential tests need to:

- a) ensure that sites are assessed for their availability and suitability;
- b) ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
- c) ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access; and
- d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility.

3.93 The identified sequentially preferable sites are York Central, Hungate, Stonebow House, the Telephone Exchange, and Castle Piccadilly. DJD made the following conclusions in terms of the identified sequentially preferable sites:

3.94 York Central – Whilst out of centre in planning terms, York Central is considered to be sequentially preferable to Monks Cross South due to its close relationship with the city centre and train station. York Central was considered to not be available in the short to medium term and it is considered that the site has significant constraints particularly in terms of infrastructure. The site was considered to be potentially suitable for major development. It was stated that any retail within York Central would have to complement the city centre due to its close links. It is concluded that York Central is not available and the site is therefore dismissed from consideration.

3.95 Hungate – It was considered that Hungate is suitable for mixed use development including retail and that this could contribute to the vitality of the city centre. The site has the potential to accommodate a large retail unit. However, there is no evidence that the site is available for a large retail development. Therefore, it is concluded that Hungate is not available and the site is therefore dismissed from consideration.

3.96 Stonebow House – Whilst DJD consider that Stonebow House may be suitable for a mixed development incorporating retail, given the sites constraints it is not considered that a large format retail scheme could be developed. In terms of availability it is considered that significant portions of the site are currently occupied and it is not likely to be brought forward in the short to medium term. Stonebow House was considered not to be available and is therefore dismissed from consideration.

3.97 Telephone Exchange – This site was considered capable of accommodating a large retail unit and has the benefit of being located next to a multi-storey car park. However, there is no evidence that this site is available for development in the short to medium term and there are constraints in terms of the potential need to relocate

existing facilities. Therefore this site is also dismissed from consideration as it is not considered to be available.

3.98 Castle Piccadilly - In terms of the suitability of Castle Piccadilly for new large scale retail development, DJD reported that there was substantial support within planning briefs and draft policies for retail-led development and that there was the potential to create a development which could accommodate large scale retail floorplates. Such a development would contribute significantly to the vibrancy of the City Centre. It was concluded that there is developer interest within the emerging proposals for a major retail-led development and that this could incorporate two large anchor stores and other large space users. Whilst there is significant heritage, conservation and environmental constraints, discussions have advanced with relevant bodies through the pre-application process and there are no insurmountable concerns. There are signs of continued progress with the recently approved Cabinet Report to allow for negotiations on a Conditional Concession Agreement. The Cabinet Report identifies that:

- Retail studies conclude that the site provides the best location for extending the current primary shopping area and the best site in the City Centre for meeting the City's longer term retail needs;
- A full procurement exercise (to identify a development partner) has been undertaken in accordance with procurement and legislative requirements; and
- Proposed next steps will include consultation with all stakeholders, including the public, in the development of the masterplan and any subsequent planning applications.

3.99 In terms of availability DJD stated that the majority of the site is in the ownership of two parties; the preferred developer and the Council. Subject to planning, the site could be made available for a start on site in 2013 / 2014 with completion in 2016/ 2017. Based on information provided by the Council, there is confidence that there are no insurmountable legal or ownership problems that are not capable of resolution. It is concluded therefore that Castle Piccadilly is both suitable and available and there is a sequentially preferable site available.

3.100 It is the view of both DJD and Planning Officers at the Council that Castle Piccadilly is a proposal that is likely to come forward within a reasonable timeframe. DJD go on within their report to look at whether the individual units proposed at Monks Cross South could be accommodated on Castle Piccadilly. This forms an important part of the sequential test. However, this has to be considered within the context that Members are being asked to consider retail floorspace, final end users could change without the need for a new planning application.

3.101 Taking each element of the application individually and disaggregating it from the entire development gives a more comprehensive sequential test assessment. In terms of the proposed Marks and Spencer unit it is considered that theoretically

Castle Piccadilly could accommodate a large store for M&S over two or more floors. However M&S are reported to be committed to retaining their Parliament Street store and investing in it. A move to Castle Piccadilly from Parliament Street would not be logical nor would it respond to the Company's specific business model. Subject to a commitment to retain their Parliament Street store being secured through a Section 106 agreement, it is considered that the proposed Marks and Spencer store does not fail the sequential test.

3.102 With regard to the proposed John Lewis store, the Castle Piccadilly scheme could theoretically accommodate a large store for John Lewis over two or more floors, in both scale and format. There is evidence that the scheme could be delivered within a short to medium timeframe which would not be materially different from that for the Stadium Development. There is no evidence that John Lewis have been flexible over their requirement to justify why their business model could not be accommodated within the scheme. The NPPF is clear that potential occupiers of retail units have to demonstrate flexibility to justify locating themselves at a site which is not sequentially preferable. This has not been demonstrated here. Given this, it is considered that the John Lewis store fails the sequential test as there is a central site available which could accommodate their needs given flexibility.

3.103 The application also contains a smaller retail unit which sits between the two named retailers discussed above. The Castle Piccadilly scheme could accommodate this proposed unit. There is no evidence that this Unit has to be located at the Stadium Development Site, other than for reported viability reasons. As such, it is considered that Unit C fails the sequential test.

3.104 The development of the proposed stadium and three large retail units would create a destination in itself. The proposed small retail kiosks and four restaurants could be considered to be ancillary to this destination as a whole. These units would not be on the site without the much larger retail units and the stadium. The kiosks and restaurants would not be a significant draw in themselves. Whilst the two small kiosk buildings and four proposed restaurants could clearly be located within the city centre, given their ancillary nature to the site as a whole this would not be reasonable. The units would provide supporting facilities to the surrounding uses and are of the scale one would expect to see in such a location, they could not be disaggregated from the scheme as a whole for this reason. For this reason, DJD conclude that subject to conditions limiting their scale, the kiosks and restaurants do not fail the sequential test.

3.105 To summarise, the two tests relating to the sequential test are availability and suitability. It is concluded that the site at Castle Piccadilly is both available and suitable for retail development, to include large floorplates similar to that proposed at Monks Cross South. It is Officer opinion that Castle Piccadilly is deliverable within a reasonable timescale. There is no evidence to suggest that Castle Piccadilly is not

suitable for both the middle unit and the proposed John Lewis store subject to some flexibility which is required as set out within the NPPF. For this reason, it is considered that the application fails the sequential test. Paragraph 27 of the NPPF states that where an application fails the sequential test it should be refused. This approach is consistent with the DCLP and emerging LDF Core Strategy and guidance for directing development into existing allocated centres within the Yorkshire and Humber RSS. Should Members consider that the enabled development is of overriding importance which justifies retail development, this may be considered to overcome the concerns raised in terms of failure of the sequential test.

IMPACT TEST

Policy Context –

3.106 The NPPF sets out that Impact test assessments should contain two main elements, these are the impact on:

- Existing, committed and planned investment in a centre;
- Town centre vitality and viability

3.107 The NPPF requires LPA's to 'promote competitive town centres that provide customer choice and a diverse retail offer'. As discussed earlier the NPPF places a lot of emphasis on directing retail development into town centres where possible as this is considered to be the most sustainable location for such uses. The DCLP and emerging Core Strategy are consistent with this objective. DCLP Policy SP9 'Action Areas' identifies Castle Piccadilly as a 2.2 ha site suitable for mixed use redevelopment which would need to be undertaken in a sustainable and comprehensive way. Policy S1 'Proposed Shopping Sites' identifies Castle Piccadilly as a key opportunity to meet an identified need for new retail development. It is stated that the development would be for comparison goods retail with scope for some ancillary convenience goods retail. The text supporting the policy states that Castle Piccadilly would provide opportunities to enhance the vitality and viability of the City Centre. It is stated that any development of this site should be aimed at attracting a high quality department store operator and high quality comparison unit retailers, this would meet the needs of the city.

3.108 The emerging LDF Core Strategy contains policies which address issues of the city centre and market share. Castle Piccadilly is identified as a major development opportunity under Policy SP3 and is identified on the Key Diagram as an important component of the whole spatial strategy. Policy CS15 seeks to protect and enhance the retail role of the City Centre and Policy CS17 deals with the distribution of retail growth. The emerging policy seeks to support the vitality and viability of the City Centre, with the Central Shopping Area continuing to be the primary focus for new comparison goods retail development. The phasing approach

is set out namely to give priority to Castle Piccadilly pre-2020 and to prioritise York Central thereafter. Other out-of-centre retail developments will be considered in the light of the sequential approach and the impact on existing centres and retail allocations

3.109 One of the key aims of the NPPF is 'ensuring the vitality of town centres'. Local Planning Authorities should 'recognise town centres as the heart of their communities and pursue policies to support their viability and vitality' and 'promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres'.

3.110 The market share of York City Centre has declined significantly over recent years. In 2000 York City Centre's market share of retail spend was 37%. By 2004 this had dropped to 31%. The current market share is around 21%. Whilst this is only one of a number of health check indicators, it clearly outlines that the city centre's share of the overall market has been in decline.

3.111 Paragraph 26 of the NPPF states that when considering applications for retail development outside of town centres which are not in accordance with an up to date Local Plan, LPA's should require an impact assessment to be carried out. This should include an assessment of the impact of the proposal on town centre vitality and viability for five years from the time the application is made, or in the case of major schemes the impact can be assessed up to ten years after the application is made.

3.112 At a local level, Policy S2 of the DCLP 'Out of Centre Retail Warehouses' states that planning permission will be granted for out-of-centre retail warehouses or retail warehouse parks provided that no development has a net sales floorspace of less than 1,000 sqm and shall be not subsequently be subdivided and the products for sale are bulky goods. The purpose of this policy is to restrict the development of out of centre retail stores which may compete with those in the city centre.

3.113 Policy SP7b 'York City Centre and Central Shopping Area' states that York City Centre is to remain the main focus for retail development to ensure its continuing role as a major sub-regional shopping centre for North Yorkshire, benefiting from its location at the focus of public transport routes.

3.114 The emerging LDF Core Strategy contains policies which address issues of the city centre and market share. Policy CS15 seeks to protect and enhance the retail role of the City Centre and Policy CS17 deals with the distribution of retail growth. The emerging policy seeks to support the vitality and viability of the City Centre, with the Central Shopping Area continuing to be the primary focus for new comparison goods retail development.

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

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

Background And Health Check –

3.117 In terms of setting the context for impact assessments, it is common practice to carry out a health check of the centre where there is likely to be an impact. Health checks were referenced in PPS 4 which has now been replaced by the NPPF. The NPPF is silent on the need for health checks but DJD consider that they continue to play an important role in considering and judging the extent of significance of the impacts. Officers consider this to be a reasonable position as they are clearly important in terms of being able to assess the overall impact and draw location specific conclusions.

3.118 The health check produced by DJD was based on the submitted information of the applicants as well as through reviewing other useful information which is available. The health check looks at issues such as diversity of retail offer, performance in relation to national trends, mix of independent and national retailers, and level of strength given benefits of tourism. This can then be used to give an assessment of the current strength of the city centre and whether it is improving, stable, or declining. These health check indicators help to set the context understanding the level of impact on the vitality and viability of the city centre, which current planning policies at a national and local level look to protect and enhance.

3.119 York City Centre is considered to be a 'regional centre' on the basis of its volume and quality of retail offer. Given the distance to the nearest major centres, York is expected to draw spend from beyond its primary catchment area. The city and catchment area is expected to see above average population growth over the next five years.

3.120 DJD consider that further and continuing growth of out of centre retail locations is a particular issue for CYC in relation to the need to sustain and focus growth within the City Centre in both the short, medium and longer term and they consider that it is essential that the growth of out of centre locations be constrained to ensure that it does not provide a more direct and competitive offer to the City Centre.

3.121 York is considered to have a large amount of retail floorspace out of the centre. York City Centre has around 138,600 sq m of retail floorspace compared to 148,600 sq m in out of town locations. However, despite this York has been able to withstand competition in certain sectors by providing a different, distinctive and unique offer. However, maintaining this offer remains a significant challenge given the lack of available large floor plate stores which may have held York back in terms of its market share.

3.122 York City Centre's comparison goods share has remained static at around 21% between two household surveys in 2007 and 2010, although it has fallen from previous levels in 2004 and 2001. The static market share of the City Centre in very recent years needs to be contrasted with that of out of town retail areas. Between 2007 and 2010 when the City Centres market share was static, both Monks Cross and Clifton Moor increased their market shares. At the time of the 2008 GVA York Retail Study Monks Cross and Clifton Moor had a combined market share of 14% compared to the City Centre at 21%. In the recent 2010 household survey undertaken by the applicant this combined market share has increased to 20% (8% for Monks Cross and 12% for Clifton Moor). The NPPF states that where town centres are in decline, LPA's should plan positively for their future to encourage economic activity.

3.123 GVA's health check indicators highlight the strength of City Centres offer in terms of food and drink uses which is significantly as a result of its tourist trade. York has a broadly expected volume and quality of retail provision given the size and affluence of the shopping population, but has a below average representation of fashion retailers in comparison to regional centres as a whole.

3.124 Rent levels are often used as a guide to help understand the strength of a City Centre as they can reflect demand. It is highlighted that York's rent levels have decreased by around 10% in the last 2 or 3 years. This level of reduction is below that of many other centres and is likely the result of the recent macro-economic climate. Whilst a better than average fall is a sign of strength it clearly highlights the existing pressure the city centre, as others, are under. In terms of yields, which are often considered to be a good indicator of investor confidence, again York's yields have been strong in relation to some other local centres. Footfall in the city centre has remained reasonably static in recent years, with small fluctuations up and down apparent.

3.125 Overall it is considered that the City Centre is vibrant and vital with a good mix of national retailers and independent and specialist shops. The quality of the environment and mix of retail and leisure uses gives it a competitive advantage over many other retail centres. However, there are signs of decline in terms of its market

share and concerns are raised as to the lack of large floor plate stores in the centre and the continued growth of market share of out of town retail destinations.

3.126 The above summary of the health of the city centre sets the context for the 'impact test' which assesses the impact of a development on the existing centre in qualitative and quantitative terms. This is done through an analysis of issues such as trade draw from the city centre and the impact on market share and the implications of this. Impact tests also assess the impact of a development on planned future investment in the city centre.

Applicants Case

3.127 The applicant submitted an impact assessment in support of their proposals. The below summary covers both impact issues of the impact on planned investment and the impact on the vitality and viability of the city centre. In summary the applicant's impact assessment concludes:

- Whilst all centres in the catchment have been considered, York is the only feasible centre worth detailed examination in terms of impact on investment;;
- Whilst Marks and Spencer are to close the Coppergate store it is part of the package of measures including a multi-million pound refurbishment of their Parliament Street store, which would have a positive impact;
- The Hungate scheme would not be prejudiced and retail uses are very much ancillary to the main office and residential uses;
- Castle Piccadilly has not come to fruition due to the site's complexities and the nature of the proposed development the proposal would not directly compete with Castle Piccadilly, Marks and Spencer would not relocate there;
- There is no evidence that planned investment in other sites would be prejudiced;
- York is considered to be a very popular centre with high footfall and is extremely vital and vibrant;
- Of all the money to be spent at the proposed retail development, 25.2% of this would be diverted from York City Centre (which equates to £38.9m), with £28.4m of spend being diverted from the existing Monks Cross Retail Park and £21.7m of spend to be drawn from Clifton Moor Retail Park. The remaining spend at the proposed stores would be diverted away from a variety of centres such as Leeds, Malton and Selby;
- Some of this spend diversion from existing areas would be clawed-back to the catchment area as a whole due to the increased choice and quality of York's retail offer. The proposal would claw-back £28.6m from surrounding catchments, with the majority coming from Leeds City Centre (£12.75m);
- The proposed development would result in 6.7% less money being spent on comparison goods retail in the city centre;
- The impact on York City Centre would be short lived, due to the influence of the Castle Piccadilly Scheme and commitments at Hungate which would strengthen the city centres retail offer;

- There is no clear evidence that the proposed development would result in significant adverse impacts on York City Centre. The trade which is diverted from York City Centre represents a 'negative impact', albeit short lived.

ASSESSMENT OF IMPACT TEST

Impact On Planned Investment

3.128 DJD and the Council's Integrated Strategy Unit assessed the application in the context of the health check information and the applicants submission with the aim of creating an independent analysis of the impact of the proposed retail units on York City Centre in terms of the impact on existing, committed and planned investment and the vitality and viability of the City Centre.

3.129 The first impact test set out in the NPPF is the impact on existing, committed and planned investment in a centre or centres in the catchment area. Clearly local planning policy is strongly supportive of the future development of the Castle Piccadilly site predominantly for retail and in the medium term a mixed use development at York Central.

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

3.131 In drawing this conclusion DJD considered information provided by the Council in terms of current pre-application work which is taking place with the preferred developer and publicly available information outlining the progress which is being made in terms of bringing forward a scheme. Much of this information is referred to within the sequential test analysis within this section of the report. The view of DJD that Castle Piccadilly has a reasonable prospect of being brought forward within the short term is consistent with the Council's planning policies which place significant emphasis on the need for this site to be developed to create consumer choice and improve York's retail offer and market share, helping it to remain competitive with rival centres. DJD and Integrated Strategy conclude that Castle Piccadilly is a planned investment that would directly contribute to the City Centre, given the site's relationship with the Central Shopping Area.

3.132 The scale of development proposed would significantly expand the market share of Monks Cross as a retail destination, some growth would come at the

expense of the City Centre. The proposed development would reduce the city centre's market share through drawing trade away, this in turn would impact upon operator demand and investor confidence in the City Centre. Clearly Castle Piccadilly is a site which contains constraints and is located within a visually important part of the city. Any development at this site would need to be high quality and would not be delivered at low cost. Clearly, investors would need to strong evidence of both high demand and a strong and thriving existing centre if they are to justify the expense and the associated risks of bringing forward a substantial city centre retail expansion. Any scheme at Castle Piccadilly is likely to require strong rent levels from quality retailers to make it financially viable to deliver. Any scheme which reduces the market share of the city centre significantly, appears likely to negatively impact upon the ability to deliver an alternative and costly scheme. Additionally, the type of large format retailers proposed at Monks Cross South, particularly John Lewis, are the type of anchor stores which are needed to make a new retail expansion scheme financially viable. Anchor stores draw in customers which attracts other retailers to open smaller stores around them. Taking large format anchor stores out of the city centre restricts the ability to deliver schemes in the city centre. Monks Cross as a destination would become more attractive to customers given the proposed retailers in place, potentially reducing the relative attractiveness of the City Centre to customers.

3.133 A further consideration in this regard is the letter of objection submitted by La Salle which is summarised earlier within this report. La Salle clearly state that should the proposed Monks Cross South retail scheme be approved, the preferred developers at Castle Piccadilly would sell the site off in small parcels to maximise returns and walk away from any development scheme. Members can attach weight they consider appropriate to this letter of objection from La Salle. DJD believe there is sufficient evidence to conclude that the proposed development at Monks Cross South '...will constrain the Council's ability to deliver planned investment at the Castle Piccadilly site'.

3.134 The emerging Core Strategy seeks to bring forward the York Central site to meet a significant proportion of its total residential and employment needs post 2020. Part of the Core Strategy's approach to delivering residential and employment development on what is a heavily constrained site, includes creating some retail floorspace to help fund infrastructure works necessary to make the site deliverable. Retail at York Central would have an impact on the city centre and the Core Strategy clearly places a need on Castle Piccadilly to come forward to counter any trade loss as a result of York Central. Should Castle Piccadilly not come forward, or should the City Centre be adversely impacted by retail expansion at Monks Cross, there are concerns as to the City Centre's ability to withstand the competition from retail at York Central. This would raise serious concerns about delivery of York Central as a whole. Should this application be approved or more seriously should it be approved and as a consequence Castle Piccadilly not come

forward, it also significantly increases the possibility of York Central not coming forward in the future. The proposed development has the potential to have a significant impact on planned future investment. Such a situation would have significant implications on the emerging LDF Core Strategy which places significant strategic importance on Castle Piccadilly coming forward which could in turn create opportunities for York Central to be delivered.

Impact On The Vitality And Viability Of The City Centre

3.135 The second impact test outlined in the NPPF is the impact on city centre vitality and viability. Prior to the submission of the application, a number of key inputs were agreed with the applicants. This included such things as York's catchment area, the predicted population increase in coming years, and the predicted increase in consumer spend. From these inputs it is possible to create different analysis of the retail impact. The reason for this is that variables within the analysis such as where retail spend would be diverted from creates different conclusions. Clearly the applicant's submission contains one set of assumptions and gives a certain level of trade diversion, namely that 6.7% less money would be spent on comparison goods in the city centre. However, as presented earlier within this report a submission from GVA Grimley in objection to the application puts the likely trade diversion from the city centre at 15-20% (equating to at least £95m). One of the primary reasons for the difference is predictions as to where trade would be drawn from, GVA believe that at least 50% of the future spend at the proposed retail units would be drawn from the City Centre. The applicants believe this would only be 25%. GVA dispute the claim that the proposal would result in significant lost trade at the existing Monks Cross Retail Park as they believe that the proposal would increase the attractiveness of and reinforce the existing retail offer. This would add to the level of direct competition with the city centre. Issues around trade draw are subjective and open to interpretation to an extent.

3.136 Due to the complexity of the arguments and a need to be thorough and balanced in any assessment, DJD carried out their own retail impact assessment of the proposed development. The table below presents a summary of the impact assessment that DJD consider would result from the proposed development, the table also includes the result of the proposed developments at the existing Monks Cross Shopping Park as well as the cumulative impact:

Centre / Location	Stadium Proposal	MCSP Proposal	Cumulative
York City Centre	8.76%	1.76%	10.52%
Other Out-of-centre Zone 1	11.60%	2.02%	13.62%
Monks Cross Shopping Park (Existing)	10.42%	2.67%	13.09%
Clifton Moor	5.06%	1.09%	6.15%
Selby Town Centre	3.08%	1.03%	4.10%
Harrogate Town Centre	1.45%	0.17%	1.63%

3.137 DJD's view is that the impact on York City Centre as a result of the stadium proposal is estimated to be a trade diversion in the region of £51m in 2016 which represents almost 9% impact on the turnover of York City Centre. In simple terms, £51m which would otherwise have been spent in the city centre would be spent at the proposed development should it go ahead. Given the location of Monks Cross within York, it is likely that any major retail proposal which sells goods similar to those found in the city centre, is going to draw trade from the city centre. DJD conclude that this trade draw is considered to be significantly adverse. The applicants do not state that the proposal would not create retail harm in the City Centre, it is the level of harm for which there is disagreement.

3.138 The above interpretation of the level of trade draw from the city centre does not take account of 'uplift'. The term uplift is used to describe the additional demand created at a retail destination as a result of its attractiveness as a destination/centre increasing. As the table shows, DJD's model shows that Monks Cross Shopping Park as existing would suffer a loss of trade equating to a little over 10%. What retail modelling is not able to do is take account of the uplift of one destination in relation to others. For example, it is reasonable to assume that should the proposed retail development at Monks Cross South go ahead, that the 'destination' of Monks Cross would become more attractive. Monks Cross as a whole would experience an element of uplift reflecting its level of attractiveness to shoppers. The model presents predicted levels of trade draw from destinations as they currently stand, it does not account for how each retail destination may change in the retail hierarchy. Clearly, should Monks Cross increase its overall retail offer, the additional customers attracted by its growing offer may offset some of the predicted trade draw from existing Monks Cross Shopping Park stores and add further to the level of impact and lost trade in other areas, such as the City Centre.

3.139 The application seeks to expand the 'open A1' retail provision in an out of centre location. The proposed end users would sell products including clothing and footwear, personal and luxury goods, and home furnishings. Typically, many permissions in 'out of centre' locations are restricted to bulky goods or specific

categories. This is to limit the impact on the City Centre. DJD consider that there is particular concern that the impact of the proposal on the clothing and footwear sector and personal and luxury goods sector of the City Centre could be very significant. The current market share of the City Centre in those sectors remains strong; as against certain other sectors where out of centre provision has become much more dominant over recent years. Clothing and footwear and personal and luxury goods are considered to be fundamentally important to the future vitality of the City Centre as a retail destination. These retail sectors are under significant pressure from other centres and existing out-of-centre facilities. The proposed development would result in increased pressure on existing city centre retailers who offer a similar product. This would result in a decline in the market share of the City Centre for these types of products which places at risk the type and range of goods on offer in the City Centre in the future. Increased competition for goods for which the City Centre currently competes strongly could undermine the strength of the City Centre as a retail destination as a whole. Retailers are dependent on one-another to attract footfall and customers looking for similar products.

3.140 The retail offer of York City Centre has changed over the last 10 - 20 years with significant reductions in areas such as electrical goods and home furnishings. It has, however, maintained a strong position in terms of clothing, footwear, and specialist retailing. This sector is important to the centres continued retail success which will otherwise become increasingly leisure dominated. The proposals as they currently stand will have a negative effect on these sectors. This is likely to be felt most acutely by those retailers who are unable to adjust their business model through changing ranges such as the independents on secondary streets. There is the potential that store failures which would result from the proposed lost trade may not lead to a dramatic increase in vacancy levels. This is because of the strength of the City Centre as a draw for visitors which could result in some of these empty units being re-occupied by food and drink operations. However, clearly there is a limit as to how much demand there would be for these types of uses. The proposed development would impact on existing comparison goods retailers in the city centre and there is a concern that over time this could dramatically change the dynamic of the city centre as a retail destination. Part of the City Centre's strength is its mix of national and independent and specialist traders combined with its leisure offer. Advice received is that independent and specialist shops are generally less resilient to loss of retail spend. A loss of independent and specialist stores and an overall loss of retail units from the City Centre would alter its mix towards a more leisure based destination which could harm the overall attractiveness of the City Centre in the future.

3.141 York City Centre has suffered from a reduction trade in relation to other centres in the last 10 years. Furthermore there is evidence that the type of occupiers of the City Centre units has changed in recent years. There has been a reduction in A1 retail units and an increase in food and drink uses. Whilst the 2008

GVA Retail Study concludes that the city centre is an attractive and vibrant destination and generally performing well, as is broadly brought out in the health check, there are some areas of concern in terms of the lack of large scale retail formats available in the city centre, a general decline in market share, and growing spend at out of town retail destinations.

3.142 There is already an extensive array of out of centre facilities within York and some of the developments that have occurred at Clifton Moor, York Designer Outlet and Monks Cross Shopping Park are effectively some of the larger, more significant shopping centre and factory outlet centres that have been built in the region. DJD state within their assessment of this application that if both this application and the proposed works to the existing Monks Cross Shopping Park were approved, that the market share of York City Centre would reduce to around 18% whilst the combined market share of Monks Cross and Clifton Moor would increase to circa 25% (Monks Cross 14% and Clifton Moor 11%), well above that of the city centre. When combined with other out of centre facilities this increases to 27.5%.

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

3.144 DJD express concern within their report that approving the proposed development could make it more difficult to resist further out of town development in the future. It is considered that if this application is approved Members may create a two centre retail approach, whereby there would be pressure to allocate both the City Centre and Monks Cross as retail centres in planning policy. In this situation Monks Cross would not be considered an out of town retail destination and would be afforded a higher status in planning policy. Resisting further retail expansion at Monks Cross in this situation would be more difficult than current policies allow.

3.145 In recent years there has been a significant increase in online retail spend. Given this context, the already substantial amount of out of town retail within the

area, the recent and proposed expansion of retail offer at local rival centres, the current economic conditions, and the health check concerns raised above, it is clear that the City Centre retail offer is already under pressure. Whilst there is forecast to be a general population and expenditure growth in the retail catchment area in the next five years, DJD consider that given the size of retail units proposed and the type of goods to be sold, that the retail impact on the city centre would be significantly adverse. The NPPF is clear that applications which have a significant adverse impact should be refused.

3.146 As identified in the Core Strategy, the city centre is the “economic, social and cultural heart of York.” Its value is not only in its draw for visitors and residents, but is a key part of the international brand of the city as it is recognized. It is Government’s current policy position that new retail development should be provided within and adjacent to town centres and to pursue sustainable development. The recent comments by Greg Clark following the issue of the NPPF are pertinent. Greg Clark in defining "sustainable" said: "It's not sustainable to have a shopping centre outside the town centre...". The Government, within the NPPF, have retained both the sequential test and the impact test in relation to new retail development together with clear advice that new development should be located in towns/cities first. At a local level policies in the draft local plan and the emerging Core Strategy both direct new development to the city centre first and in fact the Core Strategy, in its effect, aims to stop further out of town development. The GVA retail report 2008 says that the Council should seek to resist any further out of town shopping. In a planning context this needs to be balanced against other relevant material planning considerations.

Cumulative Impacts

3.147 This application is being considered at the same Planning Committee as two applications for an extension of the retail offer at Monks Cross Shopping Park (MCSP) (ref no’s 11/02199/OUTM and 11/02208/FULM). Whilst each application is to be considered on its own merits, it is considered that there are cumulative impacts which would result from approving this application with either of both of the MCSP applications. The issue of cumulative impacts needs to be taken into consideration.

3.148 The impacts of the proposed smaller units at MCSP combined with the proposed large floorplate units at both MCSP and Monks Cross South are considered to have a significantly adverse impact on both planned investment and the vitality and viability of in-centre trade. The larger stores would create anchor units which are needed at Castle Piccadilly in order to make it viable.

3.149 As stated within the table presented above, the cumulative trade draw from the city centre as a result of both applications is projected to be 10.52% which

equates to approximately £61m per annum. This does not take account of any uplift which is likely to result from Monks Cross becoming a more attractive shopping destination in relation to the City Centre.

Retail Impact Conclusions

3.150 There are two key policy tests relevant to the consideration of the retail development - the sequential test and the impact assessment.

3.151 Under the NPPF, main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available, should out of centre sites be considered. The emerging LDF Core Strategy fits with this approach.

3.152 Given the evidence that the Castle Piccadilly site is available and suitable for retail development within the short to medium term and that it is a sequentially preferable site it is considered that the sequential test has not been fully satisfied for the proposal.

3.153 The first impact test as set out in NPPF is the impact on existing, committed and planned investment in a centre or centres in the catchment area of the proposal. The second impact test outlined in the NPPF is the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

3.154 Current evidence indicates that York City Centre is a vital and viable centre but with some particular issues of concern. The proposal under consideration would have a significant impact on the City Centre both in terms of trade diversion and loss of market share. It could also potentially have a significant impact on the Castle Piccadilly investment both in terms of operator demand and investor confidence. It is considered that the proposal will have significant adverse impacts and would therefore fail the impact tests set out in paragraph 26 and 27 of NPPF and contrary to national and local retail policy.

3.155 Taken cumulatively with the proposed developments at Monks Cross Shopping Park, the proposal would have a greater impact on the vitality and viability of the city centre.

HIGHWAY AND TRAFFIC CONSIDERATIONS AND ISSUES

Policy Context

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

should take account of whether:

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

3.157 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas. (para.34) Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport. (Para 35)

3.158 A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan. (Para.36) Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.'(para 37)

Section 15 of the LDF Core Strategy 'Sustainable Transport' establishes five strategic transport objectives, which also provide the themes for the LTP3 strategy:

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

3.159 Core Strategy Policy CS18 (i) states that:

New development will be required to be in locations which are (or can be) well

served by public transport, accessible by walking and cycling and have good access to a range of local facilities. The layout of sites should also give priority to the needs of pedestrians, cyclists and public transport users.

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

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

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

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

LPA Considerations

3.164 It is considered that there are six key highway considerations. In terms of the retail elements of the application the considerations are sustainability of the site, vehicular access and traffic implications, mitigation, car parking, and public transport. Stadium highway issues relating to the proposed stadium are discussed following this.

Sustainability of the Site

3.165 The NPPF, DCLP and emerging Core Strategy all support sustainable

development. Part of the consideration of what constitutes sustainable development is the location of a development. Planning policies seek to direct developments to locations which reduce the need to travel.

3.166 The application site is within the outer ring road and within the urban area of York. The site is approximately 3 miles from the city centre and is located close to a Park and Ride facility.

3.167 The site is accessible on foot and by bicycle for residents who live in the north east part of the City. The site is also accessible by bus from the city centre. It is therefore considered that the site has some positive attributes when it comes to travel sustainability.

3.168 However, for the majority of residents of the city, the City Centre is a substantially more accessible location than Monks Cross. The city centre can be reached by foot and by bicycle for a significantly greater proportion of the city than Monks Cross. Additionally, most areas of the city have a direct bus service to the City Centre. Monks Cross would require two separate bus journeys for the majority of residents which disincentivises public transport as a mode of travel to Monks Cross.

3.169 A substantial number of objections to the application expressed serious concerns about large retail units being located out of town due to the difficulty that some residents would have in accessing them. As well as an environmental sustainability issue, this is also a social sustainability consideration. City centres are considered to be the economic, social and cultural heart of York; they are the locations where communities come together.

3.170 Monks Cross South benefits from being located close to the outer ring road with good local connections to many residential areas in the city. It is considered that these circumstances together with the aforementioned limited sustainable travel options are the main reasons for the high traffic generation shown in the TA. Traffic congestion considerations are discussed in detail in the following section of this report, but from a purely sustainable travel choice perspective, it is considered that retail development at Monks Cross South runs contrary with the aims of reducing the dependence on the private car.

3.171 The applicants have submitted a Transport Assessment (TA) and Travel Plan (TP) which they consider incorporate a range of measures designed to comply with the Councils overarching transport policies on maximising the potential for travel by foot or on bicycle. Any development is expected to comply with these aims set out within LTP3, the LSTF programme and Monks Cross Transport Masterplan (TM). The TM looks at the accessibility of the site by such modes including available routes, distance and time factors and identifies where measures may be expected to generate most significant benefits; including improving connectivity from Monks

Cross to the west and south from neighbouring areas; increase the appeal of existing infrastructure; improvement of further connections including the Malton Road corridor.

3.172 The applicant's TA and TP contains highway infrastructure improvements including a new signal controlled crossing on Jockey Lane and the redesign of a section of Kathryn Avenue adjacent to the development, to provide greater space to cater for improved pedestrian and cycle movement. In addition the developer has agreed with some of the measures sought through the Council's TM and has proposed to provide a level of monies that would be utilised by the council, in contribution to delivery of TM measures. This contribution is a proportion of the total funding the developer has set aside for all transport/highway mitigation. It is considered by the Council's Highway team that the proposed total level of highway funding is inadequate. Therefore not all of the necessary highway improvement works required can be undertaken and therefore it is not possible to provide certainty as to the deliverability of the walking and cycling improvement measures outlined above.

Vehicular Access and Traffic Implications

3.173 It is proposed to provide five points of access in total to the Monks Cross South site. This includes a new restricted movement vehicular access to Jockey Lane, solely for the Stadium and certain users/visitors; access from Kathryn Avenue, both for servicing traffic to the retail/ancillary units and as an egress for traffic from the official Stadium car park, including coaches (which enter via Jockey Lane); a new primary access to the retail area from a new 5 arm roundabout at the northern end of Martello Way, a new signal controlled junction from Jockey Lane (no right turn out) and a new egress only to Jockey Lane.

3.174 It is proposed to alter Martello Way, to provide appropriate provision for buses, such that they are not hindered by traffic associated with the enabling development. The agreed design includes an outbound bus lane to ensure that P&R and any other bus services have a clear run between the site exit and the Jockey Lane roundabout. Some alterations are proposed inbound to separate traffic accessing the P&R from traffic heading into the proposed retail park. The design has allowed for some future proofing, should further insulation for buses be demonstrated to be necessary.

3.175 The design of all access points and above works has been reviewed by officers and been subject to a Stage 1 Road Safety Audit.

3.176 The proposed development would be a very substantial trip generator The total peak two way trips associated with the Monks Cross South proposal would be in the region of 4000. This is the number of vehicle trips that would be generated by around 8000 homes in the peak morning hour, this is equivalent to the peak hour

traffic generated by a combination of all houses within Strensall, Haxby and Wigginton. The applicant has proposed that 40% of these trips will be linked and therefore not entirely new journeys. The proposal would have a very noticeable impact on parts of York's highway network. The most significant impacts from the proposed development will occur during the weekday PM peak period (1600 to 1800 hours) and during the Saturday afternoon matchday peak period (1400 to 1500 hours).

3.177 The scale of additional traffic would result in significant congestion and increased journey times including on York's Outer Ring Road. Two-way vehicle flows on parts of Malton Road would double during peak periods from 1000 to 2000 per hour. These flows are similar to those currently observed on the Northern sections of the ORR during peak periods. There will also be increased congestion at the 'Magic' Hewoth Green Roundabout with local roads such as Straylands/Woodlands Grove and Hopgrove Lane South being particularly vulnerable to increases in traffic as people seek alternative routes.

3.178 In 2002, the Planning Committee considered a report that advised that a proposed 40,000m² office development at Monks Cross South would create the traffic impacts on several junctions which need to be mitigated. One of these included the Hopgrove interchange, which has subsequently been subject to improvements by the Highways Agency. The Council have also, since that time, provided the P & R and supplementary measures on the Malton Road corridor for bus, cycle and pedestrian movement.

3.179 A Monks Cross Masterplan was produced in conjunction with Halcrow in 2010 to advise the Council on the anticipated implications of a range of possible sites for the Stadium. More recent work was carried out following the selection of Monks Cross as the preferred location for a new stadium with enabling development. The brief for this work was to establish the potential impact of a stadium and enabling retail development and how this could be minimised through a *Step Change* in travel for the area, including how it might be possible to reduce car trips by increasing those on bus, on foot and by bike. This aligns with LTP3 and specifically the successful bid made to the Government under the LSTF programme.

3.180 The Masterplan set out to predict what level of traffic impacts the development would have and at which locations. This work has carried out at a higher level than that submitted in the applicants TA using the authorities strategic SATURN highway model. However it is considered that it provides a reasoned representation of where impacts may be expected and the potential scale of these.

3.181 The transport consultant acting on behalf of the developer has presented an assessment of the changes and increases in vehicular traffic, which highlights that the additional car trips generated by the retail elements will have a range of material impacts in several areas on the highway network. The implication of this would be a

deterioration of the operational performance of key links and junctions. People will experience additional congestion with more overall delay and increasing journey times. There are other possible effects such as the diversion of traffic to non primary/residential routes, with associated environmental issues and possible impacts upon bus services. The assessment periods (in accordance with standard practice) focus on the peak hours, being a weekday tea time peak, but with the Saturday afternoon period of 1400-1500 being the most intense. The additional impacts of Stadium traffic are also tested for this period.

3.182 The submitted TA is considered to underestimate the level of detrimental impact on the highway network when compared against the Monks Cross Masterplan and furthermore the TA assumes that all TP outcomes are achieved.. The locations where the TA suggests problems are likely to occur as a result of the development are:

- A1036 Malton Road/Hopgrove Lane
- Martello Way (Malton Road/Jockey Lane)
- Jockey Lane/Kathryn Avenue/Monks Cross Drive
- A1237 Outer Ring Road/Haxby Road
- A1237 Outer Ring Road/Strensall Road
- A1036 Malton Road/Heworth Green/Stockton Lane
- A64/Hopgrove/Malton Road

3.183 In addition to the locations suggested in the applicants TA impacts at the following locations are also likely and need to be considered in the determination of this application:

- A1036 Malton Road, from Hopgrove southwards, up to and including the Jockey Lane roundabout - concerns regarding the ability of this link to accommodate south bound link flows, with queuing and delay resulting. (NB – the proposed and approved 2002 office development highlighted a similar issue and proposed a mitigation scheme to provide additional lane capacity to achieve a reasonable level of link and junction operation). The predicted increase in two way flows on this section of Malton Road, arising from the Oakgate development is particularly substantial, doubling from circa 1000 to 2000, Saturday Peak Hour (2pm-3pm). This level of traffic is comparable to some sections of the northern ORR. The volume of traffic wanting to turn right from Malton Road at the Jockey Lane Roundabout, is indicated (in the TA) to increase by over 600 (Sat Pk Hr). Taking into account the previously highlighted need to provide improvements coupled with such a large increase in demand, it is concluded that the impact on the link and roundabout/junction has the potential to be greater than that predicted in the developers TA.

- A1237 Outer Ring Road/Monks Cross Link/North Lane - as one of the two key junctions where traffic will have to pass through, the outputs generated in the TA of almost negligible impact and no discernible change to queues, this is difficult to reconcile, with the increases in traffic flow demand (e.g. TA indicates + 400 Monks Cross Link), the known capacity/operational issues on the A1237 generally and the recognition that improvements to this junction were deemed necessary under the former development proposals. Furthermore the volume and assignment of development traffic (through the TA) to the A1237 ORR in particular, is considered optimistic, based upon a comparison with current traffic distributions.
- Malton Road/Straylands - this is reviewed in the TA and impacts in terms of queuing/delay on Straylands Grove, are shown to be almost negligible; historically evidence exists which shows that this junction has been shown to be vulnerable to use by non local traffic particularly at peak times and several years ago a scheme was considered to limit access via a bollard. This was not subsequently approved. This route/area has again been flagged in the recent TM work as being susceptible to traffic increases and this is considered a reasoned prediction.
- A1237 Outer Ring Road - The applicants TA recognises that the Outer Ring Road junctions with Haxby Road and to a lesser degree at Strensall Road would operate in excess of their capacity in 2016 without the enabling development and Stadium, with considerable queuing present on the A1237. With the loading of traffic resulting from the proposed retail development, the modelling predicts that such circumstances would worsen, with longer queues. The proposed queuing would be extensive on sections of the northern Outer Ring Road with Highway Officers stating that a feasible outcome is of queuing running from one junction/roundabout to the next. A further significant deterioration of this situation would be created during a typical stadium event (3500 spectators) with the junction at A1237/Haxby Road being significantly worse.

3.184 The concern is that the applicant's TA assessment is too optimistic and that the traffic changes generated by primarily the retail, but also in conjunction with Saturday match day traffic, would result in more significant impacts and at more locations than the TA suggests. The concerns are founded upon two reports produced for the Council in 2010/2011 by Halcrow, historic work undertaken for previously anticipated developments at Monks Cross, and supplemented with experience of the operation of the highway network in the City, its current congestion locations and the highway network's known vulnerability to changes in traffic conditions.

Mitigation

3.185 The strategic assessment undertaken with Halcrow in 2010 to advise the Council that retail enabling development at Monks Cross South would be likely to exert significant pressure on the surrounding highway network, advising a need for a mitigation package of circa £4m. This included major transport interventions. Given the traffic implications presented within the applicants TA and those presented above in the 'traffic implications' section of the report, highway mitigation measures are an important consideration. The applicants are offering £1.1m for all transport works.

3.186 The applicants submitted TA states that the projected additional traffic numbers can be accommodated without impacts on the operation of the wider network and proposes no physical mitigation suggesting that effective travel plans are the solution. The approach is simply that development traffic will add to the back of an existing queue. Highway Officers are not comfortable in commending this approach, as it is felt to place considerable risk on the Council.

3.187 Whilst accepting that the development cannot be expected to address "current" operation/capacity problems, it is wholly reasonable to require that highway conditions are mitigated for, appropriate to the impact arising from new development. With respect to the A1237 Outer Ring Road, the Council has for some time set out a range of objectives/measures to improve highway performance, such that the strategic function of this primary route is better provided for including tackling link flow and junction capacity. The intention is to progress this through Access York 2 which would pursue available funding streams from Central Government. It is the opinion of the Highways team that the applicants proposed approach of not funding substantial physical mitigation schemes would have a detrimental impact on the principle highway network and this places significant risk on the Council as it may be necessary to fund such mitigation schemes in the future. The Highways team conclude that the traffic impacts arising out of proposed development scheme cannot be ignored and should be mitigated.

3.188 The applicants have offered a total highway mitigation fund which can be used by the Council on schemes it deems necessary. A scheme has been agreed in principle with the Highways Agency to upgrade a section of the Hopgrove roundabout. However, funds for such works would come out of the total mitigation fund. No new monies have been found for this work which was not originally part of the highway mitigation proposal.

3.189 Highway Officers consider what is proposed to be significantly below what is necessary to mitigate the impacts of the scheme. Much of the proposed mitigation is in the form of soft measures aiming to create a modal shift. The approach of encouraging modal shift away from the private car and towards more sustainable transport choice is considered to be positive. However, it is not considered that

such an approach is sufficient given the application sites location. Evidence from the existing Monks Cross Shopping Park highlights very high levels of private car use amongst its customers.

3.190 The applicants propose to gather data following the completion of the development in order to assess whether traffic levels are above what is predicted. The applicants propose to gather traffic data through the installation of automatic traffic counters supplemented with manual surveys where necessary. This approach would provide a robust and accurate picture of traffic patterns on the network, which would subsequently be compared against post development data. Full details would need to be specified and agreed with 2 or 3 years of 'after surveys' be collected. This would be fully funded by the development and is considered to be a suitable approach by the Highways team.

3.191 However, for such an approach to be recommended it must be supported by a level of 'bond/surety', that can be called upon to either directly facilitate any mitigation proven to be necessary to junctions. Or alternatively for such funding to be guaranteed for a period of years and available for draw down by the Council, in implementing a more comprehensive scheme of network improvements.

Based upon previous high level estimates, this would include for:-

- Improvements along Malton Road between Hopgrove Lane and Jockey Lane/Martello Way.
- Improvements at the above roundabout.
- Improvements at A1237/Monks Link/North Lane roundabout
- Contribution towards improvements at A1237/Haxby Road roundabout
- Contribution towards improvements at A1237/Strensall Road roundabout
- Jockey Lane/Kathryn Avenue/Monks Cross Drive – roundabout and approaching links.
- Detailed analysis of the Heworth Green/Magic Roundabout and consideration of options/implementation.
- Consideration/implementation of traffic management measures to protect residential streets, e.g. Straylands.

3.192 The proposed level of highway mitigation funds falls significantly short of the required level and therefore the identified highway impacts would not be mitigated against.

3.193 The applicants proposal should problems be created would be to implement measures through the Travel Plan. Whilst the submitted TP contents are quite comprehensive, as with other transport matters, Highway Officers are concerned with some of the approaches and the ability to achieve objectives of mitigating traffic harm given the funds available. Furthermore, the plans place significant

expectations and reliance upon a variety of bodies outside of the development, with responsibilities to provide resources over future years.

3.194 It is considered important that from the Council's perspective, that future responsibilities and commitments are fully appreciated at this stage – including staffing resource and potential budgetary implications.

3.195 The plans suggest that if vehicle trip generations are exceeded, a mitigation fund of £250K for the retail development and £50K for the Stadium would be available to draw upon – with the aim of reducing such trips through remedial measures.

3.196 However, the plan then states that the scale and form of mitigation required would be based upon travel plan questionnaire surveys; the collection of such being the responsibility of the appointed framework TP co-ordinator who are also to identify an appropriate mitigation strategy and agree the measures and timescale for implementation with the TP Steering Group; such measures to be funded from the above bonds.

3.197 It goes on to say that “*highway works additional to those proposed should only be considered as a last resort*”.

3.198 From an officer perspective there is again felt to be a significant element of risk with the above approach. It is not clear what scale and form, such measures could comprise – and being realistic, with retail development, influencing travel patterns in retrospect, could be extremely challenging. It is right to approach the need for highway works carefully – however, the strategy put forward on behalf of the developer appears questionable and reliant upon agreement from parties that may not wish to support future measures.

3.199 This concern is felt to be further highlighted through the second stage approach put forward for “*further control measures*”, in the event of the initial measures proving ineffective.

3.200 The TP suggests that the most appropriate “*further control measures*” would focus on the level of on site car parking.

The Steering Group would agree to a range of measures, possibly including:-

- Restricting the total number of parking spaces that can be used at peak periods (e.g. 1100 – 1300/ 1600 – 1900 or on a Saturday afternoon)
- Increasing spaces for “high occupancy cars” (via car park management)
- Control spaces that can be used by staff
- Modify signal timings to respect traffic exiting the development.

3.201 The above are not considered to be representative of realistic or credible proposals. These relate to the retail development and it would be difficult to imagine the retailers wanting to restrict customer access/egress. The staff parking is feasible on site; however, it may lead to this being sought elsewhere. The modification of signal timings is not something that officers would support, as it runs counter to TMA objectives, would be complicated to implement, divert traffic to alternate routes and be likely to result in general criticism.

3.202 The enabling TP also includes for monitoring via surveys of possible retail and staff parking issues that arising in residential streets within a 1 km walking distance. As a principle this is supported, however, the required robustness of surveys and the resourcing to monitor and review such work over such a significant area, is likely to be difficult to achieve from the level of resource the developer is committed to. From experience, similar implications can lead to expectations and responsibilities falling on Council resources.

Car Parking

3.203 Using the standard accepted and established method of quantifying the appropriate level of car parking spaces required for the proposed development indicates that circa 1,000/1050 spaces are appropriate. This relates to the maximum levels of occupancy likely to be experienced at the busiest times, which only occurs over a period of 1 or 2 hours per week.

3.204 The application proposes 1340 car parking spaces which is significantly above what Highway Officers consider to be necessary. This could lead to a significant under utilisation of the car park for the majority of the week; this has been seen locally and nationally at a number of similar out of town retail parks.

3.205 Highway Officers have looked closely at the evidence base provided by MCSP, which demonstrates that whilst the car park is well used and operates at the busiest times at around 95% of its capacity, that spaces are always available – although ‘hunting’ can be necessary. It is considered that achieving a degree of consistency in volume of car parking between the two retail areas is wholly appropriate.

3.206 Highway Officers, in establishing a Transport Masterplan (TM) for the Monks Cross Area as a whole, sought to achieve a ‘Step Change’ in travel patterns, with the objective of making the area much more attractive and accessible by public transport, together with walking and cycling. It is contrary to both national and local planning objectives to approve development where travel by car dominates with limited prospects for other forms of travel. It is believed that currently 95% of travel to Monks Cross is made by car currently.

3.207 In line with the Local Transport Plan and emerging LDF Core Strategy it is considered by Highway Officers that modal shift is absolutely essential for Monks Cross. 35% of journeys to the city centre are via Public Transport, a target of 10% is considered appropriate for Monks Cross given its location. This target acknowledges that given the geographical location and retail offer that journeys by car would be the mode of choice for the majority. It is considered that the proposed significant oversupply of car parking spaces would undermine the Council's aim and measures proposed to achieve a 'step change' in travel choice.

3.208 Both the Council's Highway team and the applicant's transport consultants do not believe that queues beyond the site are likely if the car park ever reaches capacity. Based upon the indicative internal layout and area of land set aside for parking and access aisles, Highway Officers advise that there would be very significant space within the site for even the busiest times. Therefore it is not considered that reducing the capacity of the car park would have any adverse impact on the immediate highway network. Such a large supply of car parking makes it less likely that people would make journeys at alternate times and/or shift to more sustainable modes.

3.209 It has been recognised that the cost of providing such additional spaces above and beyond those which are necessary equates to a significant amount of money. Given that the application does not propose to fund the full package of transport and highway mitigation measures considered necessary by Highway Officers, the excessive level of car parking is further considered to be detrimental to the proposal as a whole. From a Highway Authority perspective the lack of mitigation proposed places significant risk on the Council in future years. If the development had a reduced car parking stock with associated cost savings, the potential for further necessary mitigation works would be achieved.

3.210 The second significant consideration in respect of car parking is that of charging. Through development of the TM and research of other retail destinations, the question of charging for parking was felt by Highway Officers to be worthy of consideration. Historically in the UK it has been regular practice for out of town retailing to have free car parking, this being particularly so where ground level car parking is provided. However, it is not uncommon to find large footprint retail developments with parking charges, several M & S and John Lewis stores in England have such in place. Examples found include:

- M & S; Manchester, Solihull, Hendon, Bournemouth, St. Albans, Frome, Beverley.
- John Lewis; Kingston upon Thames, Norwich, Solihull, Cardiff, Leicester
- Other; Livingston Designer Outlet

3.211 It is considered that car park charging can bring three primary benefits. The first is that it levels the playing field in terms of competition with the city centre.

Clearly a large development with free car parking has a significant competitive advantage over retail units located in areas where customers have to pay to park. The second primary benefit is that car park charging can provide direct revenue to address highway management and maintenance costs and help to support an improved public transport service. The third is that it can encourage people to use sustainable transport choices thereby not incurring a car parking charge. It is considered that out of town car park charging would represent a change in approach for York, the principles and outcomes which would be achieved are highly consistent with local and national planning policy aims. From a transport perspective it is essential that any future development in the northern quadrant of York delivers very noticeable uplifts in sustainable travel.

3.212 Highway Officers have expressed a desire for car park charging based on the Monks Cross TM on several occasions with the applicants transport consultant but these requests have been dismissed. Highway Officers have sought to have a direct dialogue with M & S and JLP on this matter, however this has not happened.

Public Transport

3.213 As previously discussed within this report it is considered that modal shift is absolutely essential for Monks Cross, this includes a target of 10% of travel to Monks Cross being via public transport. The application site sits close to the Monks Cross Park and Ride site and is therefore accessible by bus from the city centre. However, for the majority of residents there is a requirement to take two separate bus journeys to reach Monks Cross which is considered to be a significant barrier to encouraging travel by Public Transport.

3.214 The introduction of car parking charges was seen as a potential way of helping to create this shift towards sustainable transport choice. This was resisted by the applicants. A further way of helping to achieve the 10% target is by providing a substantially better bus service to Monks Cross. The number of buses, catchments and timing, all need to be improved. Whilst the Applicants Transport Consultant has set out their proposals for uplifting travel by bus, the 'package' is not considered by Highway Officers to be adequate or robust enough to deliver a step change. The proposed package has a value of £300K. This would provide for the increase in direct bus services that are considered appropriate to the scale and attraction of Monks Cross as a primary destination.

3.215 Most recent dialogue between Highway Officers and First bus company has suggested that a 30 minute bus service connecting the communities and villages to the north, directly with Monks Cross, would require significant financial support. This has been estimated by First at £240,000 per year. Officers have taken a position that would seek to apportion this funding 50/50 between the MCSP proposal and that at Monks Cross South. It is felt that funding to secure services for a minimum 4

year period is highly desirable, although flexibility could be built into any agreement that allowed for review after year 2.

3.216 The proposed financial package does not provide sufficient funds in the short term. No additional funds are proposed in the long term. Officers are of the opinion that revenue achieved through a nominal charging system on the retail car park could be ring fenced in part to directly support much improved longer term bus services to the Monks Cross area.

3.217 Having a much improved public transport offer balanced with parking charges is a strategy that it felt to align strongly with York's objectives in terms of reducing reliance on the private car and also reducing the retail impact on the City Centre by levelling the playing field.

3.218 Whilst the Design Code indicates that bus penetration west to east across the frontage of Units A/B/C is facilitated by the layout and a bus stop is proposed, this is in some ways misleading. Discussions with bus operators have indicated a general unwillingness to run buses through this part of the site. One reason for this being that the internal access system proposed would be one shared by all users, so it wouldn't be in the form of a dedicated bus lane, as has been provided elsewhere on other retail parks in the city, including to the adjacent MXSP. As such it would be highly unlikely that any operator now or in the future would wish to run services from Martello Way to Jockey Lane west-east, through the car park. If the internal design allocated an insulated route for public transport, then the prospect of future services is more feasible. However given the current arrangements which allow First to run buses in both directions along Martello Way/Kathryn Avenue, then this probably reduces the likely advantage of providing a west-east route. Through greater flexibility in the internal design it would be possible to provide space for a dedicated bus route to be built at some future point.

Stadium Highway Issues

3.219 The proposed stadium car park would have a capacity of 90 spaces. These spaces are not for spectators. No firm details have been provided in terms of justifying this quantity of spaces. Highway Officers believe that there could be an excessive provision of spaces which would run counter to sustainable travel objectives.

3.220 During the development of the proposals, it was agreed in principle, that the un-built but previously approved extension to the Monks Cross P & R, could be implemented to provide 400 spaces to be allocated to Stadium users on match days.

3.221 The applicants TA has set out to predict the potential spectator travel patterns, modes and timings. Two sets of analysis have been undertaken, based

upon 3,500 spectators and a Capacity 6000 spectator event. This is considered by Officers to be a reasonable approach, with the former being consistent with recent attendances at Bootham Crescent, plus allowing for some growth in numbers.

3.222 The proposed 400 space allocation at the P & R is considered to present a reasonable level of 'dedicated' spectator parking, based upon gates of 3,500. A review of the current and recent years occupancy levels of the P & R car park, indicate that for significant periods, it is underutilised. The level of under utilisation can be in the range of 400 spaces and as such officers would suggest a pragmatic approach, such that the P & R extension is not implemented initially. This would be subject to further review as required. During the first year the intention would be for the Council to issue 400 P & R permits, to both YCFC and YCK that would allow a spectator to access the P & R site on Match days only and park there for the duration of the match.

3.223 In order to deter spectators without a permit from parking in the P & R car park, a charge to exit of £15.00 would be applied. This charge would be kept under continual review by the Council and should the deterrent prove insufficient, then this could be increased with immediate effect. In addition, in order to implement the above access/permit/penalty charge system, it would be necessary for the access barriers and associated technology to be upgraded, prior to the first season.

3.224 Whilst there is some risk to the P & R service, say at the very busiest period of the year just prior to Christmas, it is only likely on potentially 2 Saturdays in December, when a football match may take place, and demand could exceed available spaces. Pre development surveys would provide further certainty on this aspect.

3.225 The proposed 400 'dedicated' space allocation is felt to be appropriate based upon travel mode targets, it is important to acknowledge that the relocation of the Football Club to Monks Cross has the potential to generate quite different travel patterns to the present, and which are difficult to predict with certainty. It is advised by Highway Officers that the Council, as Local Planning/Highway Authority, should take a cautionary approach in making assumptions about the volume and mode of travel. In that respect Highway Officers have considered what percentage of spectators could in theory arrive by car. It is felt that parking demand on match days could become an issue. Evidence suggests that spectators are willing to park and then walk for up to half an hour to reach a stadium,. therefore the possibility of unmanaged match day parking needs to be carefully considered. Probably the most vulnerable is the retail car parking, and it would be necessary for robust controls to be in place to prevent spectators parking there. The developer has proposed a "2 hour" cap on match days that would be communicated by various means and managed by an appointed car park management company.

3.226 Other existing private retail parking within a 5/10 minute walk of the Stadium could also be susceptible. Presently, some car parks have 4 hour time limits, however, others do not. Through parallel discussions with the existing retail park, the management and control of their car parking would need to be reviewed.

3.227 Highway Officers have suggested to the applicants that it's very important for the Stadium and Clubs to have a robust strategy to handle the uncertainties of parking demand, which could include the utilisation on match days of existing parking stock in the area through agreement with the relevant land owner. Examples given are "The Range" or existing office/business car parks around Jockey Lane and Monks Cross Drive. The applicants have indicated that they do not intend to consider such possibilities. Highway Officers believe that this could lead to problems of parking leaking into residential areas which would prove difficult to tackle.

3.228 Of further concern to Highway Officers is that under the 6000 capacity Stadium analysis, the applicant does not anticipate any uplift in car travel or parking demand, within in the Monks Cross area. The assumptions are founded on an expectation that the additional spectators would travel by other modes, with a significantly increased reliance on public transport which would primarily be match day shuttles.

3.229 Highway Officers remain doubtful of the robustness of such assumptions and have raised doubts on this part of the Stadium Travel Strategy. A primary worry is the potential for an increasing number of car journeys and the likelihood that without robust and anticipatory plans, that this would result in unmanaged car parking in the surrounding areas. Whilst it is acknowledged that overall numbers associated with large capacity games would not generate thousands of car trips, the number could reasonably be expected to increase by several hundred. From experience across the City, when parking does arise from developments, it is usually expected that this would be controlled and managed in some way. Highway Officers advice that Members need to again take a cautious approach and ensure that the necessary resources including funding are achievable such that any mitigation subsequently proven to be necessary can be successfully implemented.

3.230 A stadium Travel Plan was submitted with the application. The travel plan assumes that any increase in spectator numbers from 3500 to 6000 would not have a significant impact on the highway or car parking demand. This is based on an assumption that any 'residual' parking will make use of available capacity in existing public car parking, including in the City Centre and would then use a local or shuttle bus service to reach the stadium. The Travel Plan also assumes existing travel patterns associated with Bootham Crescent would be replicated. Highway Officers are concerned about this assumption given that the Monks Cross is substantially more accessible by car than Bootham Crescent.

3.231 The transport strategy also assumes that a volume of spare car parking will always be available in the City Centre. This assumption is considered to be unsound. Additionally the cost of parking in the City Centre would be an impediment to this choice of travel given that there would be free car parking on residential streets within a short walk of the Stadium

3.232 The proposal to provide dedicated shuttle bus services between the City Centre and Stadium is a principle that is fully supported. It is recognised that given the Stadium's location, providing an attractive and sustainable travel option, capable of accommodating significant numbers of people is essential.

3.233 However, in order for such an approach to be effective, it has to be practical, attractive to use and be financially robust. There is some uncertainty with establishing an acceptable location/collection point. Initial comments were that this would be near the Railway Station and the revised TA now suggests the use of the existing bus/coach facility on Leeman Road at the Memorial Gardens. Unfortunately, this location is used consistently and to capacity by existing public transport services and it is unfeasible for Stadium shuttles to collect and drop off at this location.

3.234 Whilst the principle of shuttles is very important, it should be for the developer to come forward with reasoned proposals to deal effectively with the traffic implications. Further discussions have taken place between the applicants and First buses and a more detailed 'proposal', has been submitted. This proposes a commercially based service that would be complimentary to the Service 9 with fares comparable to the P&R, with a £2.40 return; the proposal is intended to compliment the No.9 and pick up closer to Bootham Crescent. First have indicated that the P&R service has capacity and this could also be used by fans. The precise service details would need to be determined however a 15 minute service, starting 2 hours before and finishing 1 hour after is proposed. Highway Officers consider that the intention to operate this shuttle service commercially with such a fare level raises concerns as to its attractiveness and therefore viability. Whilst 'free at point' might be inspirational, at least some discounted or incentivised fare options would be preferable. This could include ticketing initiatives for a discounted fare for customers with a match ticket. In conclusion details of the shuttle service would need further review and such details would need to be secured through agreement, including the flexibility to further review in the future.

3.235 The applicants have indicated that the provision of the Stadium shuttle services would be funded through the contribution being offered. This represents another risk to the authority and officers have concerns over the long term provision and terms of operation of the service once the initial funding is spent. Other measures proposed to deal with potential match day car parking issues include:

- Providing manned patrols at retail park entrances and in nearby residential streets – aimed at directing spectators to use appropriate parking facilities;
- Implementation of residents' parking schemes or other similar measures to prevent parking on nearby residential streets;
- Advanced information of both football and rugby club websites; and
- Promotion of the shuttle bus service.

3.236 Officers consider it is essential that the Transport Strategy, supporting the Stadium, has the prospect of being highly efficient – the Travel Plan must have real teeth. However, the over-riding view is that its level of influence is potentially weak and fraught with a lack of detail and concerns over implementation.

3.237 For example, the effectiveness of manned patrols both at the retail park and in residential areas is questioned, where with the later they have no authority. There are also issues with which streets would need to be patrolled and the resources necessary to undertake this. In terms of controlling match day parking such that it does not occur significantly in the proposed retail park, Highway Officers are concerned that this is not practical. Would they be stopping every car that arrived after 1:30pm on a Saturday?

3.238 The TP highlights that if car parking does increase in residential areas within a 1 km distance, such issues would be monitored and a sum of £50,000 is offered by the applicant in this respect.

3.239 As with the overarching framework Travel Plan, a genuine concern here is with the level of financial surety and staffing resource, both public and private, that would be required to guarantee a reasonable level of mitigation is not available. The Stadium TP is something that would commit the various parties involved to continue to deliver a long term strategy. Officers and Members have experience of the level of resources that have historically been shown to be necessary, to evaluate the actual impacts of developments post opening and the burden of that responsibility rests noticeably with the Council. The sum of £50,000 may appear reasonable, however, when dealing with many uncertainties, for example which streets a Residents' Parking Zone may cover, what procedures are followed for permits in terms of cost and allocation, and the resourcing of enforcement it is considered that the proposed sum is insufficient

3.240 Due to the nature of the development proposed it is considered that a more appropriate way to anticipate and cover the above issues, would be to have a mechanism in place that provided a longer term revenue commitment by the developer and clubs. This could be set up to ring fence an annual fund to cover in full the council's costs associated with potential traffic management and parking outside the development site. It is difficult to give a precise figure at this point in time, however a sum of £20K, would be adequate to provide a range of measures.

3.241 A means to deliver this ongoing revenue stream could have been achieved via a car park charging tariff.

3.242 The applicants consider what could be done if the measures which they propose to encourage sustainable transport choice are unsuccessful. This includes reduced spaces available for Stadium users within the P & R site combined with maximum 2 hour parking duration in residential areas. It is proposed that this would restrict available parking and encourage transfer to other modes.

3.243 Officers do not consider this to be a sound approach; the level of “allocated” parking at 400 spaces, appears to be a reasoned amount, based upon the size of Stadium, potential for access by walk, cycle and forms of public transport. The direct traffic impacts of such on the highway network are unlikely by themselves to give rise to harm particularly during weekday evenings sports fixtures. As such, a proposal that effectively seeks to throttle car trips below that number is not viewed as sensible. In reality what it would most probably do, is lead to displacement of parking demand in locations we do not want to see.

3.244 In terms of cycling, the applicants are proposing to provide a level of cycle parking in accordance with BREEAM standards. The text supporting this explains that the provision would be ‘exemplary’. The application is in outline only; full details of cycle parking could be approved at a later stage in the application process to ensure that the cycle parking provided meets local standards in terms of the number of spaces, their location, and the quality of provision.

Highways and Transport Conclusions

3.245 Key highways and transport considerations for this development proposal are the policy fit with the National Planning Policy Framework (NPPF) and the Council’s Local Transport Plan (LTP3) and Local Development Framework Core Strategy , the fit with the approach being taken through the Local Sustainable Transport Fund (Intelligent Travel York) and Access York programmes and the level and location of traffic impacts.

3.246 The NPPF, LDF and LTP3 place a clear emphasis on promoting the use of sustainable transport modes. The LSTF adds to this a specific focus on changing travel patterns in the northern quadrant of the City. The major infrastructure improvements promoted through Access York include tackling congestion on the northern outer ring road. Aligned with the above The Monks Cross Transport Masterplan (Halcrow, 2011) was drawn up to provide a framework against which the development proposals could be considered. The Masterplan sets out possible interventions to achieve a strategy of maximising travel by sustainable modes and reducing car use.

3.247 The enabling retail development will be a very substantial travel generator.

By its retail nature and out of centre location the proposed development is very car dependent. It is not supportable in terms of national and local transport policy.

3.248 The applicant's Transport Assessment (TA) sets out locations where there would be significant impact on the highway network. The locations are focussed on the A64/Hopgrove/A1036 roundabout, A1036 Malton Road and A1237 Outer Ring Road.

3.249 The TA predicts substantial increases in traffic flows on Malton Road. Mitigation measures are proposed at Martello Way and at the Heworth Green/Malton Road roundabout. The latter includes further queue detection / bus priority measures but the removal of all cycle lanes. There are no mitigation measures proposed for the predicted increases in traffic on Malton Road between the Jockey Lane and Hopgrove roundabouts, which show a doubling of traffic in the Saturday peak hour. The increases in traffic on the Heworth Green/Malton Road corridor and associated junctions have the potential to effect the journey times of Park and Ride services which form a fundamental part of the City's approach to tackling congestion. The TA indicates negligible queuing/delay on Straylands Grove. This area/route was identified in the Transport Masterplan work as being susceptible to traffic increases.

3.250 The ability to deal with subsequent impacts, including for example parking problems in residential streets is dependent on competing for funding allocated for a variety of travel plan measures. The TA recognises that the Outer Ring Road junctions with Haxby Road and to a lesser extent Strensall Road would operate in excess of their capacity in 2016, without the stadium and enabling retail development. Both the LSTF and Access York programmes highlight the significant problems of congestion on the northern outer ring road. The Council's Strategic Transport Model also highlights the operational/capacity issues facing the outer ring road. The TA models the operation of individual junctions in isolation. With the additional traffic arising from the developments delays and queues will get longer. The TA proposes that these changes can be accommodated without impacts on the wider network and that travel plans, rather than physical mitigation, will provide the solution.

3.251 The achievement of a shift towards the greater use of sustainable modes of travel is significantly hindered by the over provision of car parking for the retail development (in excess of accepted trip generation based requirements), thereby encouraging car dependency. The adoption of car parking charges would have provided an ongoing source of funding for improved bus services and a level playing field with city centre parking. Monks Cross has frequent Park and Ride services but limited local bus services from substantial parts of the City, particularly from areas to the North. The pump priming of bus services in the short term is welcome but without ongoing revenue support the likelihood of maintaining the services is diminished for such a car dependent development. Overall a heavy reliance is

placed on travel plans for achieving modal shift.

3.252 The applicant's TA demonstrates that there will be additional congestion in locations, for example the Outer Ring Road, where no mitigation is proposed. The proposal is unacceptable in highways and transport terms due to its significantly harmful impacts on York's transport policy, investment and improvement programmes and highway network. The development proposals run counter to the Council's commitment to tackling congestion and places considerable risk on the Council to deal with the shortfall in the level of funding proposed for mitigation and to respond to the uncertainty with regards to future traffic predictions.

LOCAL DEVELOPMENT FRAMEWORK CONSIDERATIONS AND ISSUES

3.253 The LDF Core Strategy was submitted to the Planning Inspectorate for Public Examination on 14th February 2012. If adopted the plan would provide the city with a planning vision and form the basis of future planning decisions.

3.254 DJD conclude in paragraph 8.30 of the Addendum Report that ' the planning applications (Stadium and Monks Cross Shopping Park) raise some key and fundamental issues not only to the current assessment of the planning applications but also potentially to future plan making policy' and 'it is evident that approval of these proposals would significantly impact on the retail strategy that the local planning authority are envisaging for the forthcoming Core Strategy' and in paragraph 8.32 state that ' the impacts arising from these particular projects require extremely close scrutiny not only in terms of the practical implications for development but also on plan making and going forward, and on investor confidence relating to those projects, especially given the pre-eminence to a Plan-led approach in the NPPF'.

3.255 As highlighted above the proposals if granted could undermine investor confidence in the Castle Piccadilly project and the ability to secure interest from department store anchors and/or large store operators. The deliverability of Castle Piccadilly is a fundamental element of the Core Strategy which also seeks to bring forward the York Central site as an appropriate location to cater for comparison goods needs post 2020. Without the enhancement to the City Centre that the Castle Piccadilly scheme would bring the impact from York Central could further undermine the viability of York City Centre. The non delivery of retail on Castle Piccadilly and York Central would be likely to compromise the delivery of the strategic approach in the Core Strategy.

3.256 Within the highway and traffic section of this report it is highlighted the level of conflict between the proposed development and emerging Core Strategy policies and principles. The Core Strategy was produced following an evidence base including LTP3 which was approved in March 2011. The evidence base sets the context for the submitted policies and gives assurance that the plan led approach

within the LDF is deliverable. Given the identified traffic implications of the proposed development it is likely that the evidence base relating to the currently proposed transport policies may need to be reviewed.

Local Development Framework Conclusions

3.257 City of York Core Strategy Submission (Publication Version, 2011) - the Core Strategy is at an advanced stage, though the policies remain to be examined for soundness and the weight to be attached to the policies needs to be considered in that context. These development proposals would significantly impact on the retail strategy and policy set out in the Core Strategy. The non delivery of retail on Castle Piccadilly and York Central would be likely to compromise the delivery of the strategic approach in the Core Strategy. The proposal presently under consideration could create a substantial risk to the soundness of the plan which could risk its withdrawal.

3.258 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Should the Core Strategy be withdrawn, and in the resulting absence of an adopted or emerging plan, the policies contained within the National Planning Policy Framework (as material considerations) will be the primary policy consideration in the determination of planning applications, rather than a locally determined plan for York. At the heart of the Framework is a presumption in favour of sustainable development. Without the Core Strategy there will not be any up-to-date policies that will guide how the presumption will be applied locally.

3.259 York's Local Plan and local evidence base work (undertaken as part of the Core Strategy preparation) that supports the provisions of the Framework would also remain as material considerations.

ECONOMIC CONSIDERATIONS AND ISSUES

Policy Context

3.260 The NPPF states 'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.'

3.260 The Yorkshire and Humber Regional Spatial Strategy (RSS) aims to guide development over a 15-20 year period, covering issues amongst other things as the economy. Policy Y1 sets the objective of developing York's economy as a sub

regional city by amongst other criteria encouraging business and the financial serviced sector, knowledge and science based industries.

3.261 Policy E1 aims to create a successful and competitive regional economy. This policy provides guidance on region-wide economic issues necessary for creating a modern and successful economy. Policy E3 seeks to ensure that there is a continuous and adequate supply of employment land across the region to support economic development. Policy E5 requires Local Authorities to rationalise their employment land portfolios.

3.262 Both the Local Plan (Policy E3b) and the emerging LDF Core Strategy (Policy CS16) aim to ensure an adequate supply of employment land for office use, this is considered to be in conformity with the general approach included in the NPPF. The Council's approach to economic growth from a planning policy perspective is underpinned by three key pieces of work:

- Employment Land Review Stage 1 – SQW (2007);
- Employment Land Review Stage 2 – ENTEC (2009);
- City of York Topic Paper (ARUP) – Employment (2011);

3.263 The majority of the application site is allocated as a Premier Employment Site under Policy E3b (Existing and Proposed Employment Sites) of the DCLP. This policy seeks to resist the loss of existing employment sites and retain them within their current use class. In order for planning permission to be given for an alternative use on such sites, it has to be demonstrated that there is a sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in both quantitative and qualitative terms. In addition it has to be demonstrated that any development would have to lead to significant benefits to the local economy.

3.264 The site in question has been identified as appropriate for office (B1a) employment use through the market analysis included in ELR Stage 2, and other technical work and was reported to Council in June 2011 to support the LDF Core Strategy.

3.265 The emerging Core Strategy seeks the delivery of up to 1,000 jobs per annum and sufficient employment land and premises to meet this growth. It is proposed that 12.53 ha of employment land is needed up to 2026. This is based on the findings of the Employment Land Review, validated recently by the conclusions of Arup's work to explore employment land provision in the city. Further more, emerging Policy CS16 from the emerging Core Strategy continues the approach to existing employment land set out under E3b in the Local Plan. It is also identified that new B1(a) office accommodation land would be allocated at Monks Cross. Policy CS16 sets out that the loss of land and/or buildings which are either identified, currently used or were last used for industrial, business, office or other

employment uses, will only be permitted where it can be demonstrated that the proposal would not have a detrimental effect on the future supply of employment land in either quantitative or qualitative terms. This is important given the conclusions of Arup's recent work relating to margin of choice of employment sites, to enable sufficient churn and flexibility in employment space in York.

3.266 A 2011 Employment Topic paper that around 960 additional jobs per annum was a realistic average figure for the LDF period. The view was expressed that the actual per annum jobs growth will fall short of this in the short to medium term as the UK experiences muted growth, but in the longer-term, growth in the Science City sectors, would deliver higher levels of employment creation.

3.267 With regard to the relative importance of the Monks Cross area ENTEC within their 2009 study made the following comment:

“Monks Cross is located approximately 2 miles to the north east of York city centre close to the A64 dual carriageway, and benefits from being adjacent to the Monks Cross Retail Park, Leisure Club and Swimming Pool and Park and Ride facility. Consequently this particular locality is regarded by many as a desirable prestigious office location although there are a small number of warehouse and industrial occupiers also situated in the Monks Cross area.”ENTEC (2009).

LPA Considerations

3.268 It is considered that the economic impacts of the proposed development can be split into three broad areas. These are the loss of the employment site, the impact on jobs, and the impact on the local economy.

3.269 As stated above the retail part of the application site is allocated within the DCLP as a Premier Employment Site. This site has been set aside within the draft plan for 'knowledge based' activities within the Science City York sector of the economy. Such developments are proposed to create high quality commercial environments and are seen as an essential part of the City's long-term economic prosperity. The DCLP supporting text states that it is important that the right sites are provided to allow this sector of the economy to grow and prosper. It is therefore clear that an application for retail and restaurant uses is contrary to these aims.

3.270 In 2003, outline planning permission was granted on this site an office development of 40,000 sq m which could create upwards of 1000 jobs. More recently planning permissions was granted for a HSBC data centre which was proposed to create 2000 construction jobs over 2 years, peaking at 500 on site at any one time. Once operational the data centre would have created between 97-100 jobs. Whilst the proposed data centre would not have provided a large number

of jobs in the long term, it was considered acceptable due to the quality of jobs to be created and the high-tech nature of the development which would have resulted in significant investment into technology infrastructure in the area.

3.271 The applicants submitted an Employment Land Report in support of their application. This concludes that as demand for new employment developments is expected to remain quite weak for the foreseeable future, there is more than adequate supply of sites to accommodate demand in the long-term. It is stated that the loss of the Vangarde site would not have a detrimental impact on the ability of York to attract larger national occupiers and accommodate locally driven demand.

3.272 Analysis of the need to retain sites for future office development can be assessed from both a quantitative and qualitative perspective. Policy E3b of the DCLP lists a number of sites which are available for office development. The current allocation at Monks Cross South is for 13 ha of potentially premier office use. The emerging LDF sets a level of employment land which is anticipated to be required in the future. Part of this requirement was to come from Monks Cross South. There is evidence that the demand for office development in York is likely to increase as the economy recovers.

3.273 From a qualitative perspective the application site is considered to be desirable for employment uses given its close links to the A64, Park and Ride, and neighbouring retail and leisure uses. The Economic Development team state that given the lack of such quality and readily available employment sites, approval of this application is potentially a constraint on further future inward investment which potentially has a higher value than what is proposed.

3.274 The government has set a clear presumption in favour of sustainable economic development and as highlighted within the policy context to this section, LPA's should not protect employment sites out of principle where there is no reasonable prospect of it coming forward. Given the quality of the application site in relation to alternative allocated employment sites in the city, it is considered that the proposed development is contrary to planning policy at a local and national level.

3.275 Whilst the proposed application is contrary to employment land policies, it does not mean that economic benefits would not flow out of the proposed development. It is considered by the Council's Economic Development team (following consultation with the Regional Economist Unit) that the proposed retail and restaurant uses would create 382 full time equivalent (FTE) net jobs. This includes 107 FTE jobs being created in downstream supply chains. This figure is based on the applicant's indication of gross jobs to be created minus job losses in other areas plus a multiplier effect which takes account of direct supply chain impacts. Added to this it is proposed that the proposed stadium and associated uses would create 48 FTE jobs directly with a further 7 jobs created indirectly.

3.276 In addition to long term jobs being created at the retail, restaurant and leisure uses, it is anticipated that 275 FTE jobs would be created over two years within the construction industry. The applicants are committed to employing local construction workers where possible with a commitment that 50% of construction staff would be from the York area. There are proposals around working with young people and offering training and apprenticeship opportunities both as part of the construction phase and within the retail units themselves.

3.277 The above projections are based on evidence available and predictions in terms of the impact of the development on the city centre and other areas. As with all projections there is an element of risk involved, however it is apparent that there would be a substantial number of net jobs created in the short term. At a time of economic uncertainty and relatively high levels of unemployment, the prospect of creating substantial numbers of new jobs is clearly a significant benefit to be taken into account when determining this planning application.

3.278 It is stated by the Economic Development team that the proposed enabling development would add £12.4 m per annum to York's economy in terms of the net impact on gross value added (GVA). The construction phase would deliver a temporary stimulus to York's economy of up to £27 m. The stadium part of the development is estimated to contribute £1.4 m to York's economy annually and a temporary stimulus of £2m from construction.

3.279 The size and type of retail offer being proposed has the potential to draw trade in from other areas as well as reducing the amount of money spent by York residents in rival shopping centres in neighbouring areas. The projected boost to the economy is considered to be a material consideration in the determination of the application when balancing the harms with the benefits of what is proposed. As discussed previously, this has to be considered within the context of the loss of an employment site and whether the proposed immediate economic benefits outweigh the loss of a site which could potentially deliver greater economic benefit in the long term.

3.280 As discussed within the retail impact analysis section of this report, it is considered that Castle Piccadilly has a reasonable prospect of being delivered within the short to medium term. It is also considered that the development has a significantly reduced likelihood of being delivered in the short to medium term if the retail development at Monks Cross South goes ahead. Castle Piccadilly would in itself bring significant retail and construction employment and economic benefits which Members need to take into consideration when understanding the economic context of this application in the short, medium and long term. It is envisaged that a retail development at Castle Piccadilly is likely to create a similar number of gross jobs as that proposed at Monks Cross South.

3.281 York City Centre remains a reasonably vibrant centre despite the economic downturn. All retail centres are coming under pressure from online retail growth which is anticipated to continue. The proposed development would put further strain on the city centres retail core. It is considered that by approving this application, the role of the city centre would alter, with a smaller retail core and other land uses likely to become more prevalent. This could include office, leisure, and residential uses. York benefits from significant numbers of tourists who contribute to the economic performance of the city. It is hoped by the Economic Development team that this strength could attract investment into new uses to continue the vibrancy of the city centre.

3.282 The Council is currently working on investment projects within the City Centre as part of Re-invigorate York initiative. The Council has committed to spending £1m each year for the next three years on improvements to the public realm. This funding would cover improvements to public squares, lighting schemes, and street furniture. This positive improvement scheme could bring social benefits to the City Centre and make it a more attractive environment. It is also hoped that some economic benefits may flow out of this investment. Whilst this improvement is welcome, DJD conclude that the impact on the city centre of the proposed development would be significantly adverse and there is no evidence that the proposed physical improvements to some areas of the city centre would reduce this level of harm in any significant way.

Economic considerations and issues conclusion.

3.283 From an economic perspective the proposal is estimated to create around 430 net direct jobs (47 from the Stadium, 382 from the retail development), 114 net indirect jobs (7 from the Stadium development, 107 from the proposed retail development) and 275 temporary, construction jobs. Once completed the development would add between £14.1m and £15.8m annually to York's economy.

3.284 The building phase of the developments also offers a short-term boost to the economy and the council, in association with Higher York, has a Targeted Training and Recruitment program which can maximise training and local job opportunities throughout the development timetable.

3.285 The proposed development would result in the loss of a high quality allocated employment site. The loss of this site would, given the lack of such quality and readily available employment sites in the City, place a constraint on further future inward investment opportunities which could potentially have a higher value than what is proposed as part of this application.

COMMUNITY BENEFITS

Policy Context

3.286 Before looking directly at community benefits being delivered by the proposed development, it is worthwhile setting the context by clarifying the aims of the community stadium as set out on The Council Plan 2011 – 2015 and the emerging LDF Core Strategy. This context is helpful when assessing the proposed community benefits.

3.287 The aim of delivering a new community stadium as a Council was originally set out within The City of York Corporate Strategy 2009/2012. This stated that 'We will develop proposals to complete the building of a Community Stadium that will provide high quality sport, recreation and other community focused opportunities for the city'. The Council's aims and objectives are now set out within The Council Plan 2011 – 2015. This document sets out the programme for the next four years and sets targets to meet in a number of key priority areas. One of the five key priority areas is to 'build strong communities'. The document does not contain specific detail but the delivery of a community stadium is mentioned as part of this priority area. The Council Plan states 'Specific projects that will add to or make better use of existing facilities on a citywide level include the delivery of the Community Stadium'.

3.288 The emerging LDF Core Strategy states in paragraph 1.46 that the LDF has a specific role to play in helping to deliver City-wide and large scale built sports and community leisure facilities to meet residents' needs. Ongoing work to support Active York's emerging Sports and Active Leisure Strategy has identified unmet demand for flexible indoor sports space, artificial turf pitches, new swimming pool provision and a community stadium which will cater for a range of community uses as well as being a home for the City's professional teams: York City Football Club and York City Knights Rugby Club.

3.289 Within the section of the LDF entitled 'Vision for York' it states that 'A key element of the LDF is its role in maintaining community cohesion and helping the development of strong, supportive and durable communities'. The LDF aims to provide accessible and varied opportunities for leisure and recreational activities in order to promote healthy lifestyles including ensuring all residents have access to a range of recreational open spaces and sports facilities. It is stated that a key element of this is through the delivery a new swimming pool and a new community stadium for the City which would cater for a range of community uses as well as being a home for the City's two professional teams. This thread runs through Policy CS11 'Community Facilities'.

3.290 It is clear from reading Council Plan 2011 – 2015, and emerging LDF Core Strategy that a new community stadium is intended to serve a number of purposes around the broad benefit of community opportunities to help foster strong, supportive and durable communities in the city. There are two area overarching areas of benefit which the proposal is expected to provide. The first is that the

development should deliver a high quality sport provision for the benefit of YCFC and YCK and their supporters. The second is the promotion of healthy lifestyles through providing access to open spaces and sport facilities to provide accessible and varied opportunities to leisure and recreational activities. The LDF and Council Plan state that the development of a community stadium is more than about a new sports stadium for the two professional sports clubs, the aim is for wider community benefits.

3.291 The city's Sport and Active Leisure Strategy recognises the clubs role in the city and the need for improved facilities; "Both York City FC and York City Knights RLFC urgently need a modern professional stadium that meets league and safety standards and can attract investors, players and spectators. This facility must cater for the full sports development continuum. It must be accessible by the community as a training and participation venue and as the route to excellence. This venue must be viewed by the professional clubs and the community at large as a city-wide, multi-sport facility."

3.292 The above context should be used when considering the community benefits presented below. The emerging Core Strategy and Council Plan are material considerations in the determination of this application. They form a sound basis by which the community benefits can be assessed and can help members' apportion weight to these benefits. The emerging Core Strategy supports the provision of a new community stadium to meet the needs of the City and the provision of community facilities.

Benefits

3.293 The scheme proposes a new community stadium for the city which will provide a new home for YCFC and YCK. It will provide modern facilities that will secure the future of both clubs. The football and rugby club have existing stadiums, namely Bootham Crescent and Huntington Stadium, but neither is capable of providing the respective clubs with long-term sustainable business plans.

3.294 The continued survival and development of the sports clubs in the city is important because they have a significant impact on the social and cultural fabric of the city. They are important sporting ambassadors for York and are responsible for creating and contributing to civic pride. In addition to those who attend matches and events, many people across the city, and around the world, follow the teams and individuals representing them. The Assistant Director Culture ,Leisure and Public Realm advises that "Extensive media coverage of the clubs publicises York as a city and as a brand. The clubs have a strong social and cultural connection with York and its citizens and are very much part of the city's heritage".

3.295 Bootham Crescent was built in 1932 and provides facilities of a very basic standard. It has very high repair and running costs and the commercial and

executive facilities are minimal meaning that York City are not able to generate sufficient commercial income to operate the club on a sustainable basis. The club's owners have indicated that after a number of years of subsidising the club they cannot continue this and a sustainable business model must now be established. YCFC are not in a strong financial position. There are debts within the club which it has no means of repaying. Added to this are the ongoing maintenance costs of Bootham Crescent itself. It is considered that the football club do not have the means to repay its debts whilst also maintaining and investing in both Bootham Crescent and maintaining a strong squad of players and managerial staff. Should the proposed new stadium be constructed it would allow YCFC to repay its debts through the sale of Bootham Crescent and give up the ongoing maintenance costs. This puts the football club in a stronger financial position and therefore increases its long term viability and sustainability. The proposed stadium increases the likelihood of YCFC remaining operational as a professional football. The football club do not believe that they would be able to continue as a professional club if the proposed new sports stadium does not go ahead.

3.296 A document submitted by the applicant explains what would happen to if the proposed new stadium is not built. Firstly in terms of the football club, it is stated that they would have to become a semi-professional club if they remain at Bootham Crescent. It is considered by the club that this is the only way in which costs could be significantly reduced. The football club has debts which is cannot currently service. The proposed sale of Bootham Crescent following a move to a new stadium is the way the club is aiming to repay its debts. It is likely that a drop to semi-professional status would impinge on team performance given that the existing professional players would seek to continue their playing careers professionally and therefore would move to other clubs. Semi-professional players are at a disadvantage in that they have less time to train and prepare for games as they are likely to hold down other jobs. It is believed that a reduction in team performance may reduce attendances and therefore income. The second issue to consider in terms of the impact of the club going semi-professional is the impact on the existing community programme and youth teams. The club currently has a full youth team programme which it has said it would abandon if the new stadium does not go ahead. As discussed previously the club operates a community programme including working with children to help reduce bullying and promoting healthy lifestyles. The club currently employs staff who work on these community projects. YCFC have indicated that if they do not move to the new stadium, their community work would have to be downsized considerably due to financial constraints. This would reduce the amount of positive work the football club do with the community.

3.297 In addition there is a concern that the Football Foundation may require a full repayment of the £2m loan given to YCFC. This would force the sale of Bootham Crescent and leave the club looking for a new facility to play home team games; this would likely have to be a lower division existing facility as it is not thought that the sale of Bootham Crescent would generate significant surpluses to enable significant

investment in a new facility. Officers are not aware of any recent information from the Football Foundation which indicates the likelihood of whether the loan would have to be repaid in full should the proposed stadium not go ahead.

3.298 Huntington Stadium is also not fit-for-purpose and is hampering the ability of the club to progress. The stands and supporter facilities are of a basic standard and there is no scope in the current configuration to significantly increase the capacity above the current 3,428 capacity. The commercial and executive facilities are of poor quality. Dual use of the stadium for athletics detracts from the attractiveness of the stadium for Rugby League. These factors have a negative impact on the ability of the club to generate income. Furthermore, there are significant repair / running costs associated with operating the stadium and informal market testing indicates that once the lease to the current operator expires it is most unlikely that the Council would be unable to put in place affordable arrangements to continue its operation.

3.299 Strong evidence supports the fact that attendance increases when new stadiums are built. This fact has been supported in the SOS call-in decision at Salford and detailed evidence set out in the business case. Information submitted with the application indicates that there may be an increase of between 20 and 40% in football match day attendances. If this was to materialise it could bring benefits such as increased revenue for the sports club and an increased interest in sport in the city. A greater interest in the professional sports clubs could help to encourage sport participation in the city having social and health benefits.

3.300 The proposed stadium has the potential to increase the level of interest in football and rugby in the city. Analysis of previous stadiums attendances following the completion of a new stadium shows that generally attendances increase. This could be a factor of both the novelty of a new stadium, but also the better facilities on offer which may attract a new spectator to their first game or encourage existing spectators to bring along additional supporters. Additionally developments such as this bring press attention which can also create an increase in the interest in sport in the city. The proposed new stadium is highly accessible by car and would have more dedicated car parking spaces than both Bootham Crescent and the existing Huntington Stadium which could attract new spectators. Interest in professional sports teams in the city can help to create a sense of pride and identity in a city. Significant numbers of people in the country attach significant importance to their chosen professional sports team, and it is considered that a new stadium could help elevate the level of interest and pride in YCFC and YCK. It is also considered that a higher profile for the professional sports teams may inspire more people to participate in physical sporting activity themselves which can create social and health benefits.

3.301 Information submitted with the application highlights some of the community work which both YCFC and YCK undertake. This includes coaching local children

and healthy lifestyle and anti-bullying workshops at schools in York. YCFC state that they work with 15,000 young people every year and operate in over 100 schools. The proposed new stadium includes internal space which could be used for more community engagement. Bootham Crescent lacks the facilities for significant community work, there is a room which is used and a small indoor football pitch but space is restrictive in terms of the number of people who can be accommodated at any one time. It is considered that the proposed MUGA and the internal space and facilities within the stadium creates opportunities for closer links between some community groups and the sports clubs. Whilst nothing has been submitted with this application in terms of a commitment by the clubs to engage in additional community work, information has been submitted to indicate that there is a desire to continue and add to existing community programmes. Additionally funding is being provided through the S106 agreement to help fund a Community Officer who can help to organise and co-ordinate community projects within the stadium. A condition could be added to any approval whereby a community programme is agreed prior to the occupation of the proposed stadium; this would ensure that the available space within the stadium is allocated to community uses for a certain number of hours within the week. This could provide some comfort to Members that the proposed improvements to the community programme are delivered.

3.302 The Council's Sport and Active Leisure team are supportive of this application. They feel that a new purpose built sports stadium as a home for the city's professional teams and for major community sporting events is a key priority in the City's Sport and Active Leisure strategy. As well as boosting the professional sports teams the proposed facilities would also be available for local junior league finals. This helps to bolster the links between the proposed stadium and the local community whilst also giving young people a greater motivation and desire to participate competitively in sport.

3.303 The proposed development includes the provision of a MUGA. This could be used for a variety of sports but it is anticipated that its primary community function would be for football. The Sport and Leisure Team support this part of the application as it is felt that it would help address the shortage of mini-soccer pitches in the city as well as the need for all weather training facilities. The MUGA would be available for use by the general public and local community groups for the majority of the opening hours.

3.304 The application contains a proposed community building which would form part of the east stand of the stadium. This commercial space has been included within the application to provide a long term revenue stream to help fund the continued maintenance of the stadium and to help ensure its long term financial sustainability. For the purpose of this application, much like the retail units, what is being considered is commercial space not specific end users. The space is proposed to be used as a mix of B1 business, D1 non-residential institutions and D2

assembly and leisure uses. The application is in outline and the proposed new stadium has not been designed up in detail. There are a number of requirements, such as securing arrangements an alternative venue for the athletics facilities, before Huntington Stadium could be demolished and a new stadium built. Clearly the process would take time and no end users are contractually obliged due to these unknowns and the timescale involved. This is not considered to be unusual as it is not considered reasonable to expect end users to be contractually obliged to something with such a timescale and level of complexity before delivery.

3.305 Heads of Terms have been agreed with the NHS Hospital Trust, York St John University and a local play provider to be the main occupants of the community building. These Heads of Terms set out a reasonable level of rent they would be willing to pay and the quantity of floorspace they may require. They show a sign of commitment for the proposed users but it should noted these are not legally binding.

3.306 The Community Stadium Project Team propose that York St John (YSJ) University would create a centre for sport within the building which would offer sports education programmes to students. This has the potential to expand the range of educational services offered within the city with the potential to increase knowledge which could be shared with other end users with the stadium. This represents a potential opportunity to develop links between learning and health, for example through student placements, which does not exist in other facilities within York. It also provides a potential opportunity to implement healthy stadia initiatives, through student volunteering schemes.

3.307 The Assistant Director for Culture, Leisure and Public Realm state that there is no existing facility of this nature; these facilities would be provided in addition to facilities already in place at YSJ. YSJ has a vision to deliver an Institute of Community Sport, health and wellbeing. The facility would act as a central hub for sport within the area of wider influence, promoting sport in the community, delivering sport opportunities, deliver education and training for sport professionals and volunteers to raise standards of sport within the city, provide sports science support for talented athletes, evaluate sports interventions and identify funding sources to promote sport.

3.308 The Community Stadium Project Team state that they have developed a proposal for a that would bring wider community benefits, that this facility would reach a diverse range of people from children to older adults, including hard to reach groups, e.g. disabled people, as well as athletes and sports participants. The proposed new facility would allow YSJ to enhance its existing offer to Sport and Health students in terms of work experience and internships, research and development opportunities, as well as to the wider community of sport and health professionals through CPD and collaborative working.

3.309 The proposed NHS Clinical Hub may provide additional NHS facilities to those already in place and are likely to cover a range of outpatient services which could include drop-in style centres for physiotherapy, pain management, weight management, ophthalmology and phlebotomy. Links to a stadium and sports clubs provide a powerful opportunity to provide information and advice in a non-threatening environment, which may help raise awareness of unhealthy lifestyles amongst hard to reach groups.

3.310 Co-location with the NHS Clinical Hub and community facilities would allow YSJ to build on existing work with NHS York to deliver community based health services (for example through student volunteering in healthy stadia initiatives on match days) and to create new employability opportunities for staff and students that could not be delivered from the University base, as they require access to fitness and leisure facilities.

3.311 The play operator who wishes to operate a clip and climb children's leisure facility has also expressed interest in being located at the stadium. This facility would offer opportunities for children's active leisure and play. It is not thought that such a facility is available in the area and the proposal would help to encourage sport participation amongst young people. There is the potential for a crèche to be operated by the same end user which could provide benefits to parents hoping to use the services in the area. It has to be noted that there is no contractual arrangement between the Authority and the proposed leisure operator. Weight should be attached to benefits on the basis of certainty of delivery.

3.312 Further uses which are being targeted by the Community Stadium Project Team for this building are a café, Independent Living Assessment Centre (ILAC), and an Explore Gateway Library. The proposed café and reception area would function as a meeting place and central point for all other uses within the building. This would contain an element of library use. This facility would not be a full library but would offer some library services such as wi-fi internet facilities and increased access to learning. The ILAC would be run by the Council; this would replace the existing ILAC centre. The ILAC centre offers equipment and advice for disabled or elderly people to help them carry on living at home independently. This would not be an additional facility to what is currently offered but would be within a purpose built environment which would meet their needs. It is hoped that locating the ILAC centre in a prominent location such as the proposed stadium would raise awareness of the services on offer. The above services would be offered by the Council and therefore there is more control over their delivery than the proposed external users. However, there is no certainty in terms of who the end users would be and Members need to take this into account. Should the application be approved there would be permission for a level of floorspace within the stadium building which could be used for a variety of end uses, some or all of which may bring some community benefit.

3.313 It is proposed that a central hub would be erected as part of the stadium development which would physically link the stadium with Courtney's Gym and Waterworld. This would allow the Council to offer a more efficient service and may aid user's experience of those wanting to access more than one facility.

3.314 The above benefits of the proposed development were brought forward and outlined within the Community Stadium Business Case and documents appended to this. The above sections analyse some of the community benefits which may result from the proposed development if it is approved. Members must attach weight they consider reasonable to these benefits based on the certainty of delivery of the benefit and its level of significance to the community. Economic benefits are brought out within the Economic Impact section of the report. Using guidance presented above members must consider the material community and economic benefits and balance these up against the material harms and disbenefits identified within this report.

3.315 The economic and social aims for the city can be used to help assess the level of community benefit to be delivered. The aims set out in the emerging Core Strategy and Council Plan for the community stadium form a strong basis for determining whether the community benefits to be delivered from the proposed application help to meet these ambitions. The proposed end users of the proposed stadium and community building would be paying a commercial rent and operating commercial operations. Members should satisfy themselves that the community benefits which would be delivered from the proposed stadium and community building meet the aims and objectives outlined.

3.316 For information, the submitted community benefits document contained a larger number of potential community benefits than are identified within this report. The reason the content of the whole report has not been presented here is that it much of the content cannot be given any planning weight in the determination of this application. Only benefits which are clear, quantifiable and directly related to the application can be considered. An example of a potential benefit which cannot be given any weight in the determination of this application is the potential construction of a new athletics facility as this would not be enabled by the proposed development and would be subject of a separate planning application. The funding for the athletics facility is not linked to this application. Some other 'benefits' mentioned in the submitted report were considered to have little strength or sound basis and the LPA could not control whether they are delivered. Legal advice has been received on the criteria which should be used to ensure that only material benefits are presented and taken into account when considering the overall planning balance.

DESIGN AND VISUAL IMPACT

3.317 The above 'Principle of Development' section of this report contains assessments of elements of the scheme which are considered of primary and high level importance. The basis of which is to help members understand whether they support the 'principle' of what is proposed. These principles include consideration of wider implications outside of the application site. The following sections of this report consider more detailed site specific material considerations.

3.318 Policy Context – The NPPF states that good design is a key aspect of sustainable development and this is indivisible from good planning, and should contribute positively to making places better for people. High quality and inclusive design shall be achieved for all development. Specifically the framework aims to ensure the establishment of a strong sense of place, developments which function well, optimise the potential for green spaces and local facilities, and are visually attractive as a result of good architecture and appropriate landscaping.

3.319 The NPPF encourages the use of Design Codes to help deliver high quality outcomes. Such documents can guide the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to their surroundings. The NPPF states that planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

3.320 The DCLP is consistent in its advice with the NPPF. Policy GP1 'Design' looks to promote good quality design which respects or enhances the local environment. The Policy seeks to retain or enhance public views and skyline landmarks.

3.321 Only access is to be considered within this outline application. However, the applicants were required to provide detail covering issues such as how many buildings there would be and their sizes in terms of footprint and height. A Design Code has been submitted which sets the parameters for any future reserved matters applications as well as setting expectations in terms of quality and broad design principles. The Design Code could be conditioned as part of any outline planning consent.

3.322 The amount of development proposed is outlined towards the start of this report. An indicative Masterplan has been submitted showing how the site could be laid out. Broadly this indicative design shows a proposed stadium and community building to the north west of the site where Huntington Stadium is currently located. To the east of this is the proposed MUGA. South of this and to the east of the Park and Ride are the proposed restaurants and kiosks. At the north of the site are the

three proposed large retail units, the three retail units would face south. A car park sits to the front and east of the retail units. A landscape buffer area is proposed between the car park and Jockey Lane.

3.323 The applicants have indicated the maximum heights of the proposed buildings. Each of the four stands of the stadium is given a maximum height. The proposed east stand which would contain the community building would be a maximum of 15m in height. The two end stands, north and south, would be up to 10m in height. The west stand would be no higher than 5m in height. This reflects the temporary nature of this stand which could easily be removed to allow for future expansion of the stadium where necessary. The proposed restaurants and kiosks would be up to 7m in height. The proposed large retail units would be a maximum of 13m in height.

3.324 Three lines of hedgerows and trees running north to south through the site are proposed to be retained. These green corridors would have a 20m exclusion zone for their protection with the car park layout to be designed around their retention. Officers have worked with the applicants to encourage pedestrian permeability through the site and create a layout which encourages legibility and ease of movement for pedestrians; this includes pedestrian walkways of a minimum width of 3.5m with shared pedestrian and cycle routes being a minimum width of 5m.

3.325 It is considered that the proposed development layout is functional. Both the retail and stadium elements are located within their own distinct zones. The location of the proposed stadium has the benefit of being able to physically link up with Courtneys and Waterworld. This allows for a cluster of sport and recreation including the proposed MUGA. However, this cluster appears inward looking and does not clearly relate to or address those uses around it. The application originally contained a central green park area which could have functioned as a central informal recreation space within the Monks Cross South site. This was removed to make way for the MUGA which clearly brings sporting participation opportunities.

3.326 The retail proposal makes little attempt to visually connect with surrounding land uses. The development almost turns its back on the retail units to the north and Monks Cross Shopping Park. The buildings do not directly address public areas as they are set back significantly from Jockey Lane. The retail units have extensive areas of car parking. It is considered that the retention of the green corridors and the green buffer landscaping strip around the site would help to mitigate its visual impact. The green landscaping buffer around the south and east of the site is generally considered acceptable. Details of these landscaping works would be considered as part of any reserved matters applications, clearly this would need to be well considered in terms of softening the extensive level of car parking whilst providing the occupiers of the retail units with a sufficient level of prominence so as to attract passing trade.

3.327 The landscape between the retail car park and the park & ride site has been significantly reduced as a result of the reorganisation of the proposed plans to locate the restaurant and kiosk buildings and security unit. It is considered by the Council's Landscape Architect that this level of encroachment of opposite the Park and Ride centre is uncomfortable and unsatisfactory.

3.328 The removal of the paved area on the south side of the stadium results in the removal of the existing, established, structure planting for the original Park and Ride site. The result would be complete absence of vegetation to buffer/soften the northern edge of the P & R car park and a substantial reduction to its green setting. The Park and Ride can be a first impression of York city, of which the green setting is a fundamental element.

3.329 The proposed stadium is likely to be prominent when viewed from the west. The stadium would be seen across relatively open fields. The proposed layout, with the lowest stand on the west, may help to reduce its visual dominance. In the context of the scale and design of buildings within the Monks Cross area it is considered that a stadium could be located on this site without causing any significant harm to the visual amenity of the area. There is the potential to improve the visual quality of the area subject to design.

3.330 The application site is visible from the Minster tower and would also be visible in views from the north east of the City in the landscape. This would include key long distance views 3 and 4 as identified in the Central Historic Core conservation Area Appraisal. When considering the extant approval on the Monks Cross South site for a HSBC data centre it was considered that although this would be a large building with a similar maximum height to the retail proposals here, the building would be seen in the context of the adjacent development and there would be no significant impact on the view from the Minster or views of the City in the landscape.

3.331 It is considered by Design and Highway colleagues that the relationship between the main retail block and the restaurants and kiosks would be much improved through the extension of the non car environment further southwards, The removal of some car parking on the western elevation of Unit A would dramatically enhance this part of the scheme and indicate a stronger commitment to creating a non typical retail park environment. This area could be readily utilised by the retail and restaurant units for outdoor eating and also allow for more general informal and recreational activity. The Applicants have decided to retain car parking within this area for consideration by Members.

3.332 In order to add local distinctiveness and create a sense of place within the development, the applicants are proposing the use of public art. This could be through lighting, landscaping, way finding, or be integrated into street furniture, infrastructure or the design of the buildings themselves. Public Art was introduced

into the Design Code following discussions with Council Officers. As the application is in outline only it is considered that the presentation of a broad number of potential options is a suitable approach and that this could set the framework for discussions as part of any reserved matters applications in the future. However, the applicants have refused to commit a budget to any public art works and therefore it is not possible to be clear as to the level of added value which could be created.

3.333 Overall the proposed design and layout would deliver a distinct destination that would provide a range of related facilities and community interest. However, at this stage there remains a key question as to whether the development would genuinely feel unique to York.

3.334 If Members are minded to approve the application, it is recommended that power is delegated to Officers to continue refinement of the Design Code to adequately define the quality standards expected, specifically in relation to the stadium and community building elements.

ECOLOGY

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

3.336 Policy NE1 of the DCLP takes a similar stance when it says that trees, woodlands and hedgerows which are of landscape, amenity, nature conservation or historical value will be protected by refusing development that would result in their loss or damage. The area of land immediately to the south of the site between the proposed car parking areas and Jockey Lane is part of York's Green Belt. This area is also allocated as a 'Recreational Opportunity Area' under Policy L1d. This space is allocated in order to provide public access to green spaces, including wetlands. This allocation also includes an area to the other side of Martello Way, part of which was granted planning permission for 'landscaping to create amphibian conservation area with associated ponds and grassland' Ref No. 11/01500/FUL. This permission was implemented and would be where newts within the application site would be relocated too.

3.337 The NPPF seeks to achieve net gains in biodiversity where possible. The Framework requires Local Plans to set out a strategic approach to plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure. Opportunities to incorporate biodiversity in and around developments should be encouraged.

3.338 LPA Considerations - It is the view of the Council's Ecologist that the Monks Cross South site has good though not outstanding wildlife interest and as such has no statutory or non statutory status. It does though still have a considerable interest

that deserves to be considered and where possible retained and mitigated for.

3.339 The land proposed for development has long been known to contain some wildlife interest, notably a small population of Great Crested Newt, a fluctuating population of Water Vole and some old wildflower grassland, as well as a good hedgerow landscape with a number of old, overmature trees. Together these provide a good foraging area for bats and there are some limited opportunities for roosting bats. No large roosting activity has though been observed. Such habitat can also provide opportunities for a good invertebrate fauna. Again, however, no rare or uncommon invertebrates have been observed.

3.340 Both Great Crested Newt and Water Vole have protected status though only Great Crested Newt has full European protected status.

3.341 With regard to Water Vole, numbers have declined considerably in the last 2yrs, primarily because the habitat is marginal when taking account of the previous cold winters and drought conditions. Also their protected status is more limited and licensing from Natural England is not necessary.

3.342 With regard to Great Crested Newt, these and their habitat do have full protected status and any proposals likely to disturb them require a licence from Natural England in addition to any planning consent that may be given. This consent is required before any work can be undertaken and before even a licence application can be made. Whilst licensing is separate from the planning system, the Council does, of necessity, need to consider whether a licence would be granted if a planning consent is given. In respect of this, both the size of the population and the mitigation/compensation proposed need to be considered.

3.343 There is agreement between the Council's Ecologist and the applicants in that the Great Crested Newt population is small and was likely isolated from the rest of the local population during the construction of existing developments in the area. As such the population would actively benefit from reconnection with the adjacent main population. The proposals set out as part of the application look to translocate the newts from the development site onto an adjacent, greatly expanded habitat area designed specifically to accommodate them with additional water bodies and refugia already established and with grassland and scrub habitat ready to be managed for foraging. This has been designed to accommodate both the newts from the development site and for any future expansion of the Park and Ride. Such a translocation will ensure that both the translocated newts and those already present adjacent to the mitigation habitat would greatly benefit.

3.344 The Council's Ecologist believes that Natural England is unlikely to refuse a licence application based on the proposals submitted as part of this application.

3.345 The mitigation provided for Great Crested Newt has also been designed to

accommodate the current very small population of Water Vole and should provide better habitat for this species as well and which is more resilient to climatic fluctuations.

3.346 Much of the application site is currently an undeveloped green field. Therefore, the proposed development would result in considerable loss of habitat. Whilst valuable, none of these habitats are of sufficient value under the Council's; Wildlife Sites Criteria; to be designated and protected. Their value has though been recognised and, where possible they are to be retained or compensated for within the overall landscaping and drainage proposals. Thus the proposed SUDS system around the perimeter of the site has been designed to retain or compensate for the wetland and grassland habitat lost within it. Equally the hedgerow and tree structure has been retained as much as can be reasonably required within the overall design. There would though still be a significant overall loss if no other work was proposed. However, the overall wildlife mitigation proposals also set aside and establish a significant area of land to the west of Martello Way to develop a wildlife reserve that will enable all of the habitats lost within the development site to be re-established within this area. Such compensation measures provide an overall gain in habitat availability as is commensurate with current best practice guidelines.

3.347 In addition to its wildlife value, consideration was given to enhancing its social and network value. Around the Monks Cross area, there are already established elements of landscape and wildlife interest through which there are routes for public enjoyment. The mitigation proposals expand this benefit and link to it to provide a more continuous corridor around Monks Cross that enhance the opportunity of establishing a naturalistic corridor around the area both for public access and as a wildlife corridor. They also provide a new link to a further site of wildlife interest adjacent to the Malton Road. The proposed mitigation area when linked to the existing Park and Ride mitigation area and the landscaped corridor also provide an excellent educational area for future use.

Environmental Sustainability

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

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

- plan for new development in locations and ways which reduce greenhouse gas emissions;
- actively support energy efficiency improvements to existing buildings; and

- when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.

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

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

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

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

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

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

3.353 The LDF evidence base documents include the climate change framework and the climate change action plan. The Framework is the overarching document that will enable York to accelerate actions to reduce carbon emissions across the city. The document says that 37% of York's carbon dioxide emissions came from the city's industries, businesses and non-residential buildings. Ensuring that all existing

and new non-domestic buildings are energy efficient, sustainably designed, built and operated is vital to creating a low carbon, sustainable city.

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

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

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

3.357 The locational, economic and social elements of sustainability are discussed elsewhere in this report. The main consideration here is the promotion of energy efficiency through design and the construction of the buildings and the use of on-site renewables.

3.358 Local planning policy requires this development to provide a minimum of 10% of its regulated energy demand from on site renewable energy sources. The submitted Energy Strategy identifies a number of options as having potential to fulfil this requirement. However, a firm commitment to a specific renewable energy technology over another is not indicated. Given that the application is in outline only this position, whilst not ideal, is considered to be acceptable subject to the inclusion of a condition which requires 10% of regulated energy demand to be generated from onsite renewable energy sources.

3.359 The Council's Sustainability Officer believes that a site wide solution could create significant energy efficiency benefits. Of the viable options identified for providing energy to the site, heating and cooling from the aquifer, biomass boilers and natural gas fired CHP, have the potential to operate as part of a site-wide strategy. Through a site-wide solution it is possible to achieve significant carbon

savings through an efficient method of generating energy. National and regional evidence suggests the existing heat load in the vicinity of the site is sufficient to make a site-wide strategy viable. In addition, viability could be increased further by connecting existing nearby buildings to a site-wide solution. There has been no strong commitment from the applicants in this regard.

3.360 The Council's emerging Core Strategy requires development over 1,000m² to integrate CHP and district and/or cooling infrastructure into their design unless demonstrated to be unfeasible or unviable. In light of this requirement and the above information it is recommended that a condition be applied to any approval which requires an outline feasibility study to be undertaken for a site-wide energy solution in accordance with local policy.

3.361 The applicants state that during the construction and operation of the site there is the intention to make adequate provision for storage and collection of refuse and recycling. Details of this system are not given and the use of the word 'adequate' is subjective. Regarding water efficiency the submitted drainage report identifies that the use of efficient water appliances and dual flush WCs would be incorporated in to the construction and fit-out of the facilities. It is considered that this issue could be covered by an appropriately worded condition. Rainwater harvesting is proposed for the two main retail units, and while this is a commendable measure to install, there are other buildings proposed which would benefit from connection to such a system e.g. requirement for a significant number of toilet facilities at the Community Stadium.

3.362 The applicants have committed to creating a development which achieves a BREEAM rating of at least 'Very Good' which meets the current standards set out in local planning policy. Electric re-charge proposed?

ARCHAEOLOGY

3.363 DCLP Policy HE9 'Scheduled Ancient Monuments' states that planning permission will not be granted for development which would adversely affect a scheduled ancient monument or its setting. Policy HE10 'Archaeology' states that planning applications involving the disturbance of existing ground levels on sites of archaeological importance will only be approved where the applicants permit a field evaluation to assess the extent and importance of any archaeological remains and that applicants can demonstrate that less than 5% of any archaeological deposits will be disturbed or destroyed.

3.364 This site lies outside the designated Area of Archaeological Importance. It lies adjacent to a temporary Roman Camp designated as a scheduled ancient monument (national ref 1020976). The remains of this camp extend into that part of the site where Huntington Stadium is located. This portion of the camp is not scheduled. The site also includes a range of undesignated heritage assets including

a second, almost completely excavated temporary Roman camp and a range of prehistoric features and deposits.

3.365 The site is therefore of archaeological interest. As a consequence there have been pre-application discussions with the development team. The results of these discussions, including a detailed description of the archaeological interest and significances of the site, are included in the EIA submitted by the applicant.

3.366 The EIA has identified that the development will have an impact on significant archaeological features and deposits preserved on the site. It will not have a physical impact on the site of the designated heritage asset (the temporary Roman Camp) as the scheduled site lies outside the red line of the application. It will, however, affect the setting of the designated asset and will also impact on the undesignated portion of this asset. The impact on the setting of the designated asset is not significant.

3.367 The EIA proposes two responses to mitigate the impact of the development on the significances of archaeological features and deposits.

3.368 The first is targeted at that part of the site that will form the “commercial” development area and which will contain prehistoric features and deposits. The EIA proposes a programme of trial trenches coupled with further excavation to identify and record a sample of any archaeological deposits identified in the trial trenches.

3.369 The second is targeted at the site of the Community Stadium. This area includes the unscheduled portion of the temporary Roman camp. An archaeological project would take place to record the remains of this camp prior to the redevelopment of the stadium site. This project would be designed so that the local community, schools and Community Archaeology groups can participate in it.

3.370 This would allow for the full integration of the community into all aspects of the professional archaeological work on the site of the Community Stadium. The Council’s archaeologist has no objections to the application and believes the proposed archaeological work would be an exciting and innovative response that would create a model of best-practice for community involvement in and delivering public benefit from archaeological projects.

FLOODING AND DRAINAGE

3.371 The NPPF places flood risk minimisation and climate change mitigation as central to its economic, social and environmental sustainable development aspirations. New developments should be planned to avoid increased vulnerability to impacts arising from climate change such as flood risk. Development should be directed away from areas at the highest risk from flooding. Paragraph 100 encourages using opportunities offered by new development to reduce the causes

and impacts of flooding. The NPPF states that when determining planning applications LPA's should ensure that flood risk is not increased elsewhere. A technical guide to the NPPF was released which aims to ensure the effective implementation of flood risk strategies outlined in the NPPF.

3.372 Local Planning Policies are considered to be consistent with the NPPF. DCLP Policy GP15a looks to promote sustainable drainage systems to mimic natural drainage and reduce surface water runoff thereby protecting areas from flood risk.

3.373 The application site is within Flood Zone 1 which is the lowest category of flood risk given by the Environment Agency. The majority of the application site is currently green and undeveloped; the proposal would add significant amounts of hard surfacing to the site which requires mitigation.

3.374 The application is in outline only and therefore full drainage details were not required at this stage. It is a requirement to be satisfied that a drainage solution is feasible. The applicants are proposing two separate drainage systems, one which would drain the retail area of the site and one for the stadium development. Surface water from the stadium part of the site would drain into an underground attenuation tank. Rain water landing on the retail part of the development would flow towards the green buffer on the edge of the site where the water would be stored in attenuation ponds. These ponds form part of the ecological enhancement proposed for the site. Discharge rate to the ponds would be controlled to ensure that the water depth is between 0.3 and 0.5m to comply with ecological requirements. A pumping station would release water within the ponds at a controlled rate into an open ditch. Surface water flows to the watercourse would not increase as a result of the development and discharge rates would be equivalent to green field run-off. This controlled release of water would ensure that there is no increased risk of flooding elsewhere. The Council's Drainage Engineer has no objections to the application subject to conditions covering approval of full drainage details including run-off rates, storage volume calculations, discharge rates, topographical survey showing proposed ground floor levels, and foul water drainage.

3.375 The Environment Agency has requested similar conditions to the Council's Drainage Engineer with the addition of a condition regarding the installation of an oil interceptor to ensure that any water discharged is clean.

NEIGHBOURING AMENITY

3.376 Policy Context - National Planning Policy Framework (Social, Recreational and Cultural Facilities) - Planning policies and decisions should: plan positively for the provision of community facilities; guard against their unnecessary loss; ensure that established facilities are able to develop and modernise in a way that is

sustainable and for the benefit of the community; and ensure that their location is considered in an integrated way.

3.377 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the NPPF. DCLP Policy GP1 states that development proposals should be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space; protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

3.378 The NPPF states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. Paragraph 125 states that by encouraging good design, planning decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

3.379 LPA Considerations -The application site is not located in an area with high numbers of residential dwellings. The nearest substantial settlement is around New Lane which is approximately 350m west of the proposed stadium. Primarily the application site is located within a business and retail environment. There is a cluster of approximately 50 residential dwellings to the west of proposed stadium at Forge Close and Saddlers Close. These houses are located between 50m and 250m from the existing Hunting Stadium. To the east of the site is the existing Monks Cross Shopping Park with business and retail units to the north. Primarily to the west is Monks Cross Park and Ride and beyond this an open field which leads onto the housing area off New Lane. To the south it is primarily open with small clusters of housing, the closest being around the Martello Way, Jockey Lane, Malton Road roundabout. The proposed new stadium would be located a little to the south of the footprint of Huntington Stadium which would increase the separation distance between the stadium and Forge and Saddlers Close a little.

3.380 It is considered that the most significant neighbouring amenity issue arising out of this application relates to the proposed stadium. This is due to the smaller separation distances from neighbouring dwellings and the potential for noise generation. The benefit that this application has in this respect is that it is replacing an existing stadium and therefore it is not introducing an entirely new use into the area. However, given that the proposed stadium has a significantly greater capacity than Huntington Stadium and the fact that it is likely to be used more regularly for spectator events, it is considered that the issue of intensity of use and its impacts has to be considered.

3.381 Advice received from the Environmental Protection Unit suggests that noise levels generated by the stadium as a result of increased attendances would be in the order of 3dB increase. However, taking into account the effect of moving the stadium 30m further away from houses along Forge Close, results in a noise level increase at these dwellings of just 1dB. It is not considered that this modest increase in noise level would have any significant impact on neighbouring amenity. The number of well attended sporting events at the stadium is likely to be a doubling of those that take place at Huntington Stadium, due to both the rugby and football club occupying the stadium. The Environmental Protection Unit do not raise any concerns regarding extra events taking place during daytimes. Evening fixtures have the potential to be more disruptive and therefore EPU recommend conditions covering the public address system and crowd management after games to minimise any disruption to local residents. A further condition is suggested in terms of approving the plant and equipment to be installed to ensure they have no adverse impact on neighbouring amenity.

3.382 The application contains conflicting information in terms of potential use of the stadium for events such as concerts. The applicants suggest a condition which does not allow such events to take place in order to help protect local residential amenity. However, it is understood that the Stadium Project Team would prefer to leave this option open. As no information has been submitted in terms of the potential noise impacts of operating a concert event at the stadium, the EPU team suggest a condition which restricts such events from taking place unless prior written consent has been given by the Local Planning Authority. This would allow the LPA to assess such impacts on a case by case basis and would allow information to be submitted confirming that their would be no significantly adverse impact on neighbouring amenity.

3.383 In terms of the retail development the only potential noise concerns are around plant and machinery. These could be controlled by condition.

3.384 The proposed development would bring significant levels of customer traffic which would use the surrounding road network. It is anticipated that the number of cars using Malton Road during peak hours would double. This is likely to create additional congestion and delays which increases the likelihood of drivers attempting to avoid major routes and use 'rat runs'. Such behaviour can result in a substantial increase in the number of cars using residential streets which do not regularly experience significant traffic movements. One such potential issue would be around Straylands Grove with people attempting to by pass the 'Magic' Heworth Green Roundabout. Other potential traffic increases could be seen in parts of Huntington particularly if the Outer Ring Road is heavily congested as customers may choose to leave the ring road early and find alternative routes to the site. The lack of highway mitigation money previously discussed within the report increases the likelihood of significantly increased congestion which can create a 'rat run' situation. However, such behaviour is difficult to accurately predict. Based on the EPU's assessment of

the applicant's traffic information, it is estimated that the increase in noise traffic is likely to be no more than 3dB as measured from residential dwellings. Noise, dust, and vibrations during construction can be managed through a condition requiring approval of a Construction Environmental Management Plan.

3.385 A further implication of additional traffic is to impact on air quality. The applicants have submitted an Air Quality Impact Assessment which considers the likely impact of the proposed development in relation to UK and EU air quality standards. This report was produced using receptors measuring air quality at various locations and projecting changes in the future should the development go ahead and without the development. The EPU are content with the modelling approach taken by the applicants. It is considered by the EPU that the air quality impacts resulting from traffic associated with the proposed development would be insignificant. There is a degree of unknown in terms of the impact at the junction of Heworth Road, Malton Road, Stockton Lane, and Heworth Green and therefore this would need to be monitored following completion of the development. Funding for this monitoring would need to be secured through a S106 agreement. When the emissions from the traffic are added to any potential emissions from energy plant, there is the potential for a more significant impact in locations closer to the application site. The applicants are yet to finalise an approach to on-site energy with the use of biomass heating described as being of 'medium suitability' for the site. Such a development could impact upon air quality and would need to be assessed cumulatively with the likely traffic air quality implications. The development is likely to create significant private car trips; the applicant is proposing the installation of approximately 15 electric recharge points to encourage the use of low emission vehicles. Similarly car sharing priority parking spaces are suggested by the applicants to encourage car sharing. Whilst these measures are unlikely have a significant impact on air quality, they are considered positive steps and are welcomed.

3.386 A further neighbouring amenity consideration is that of lighting, most significantly the impact of floodlights at the stadium. An assessment submitted with the application identified that the Vangarde Site falls within Environmental Zone E2 (low district brightness areas) with Huntington Stadium being classified as E3 (medium direct brightness areas). Due to the application being in outline it is not considered possible to predict the exact lighting levels, for example without full details of the position and height of the floodlight columns it is difficult to predict light spillage and light intensity outside of the site. Regardless of this, it is considered by Officers that a lighting scheme could be designed in such a way that prevents the loss of amenity to nearby residential dwellings due to light spillage.

3.387 The EPU believe that the potential for contamination at the application site is low. However, fly tipped material is present at the site and therefore a condition regarding contaminated land is proposed to be added to any approval given.

4.0 GUIDANCE TO MEMBERS

4.1 Although this is one planning application there are two elements in the development proposal . The first being the Community stadium, which from a planning point of view can be supported and if it were to be considered in isolation would be recommended for approval by officers, subject to the imposition of appropriate planning conditions.

4.2 The second element of the development proposal comprises substantial new retail and associated development. Although this element of the scheme does have some benefits in its own right, overall it would incur substantial harm and if it were to be considered in isolation there would be clear, sound and strong planning reasons for officers to recommend refusal of planning permission.

4.3 It is important for Members to fully appreciate the characteristics of this enabling development proposal. Enabling development would normally be rejected as clearly harmful to other objectives of national or local planning policy. The essence of a scheme of enabling development is that some harms are accepted as a result of a development which would not otherwise gain consent in return for the public benefits that would be generated. Without the harmful elements of the proposals put forward there would be no requirement for the applicant to make a financial contribution towards the provision of a new Community Stadium. The benefits of a new Community Stadium are substantial, as is the applicant's financial contribution towards this. In these circumstances, it is perhaps not surprising that the harms are also substantial. The planning judgement is a question of balancing a range of factors that pull in different directions to determine whether the public benefit of securing the Community Stadium through the proposed enabling development decisively outweighs the harms.

4.4 This report provides guidance as to the critical issues to enable Members to place appropriate weight only on relevant planning considerations. Given the enabling development aspect of this application, the decision as to what weight should be given to any particular planning consideration comparative to any other planning consideration and where the balance should finally fall is left open for Members to form their own judgment as decision maker.

Members have been provided with and need to carefully consider :-

- The details of this outline planning application
- Guidance provided on matters relating to both National and local planning policy, and the weight to be attached to this.
- The responses and issues raised from consultees, both statutory and non-statutory

- The representations and issues raised both in support and in objection from a large number of individuals and organisations
- The detailed advice in this report in relation to “enabling” development
- The detailed information concerning material planning considerations provided in the appraisal section of the report

4.5 The Appraisal section of the report identifies the key planning issues in the determination of this application, these are:-

Stadium site selection and consideration of alternative sites.

4.6 It is the opinion of your Officers that the selection process was satisfactory and that there are no planning objections to the principle of providing a new stadium on the site of the existing Huntington stadium.

Enabling development –meeting the tests and other factors to consider.

4.7 The Local Planning Authority has taken advice from a Leading Counsel on this matter. There are important “tests” and factors to be taken into account in relation to enabling development. The report sets out the provisions of regulation 122 of the Community Infrastructure Levy Regulations 2010 (“the CIL tests”) Regulation 122 states:“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development

4.8 The first CIL test.(no.1 above) *“Is the planning obligation to secure cross funding of the proposed new community stadium from the retail development necessary to make the development acceptable in planning terms?”* This test is capable of being satisfied if Planning Committee consider that the harm associated with the retail and restaurant development element of the development package is outweighed by the community benefits of the proposed new community stadium which is being cross-funded by the S106 financial contribution from the developer.

4.9 The second CIL test (No.2 above). It is considered that this test is satisfied because there is a sufficient geographical connection between the enabled and enabling parts of the development.

4.10 The third CIL test (no.3 above). The third test requires that no more retail development be permitted than is required to provide the necessary cross-funding for the stadium. The quantum of retail and restaurant development proposed has to be the minimum necessary to enable the sports stadium and associated uses.

4.11 The applicant has submitted confidential detailed financial appraisals, examining the likely costs and revenues, in order to establish the likely profit level. The submitted information has been independently assessed on behalf of the Local Planning Authority, on the basis of robustness and the accuracy of information provided.

4.12 Guidance on enabling development states that it is right and proper that a developer be allowed a fair and reasonable return on their investment and this should reflect the risk involved in the development project. From the information submitted and following an independent assessment of the likely profit to be generated by the proposed development, it is considered that the proposed development meets the third CIL test by being fairly and reasonably related in scale and kind to the development.

Other considerations in relation to enabling development

4.13 These factors are referred to in the report should be taken into account by Planning Committee:

1. Is the Community Stadium development necessary?

It is considered that a strong case has been made for the proposed size of the proposed new Community stadium which would meet current needs of both football, and rugby clubs whilst allowing short to medium term expansion opportunities. Long term aims of the rugby team to meet the Super League would require a further expansion. Given current attendances at the YCK it is not considered reasonable to attempt to construct a larger capacity stadium at this time.. The funding channels require the stadium to be all seater. A need for a new modern stadium has been established and the scale and type proposed is considered reasonable. In addition, it is worth noting the potential added benefit of the city having a modern sporting facility in which the city can host other sporting events – thereby adding to the potential diversity of the city’s overall leisure offer for residents and visitors

2. Is enabling development the only reasonable way of delivering the Community Stadium?

On the basis of the available information, Officers conclude that enabling development is the only reasonable way that sufficient funds could be generated to sufficiently contribute towards a new community stadium for the city.

3. Is the enabling development proposed, the least harmful, financially viable, option ?

On the basis of the evidence provided by the applicant, it is difficult to draw any firm conclusions on the availability of alternative enabling development approaches that would be viable and feasible in this instance, and it certainly

is not possible to rule out the existence of alternatives. It is clear, however, that pursuing an alternative approach, even if viable and feasible, would be likely to introduce additional time, complexity and risk to the delivery of a new stadium.

4. Is there reasonable certainty that the Community Stadium will be delivered if the application is approved?

On the basis of the information available, Officers conclude that there is reasonable certainty that the Community stadium would be delivered if the application is approved, although this is not without risk, and the report highlights those risks

Other material planning considerations.

4.14 The appraisal section of the report also considers in detail matters relating to: Design and Visual Impact, Landscape, Ecology,, Environmental Sustainability, Flooding and Drainage and Neighbouring amenity. Officers consider that these matters could all be addressed through appropriate planning conditions if Members are minded to approve this application.

Balancing the harm of the retail and related development against the benefits of the new community stadium and other benefits.

4.15 Members will need to balance the potential community and other benefits against any planning harm caused by the development in order to reach a planning judgment as to whether any harm is outweighed by the potential benefits .

4.16 The NPPF states that sustainable development should be supported. Sustainable development contains three elements, social, environmental and economic sustainability. The Principles of Development section of the report provides detailed information in relation to retail considerations, highways and traffic considerations , economic considerations and Community benefits. To assist Members the “harm” and the “benefits” are summarised below:

THE HARM ASSOCIATED WITH THE DEVELOPMENT

Retail harm

4.17 The Council has approved Development Control (now Development Management) policies and the Core Strategy for the Local Development Framework (the emerging strategic plan for the city) which seek to support and develop the city centre as the regional shopping centre and destination. The emerging LDF Core Strategy states that there will be no increase in the out of town retail offer. The adopted policy approach accords with national planning policy, including the recent National Planning Policy Framework (NPPF) which has a ‘town centre first’

approach.

4.18 There are two key policy tests relevant to the consideration of the retail development - the sequential test and the impact assessment.

4.19 Under the NPPF, main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available, should out of centre sites be considered. The emerging LDF Core Strategy fits with this approach.

4.20 Given the evidence that the Castle Piccadilly site is available and suitable for retail development within the short to medium term and that it is a sequentially preferable site it is considered that the sequential test has not been fully satisfied for the Stadium proposal. Planning Policy states that applications which fail the sequential test should be refused.

4.21 The first impact test as set out in NPPF is the impact on existing, committed and planned investment in a centre or centres in the catchment area of the proposal. The second impact test outlined in the NPPF is the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

4.22 Current evidence indicates that York City Centre is a vital and viable centre but with some particular issues of concern such as an increasing vacancy rate for shop units in the A classes (change from 7.1% to 10% between 2009 and 2010). Vacancy rates have increased nationally with a growing online retail industry impacting upon high streets.

4.23 The proposed retail development would have the potential impact of accelerating the decline in retail unit numbers in the City Centre. As seen in the Driver Jonas Deloitte assessment, it is estimated that the development would have a significantly adverse impact on the city centre both in terms of trade diversion and loss of market share. It is estimated that 9% of city centre trade in 2016 would be diverted to the proposed development at Monks Cross South. The level of impact is would vary depending on shop unit, with those selling similar products to those to be sold at Monks Cross particularly likely to be impacted upon. These sectors include clothing, footwear, personal and luxury goods. It is considered that overall the proposal retail development at Monks Cross would result in a significant reduction in the number of shops located in the city centre. This is likely to increase demand for non-retail use in the City Centre such as food/drink outlets, commercial uses and residential. The proposal increases the chances of vacant units being present within the City Centre.

4.24 The proposed retail development at Monks Cross could also potentially have a significant impact on the Castle Piccadilly investment both in terms of operator

demand and investor confidence. The preferred developer for Castle Piccadilly has stated that should the development go ahead at Monks Cross South, that the redevelopment of Castle Piccadilly would not. It is considered that the proposal would have significant adverse impacts and would therefore fail the impact tests as set out in paragraph 26 and 27 of NPPF and is therefore not supportable in policy terms.

4.25 It is also worth noting the concern that DJD express in their report that approving the proposed development could make it more difficult to resist further out of town development in the future. It is considered that by approving this application Members may be creating a two centre retail approach, whereby there would be pressure to allocate both the City Centre and Monks Cross as retail centres in planning policy.

Highways and traffic harm

4.26 Key highways and transport considerations for this development proposal are the policy fit with the National Planning Policy Framework (NPPF) and the Council's Local Transport Plan (LTP3) and Local Development Framework Core Strategy, the fit with the approach being taken through the Local Sustainable Transport Fund (Intelligent Travel York) and Access York programmes and the level and location of traffic impacts.

4.27 The NPPF, LDF and LTP3 place a clear emphasis on promoting the use of sustainable transport modes. The LSTF adds to this a specific focus on changing travel patterns in the northern quadrant of the City. The major infrastructure improvements promoted through Access York include tackling congestion on the northern outer ring road. Aligned with the above The Monks Cross Transport Masterplan (Halcrow, 2011) was drawn up to provide a framework against which the development proposals could be considered. The Masterplan sets out possible interventions to achieve a strategy of maximising travel by sustainable modes and reducing car use.

4.28 The enabling retail development will be a very substantial travel generator. By its retail nature and out of centre location the proposed development is very car dependent. It is not supportable in terms of national and local transport policy.

4.29 The applicant's Transport Assessment (TA) sets out locations where there would be significant impact on the highway network. The locations are focussed on the A64/Hopgrove/A1036 roundabout, A1036 Malton Road and A1237 Outer Ring Road.

4.30 The TA predicts substantial increases in traffic flows on Malton Road. Mitigation measures are proposed at Martello Way and at the Heworth Green/Malton Road roundabout. The latter includes further queue detection / bus

priority measures but the removal of all cycle lanes. There are no mitigation measures proposed for the predicted increases in traffic on Malton Road between the Jockey Lane and Hopgrove roundabouts, which show a doubling of traffic in the Saturday peak hour. The increases in traffic on the Heworth Green/Malton Road corridor and associated junctions have the potential to effect the journey times of Park and Ride services which form a fundamental part of the City's approach to tackling congestion. The TA indicates negligible queuing/delay on Straylands Grove. This area/route was identified in the Transport Masterplan work as being susceptible to traffic increases.

4.31 The ability to deal with subsequent impacts, including for example parking problems in residential streets is dependent on competing for funding allocated for a variety of travel plan measures. The TA recognises that the Outer Ring Road junctions with Haxby Road and to a lesser extent Strensall Road would operate in excess of their capacity in 2016, without the stadium and enabling retail development. Both the LSTF and Access York programmes highlight the significant problems of congestion on the northern outer ring road. The Council's Strategic Transport Model also highlights the operational/capacity issues facing the outer ring road. The TA models the operation of individual junctions in isolation. With the additional traffic arising from the developments delays and queues will get longer. The TA proposes that these changes can be accommodated without impacts on the wider network and that travel plans, rather than physical mitigation, will provide the solution.

4.32 The achievement of a shift towards the greater use of sustainable modes of travel is significantly hindered by the over provision of car parking for the retail development (in excess of accepted trip generation based requirements), thereby encouraging car dependency. The adoption of car parking charges would have provided an ongoing source of funding for improved bus services and a level playing field with city centre parking. Monks Cross has frequent Park and Ride services but limited local bus services from substantial parts of the City, particularly from areas to the North. The pump priming of bus services in the short term is welcome but without ongoing revenue support the likelihood of maintaining the services is diminished for such a car dependent development. Overall a heavy reliance is placed on travel plans for achieving modal shift.

4.33 The applicant's TA demonstrates that there will be additional congestion in locations, for example the Outer Ring Road, where no mitigation is proposed. The proposal is unacceptable in highways and transport terms due to its significantly harmful impacts on York's transport policy, investment and improvement programmes and highway network. The development proposals run counter to the Council's commitment to tackling congestion and places considerable risk on the Council to deal with the shortfall in the level of funding proposed for mitigation and to respond to the uncertainty with regards to future traffic predictions.

Economic harm

4.34 The potential economic harm of the development has been identified on two fronts. First, the development has the potential to complicate the delivery of strategically important, and employment generating development at Castle Piccadilly and York Central – a potential harm as assessed by Driver Jonas Deloitte.

4.35 Secondly, approval of this application is also potentially a constraint on the potential alternative inward investment that might have been attracted to the site as B(1)a office premises, which could potentially have a higher value than what is proposed.

4.36 Finally, it is important that any changes to the economic composition of the city centre are fully supported by economic and planning policy – which would need to be put in place if the proposed development is approved. The current policy of retaining units in the retail use class in the City Centre may no longer be suitable if demand for such uses significantly drops. The proposal has the risk of increasing the number of empty shop units in the City Centre and therefore changing the current mix which is considered to be one of its primary strengths.

Impact on The Local Development Framework

4.37 City of York Core Strategy Submission (Publication Version, 2011) - the Core Strategy is at an advanced stage, though the policies remain to be examined for soundness and the weight to be attached to the policies needs to be considered in that context. These development proposals would significantly impact on the retail strategy and policy set out in the Core Strategy. The non delivery of retail on Castle Piccadilly and York Central would be likely to compromise the delivery of the strategic approach in the Core Strategy. The proposal presently under consideration could create a substantial risk to the soundness of the plan which could risk its withdrawal. As Members will be aware, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Should the Core Strategy be withdrawn, and in the resulting absence of an adopted or emerging plan, the policies contained within the National Planning Policy Framework (as material considerations) will be the primary policy consideration in the determination of planning applications, rather than a locally determined plan for York. At the heart of the Framework is a presumption in favour of sustainable development. Without the Core Strategy there will not be any up-to-date policies that will guide how the presumption will be applied locally.

4.38 York's Local Plan and local evidence base work (undertaken as part of the Core Strategy preparation) that supports the provisions of the Framework would also remain as material considerations.

THE BENEFITS OF THE DEVELOPMENT

The community benefits of the new stadium and associated facilities.

4.39 The proposed new stadium development would bring substantial benefits to the City. First and foremost the proposed stadium would help to secure a sustainable future for the two professional sports clubs. YCK currently have an insecure tenure of Huntington Stadium and YCFC have debt problems, the proposed stadium would address these issues. The two clubs support the application under consideration and are in agreement with the proposed operation of the stadium as set out in the Business Case.

4.40 The proposed new stadium would provide a modern facility for the benefit of the clubs and their supporters. The new stadium would have better access for those who are less physically able as well as offering up to date facilities which could help to attract new interest in the professional sports clubs. The stadium would provide opportunities for some community use such as hosting junior cup finals which has the potential to boost interest in sport participation and give people a sense of pride in their City. It is hoped that the offer of a new purpose built stadium would encourage an increase in match day supporters. The proposed 6000 seat capacity stadium offers significant spectator growth potential over and above current average attendances

4.41 The proposed stadium would allow the football and rugby club to continue and enhance their community programmes. Such programmes can help to encourage young people in the City to participate in sport as well as offering support and advice to those in need.

4.42 The proposed stadium could be connected up to Waterworld and Courtneys Gym creating a central hub for sport in the area. Sporting participation opportunities would be enhanced by the creation of a new MUGA which could be used by people of the City.

4.43 New facilities would provide an opportunity for greater partnership working between the Council, NHS, York St John, libraries, independent living centre and a young person's play facility which would promote healthy lifestyles of the residents of York.

Retail benefits

4.44 The proposed retail development would have the direct impact of increasing consumer choice in the retail offer, offering the potential to bring new brands and enhanced offer by existing brands to residents and indeed a wider catchment of consumers.

4.45 By increasing the retail offer at Monks Cross South, the proposed development could have an impact on increasing York retail market share as a whole.

Economic benefits

4.46 From an economic perspective the proposal is estimated to create around 430 net direct jobs (47 from the Stadium, 382 from the retail development), 114 net indirect jobs (7 from the Stadium development, 107 from the proposed retail development) and 275 temporary, construction jobs. Once completed the development would add between £14.1m and £15.8m annually to York's economy.

4.47 The building phase of the developments also offers a short-term boost to the economy in association with Higher York, has a Targeted Training and Recruitment program which can maximise training and local job opportunities throughout the development timetable.

Decision making options for Members

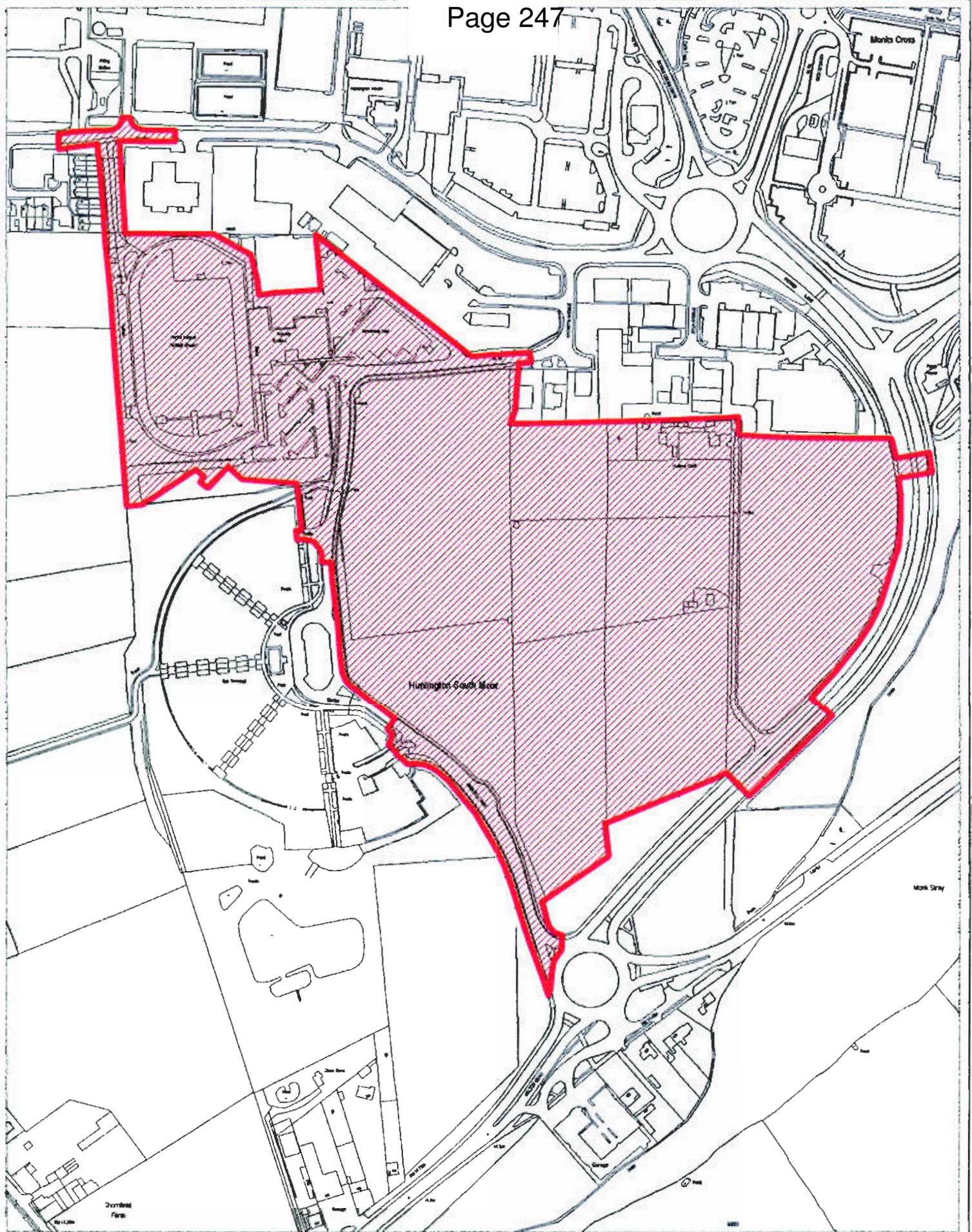
4.48 If Planning Committee is minded to approve the application, reasons will need to be given for the grant of planning permission. Members would also need to impose appropriate conditions and any S106 planning obligation requirements. Officers will then draft the reasons and conditions and will agree with the owners the provisions of the s106 agreement for consideration and approval by the Chair and Vice-Chair of Planning Committee. The application would then be referred to Secretary of State for the Environment consider whether he was minded to let the Local Planning Authority determine this application or whether to "call in" the application for his decision following a planning Public Inquiry.

4.49 If Planning Committee is minded to refuse the application reasons will need to be given for the refusal. Officers will prepare draft reasons for consideration and approval by the Chair and Vice-Chair of Planning Committee. The decision to refuse planning permission is one which can be made by Planning Committee, it is not necessary to refer this decision to the Secretary of State for the Environment for approval

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CITY OF
YORK
COUNCIL

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11/02581/OUTM

Land including Huntington Stadium to the West of Jockey Lane

SCALE 1:4000

DRAWN BY PSL

DATE 9/5/2012

Originating Group

Project

Drawing No

1102581



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Procedure for Planning Committee – 17 May 2012

The Committee is considering 3 applications today, all relating to the provision of retail floor space at Monks Cross. In view of the stand alone and cumulative impacts relating to each application, normal practices for debating and determining applications at Committee will vary slightly. The procedure for determining these applications today will therefore be as follows:

1. Application 11/02199/OUTM (Monks Cross Shopping Park) will be presented, together with speakers, questions and debate
2. Application 11/02208/FUL (Monks Cross Shopping Park) will be presented, together with speakers, questions and debate
3. Application 11/02581/OUTM (the Community Stadium) will be presented, together with speakers, questions and debate
4. Consideration of and debate on the cumulative impacts of all the applications
5. Members to vote on application 11/02199/OUTM (Monks Cross Shopping Park outline)
6. Members to vote on application 11/02208/FUL (Monks Cross Shopping Park s73)
7. Members to vote on application 11/02581/OUTM (the Community Stadium)

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PUBLIC PARTICIPATION**Thursday 17 May 2012****PLANNING COMMITTEE at 10:00am****Community Stadium Speakers – 4c**

Name	Item	Status
Roger Pierce	4c	Objection - long term impact of the Stadium on York.
Alistair Andrew	4c	Objection – general comments on the principle.
James Owens	4c	Objection - Laselle Venture Fund who are behind Castle Picadilly.
Nick Eggleton	4c	Objection – Economic Impact and viability of Stadium business case.
Andy Shrimpton	4c	In Objection – primarily about out of town retail but has comments on stadium too so wanted to register for both.
Peter Brown	4c	Objection – York Civic Trust – Impact on Historical Buildings.
Denise Craghill	4c	Objection – Green Party - sustainability issues.
Kate Lock	4c	In Objection York Environment Forum

Richard Lane	4c	In Objection – Friends of the Earth – Traffic Pollution and Impact)
Martin Skilbeck	4c	Local Resident - Objection – Traffic Impact of Stadium alongside retail outlets and effect on ring road.
Mike Fisher	4c	Objection – Local business owner – employment and investment matters.
Adam Sinclair	4c	Chamber of Trade/Mulberry Hall - Objection – impact on city centre.
Neil Wilson	4c	In Support – York Teaching Hospital NHS Foundation Trust .
Janice Dunphy	4c	In Support – Owner of Creepy Crawlies.
Prof. Howard Hall	4c	In Support –Chair of Sport related subjects at York St. John & Chair of Active York.
Peter Vaughan	4c	In support – individual registration - ex Chair of Huntington PC – has been involved in past proposals for Monks Cross
Steve Galloway	4c	In support – will concentrate on the history of the stadium and why objections

		should be over ruled.
Ian Yeowart	4c	Owner of F1 racing in support.
Jason McGill	4c	In Support - Chairman of York City FC
Sophie Hicks	4c	Communities Director at York City FC
Frank Ormston	4c	Minstermen Supporters Club
Neil Hunter	4c	In Support York City Athletics Club and York Knights
Susie Cawood	4c	Chamber of Commerce – economic benefit of the Oakgate development.
Neil McClean	4c	Leeds and City Region LEP (asked to speak in support by Cllr. Alexander).
Richard Wood	4c	Applicant
Paul Irwin	4c	Transport Consultant
Daniel Brown	4c	Retail Specialist How Planning
John Handy	4c	Marks and Spencers.
Andrew Mills	4c	John Lewis
Paul Rogerson		Planning Consultant
Sally Burns	4c	CYC – In support – community and health benefits and partnerships with

		stakeholders.
Councillor Alexander	4c	Leader of the Council
Councillor Hyman	4c	Ward Member – in support of stadium plus general comments from Ward Member point of view.
Councillor Gillies	4c	Leader of Conservative Group
Councillor Taylor	4c	Enabling Development.

PUBLIC PARTICIPATION**Thursday 17 May 2012****PLANNING COMMITTEE at 10:00am****Speakers List – Monks Cross Shopping Park.****Applications 4a and 4b.**

Plans Item 4a		
Name	Speaker	Status
Phillip Crowe	4a	In Objection – on behalf of York Tomorrow (Impact on Castle Picadilly).
James Owens	4a	In Objection - On behalf of Laselle Venture Fund who are behind Castle
Paul Thompson	4a	In Objection – Barnitts, how Monks Cross will affect his business.
Andy Shrimpton	4a	In Objection – primarily about out of town retail but has comments on stadium too so wanted to register for both.
Colin Hall	4a	In support – Importance of a strong and unanimous decision. Supports new retail and employment opportunities.

Tim Waring/Andrew Colliers	4a (and 4b)	Applicant - Indigo Planning
Tim Waring/Andrew Colliers	4a(and 4b)	Applicant – Indigo Planning
Councillor Alexander	4a	Councillor Leader
Councillor Hyman	4a	Ward Member – General comments.
Councillor Runciman	4a	Leader of Liberal Democrat Group – Traffic Issues.