

COMMITTEE REPORT

Date: 4 February 2016 **Ward:** Rawcliffe And Clifton Without
Team: Major and Commercial Team **Parish:** Clifton Without Parish Council

Reference: 15/02431/FULM
Application at: Wilkinson 3 Stirling Road York YO30 4XZ
For: Alterations and extension to create 2no. units including mezzanine floor and alterations to car parking and service yard
By: Clifton Moor Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 29 January 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 This is a full application for the alteration and extension of the Wilkinson's retail shop to facilitate the subdivision of the unit into two separate shops. Wilkinson's (or Wilko) is located in unit 3 (Phase 1) Stirling Road, Clifton Moor, York.

1.2 The site lies within Clifton Moor Retail Park. Phase 1 of the Park includes Tesco food store and 10 other smaller retail units. Unit 3 Stirling Road is currently occupied by Wilkinson's in a ground floor unit which has a floor area of 3,753 sqm. This unit is too large for Wilkinson's and it is proposed to reduce the size of the unit to 2954 sqm. The surplus retail space (799 sq m) is to be extended at ground floor by 483 sq m with mezzanine of 1,154 sq m inserted to provide for a second separate retail unit comprising ground floor of 1282 sq m and mezzanine of 1154 sq m. This second unit is to be occupied by Furniture village.

1.3 The extension to the ground floor area is to be constructed to the rear of the unit extending into the service yard and parking area. The rear of the unit faces Stirling Road. The extension will necessitate some reconfiguration of the rear service yard including loss of car parking spaces and the reduction and replanting of the existing landscaped border.

1.4 RELEVANT PLANNING HISTORY

- 07/01963/FUL - Planning permission, under Section 73 of the Town and Country Planning Act 1990, for the variation of Condition 5 of planning permission reference no. 3/104/141AD/PA to allow for a wider range of goods to be sold from the application site. Application approved subject to restrictive

conditions which control type of good sold and giving a personal permission to Wilkinson's only.

- 07/00942/FUL: Variation of condition 5 of planning permission 03/104/141/AD/PA to allow a wider range of goods to be sold from part of unit 3. This application was withdrawn on 19.6.2007 due to insufficient information.
- 06/00941/FUL: Variation of condition 5 of planning permission 3/104/141AD/PA to enable a wider range of goods to be sold. Permission was granted on 27.2.2007.
- 3/104/141AD/PA: Outline planning permission for retailing, the sale of food, a petrol station and car parking. Planning permission was granted on 10 July 1986 subject to a series of condition, one of which was to impose restrictions on the type of goods sold (condition5). This condition reads as follows:

The non-food retailing element shall be restricted to those goods types as specified in the Greater York Shopping Policy, except for the sale of clothing within the food store, not exceeding 92,500 sq ft and other sales within the four retail units not exceeding 8,000 sq ft.

Reason - To satisfy the requirements of the Greater York Shopping Policy.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

2.2 Policies:

CYGP1 Design

CYS2 Out of centre retail warehouse criteria

CYSP7A The sequential approach to development

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections subject to cycle parking provision being conditioned.

Public Protection

3.2 No objections in principle conditions are sought with regard to land contamination and noise from plant and machinery. Six electric hook up points were

originally sought via condition however having reviewed the scheme in light of conditions requiring electric hook up points on adjacent sites such a condition is no longer requested.

Flood Risk Management Team

3.3 No evidence has been submitted to show that sustainable urban drainage solutions are unsuitable for this site. Subject to such evidence being submitted there are no objections to the application.

Planning And Environmental Management (Forward Planning)

3.4 The proposal passes the sequential test; an impact test is required having regard to the threshold set out in the Retail Study Update (2014).

EXTERNAL

Yorkshire Water Services

3.5 No comments received.

Clifton Without Parish Council

3.6 No comments received.

4.0 APPRAISAL

4.1 Key Issues:-

- Policy background
- Principle of the development
- Design and Landscape
- Car parking, cycle parking and Accessibility
- Drainage

PLANNING POLICY

National Planning Policy Framework

4.2 Paragraph 14 of the NPPF indicates that the heart of the framework is a presumption in favour of sustainable development, for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted.

4.3 Paragraph 17 sets out the core planning principles which should underpin decision taking. These principles include the expectation that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 23 of the NPPF says that 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. Local planning authorities at paragraph 24 are directed to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to 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. Paragraph 26 states that when assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.5 Paragraph 35 says plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of good and people. 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, incorporate facilities for charging plug-in and other ultra low emissions vehicles; consider the needs of people with disabilities by all modes of transport.

4.6 Paragraph 56 of the NPPF states that the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is indivisible from good planning, and should contribute positively to making places better for people. The NPPF also states at paragraph 57 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.

4.7 Paragraph 70 says that to deliver social, recreational and cultural facilities and services the community needs, planning policies and decisions should (among other things) ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

4.8 Paragraph 216 of the NPPF states that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

National Planning Policy Guidance

4.9 The NPPG sets out that the sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).

City of York Draft Local Plan

4.10 The City of York Draft Local Plan (DCLP) Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.11 The DCLP does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.12 Policy SP7a suggests a sequential approach to development. Policy S2 recognises that proposals for retail warehouses selling non bulky good may detrimentally impact on the current product available in City Centre and District Centres. To control this, such proposals will be expected to be accompanied by analysis to demonstrate that they would have no adverse impact.

4.13 Policy GP1: Design is of relevance to this application. The policy indicates in section a) that any development proposal must respect or enhance the local environment.

Emerging Local Plan

4.14 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.15 Policy R1 seeks to maintain and enhance the vitality and viability of the City Centre, district and local centres and neighbourhood parades. Main town centre uses will be directed sequentially to the city, district and local centres and neighbourhood parades. Proposals for main town centre uses outside a defined city, district or local centre must be subject to an impact assessment where the floor space of the proposed development exceeds the locally set thresholds. Should a formal application be submitted the relevant threshold for a proposal outside York City Centre would be greater than 1,500 sqm gross floorspace. An impact assessment would therefore be required. Applicants should seek to agree the scope of the impact assessment which should be appropriate to the scale and nature of the proposed development and to identify any specific local issues.

4.16 Policy R4 relates to out of centre retailing and continues the approach taken in Policy S2 of the 2005 local plan. It states that proposals for out of centre retailing will only be permitted where it:

- cannot be accommodated in a sequentially preferable location in accordance with Policy R1;
- will not result in a significant adverse impact on existing, committed and planned public and private investment in York city centre, and other relevant defined centres in the catchment area of the proposed development;
- will not result in an individual or cumulative (significantly adverse) impact on the vitality and viability of any defined centre including local consumer choice and trade in the centre and wider area up to five years from the time the application is made; and
- is in accordance with other policies within the Local Plan, and national guidance, as appropriate.

4.17 Restrictions on floor space or goods sold will be secured by condition to prevent out of centre proposals having a negative impact on the vitality and viability of the city centre.

4.18 Policy D2: 'Placemaking' states that development proposals will be supported where they improve poor existing urban environments. The character and design standards in Policy D2 must also be taken account of, to ensure appropriate building materials are used, the highest standards of accessibility and inclusion are met and

to demonstrate the use of best practice and create places that feel true to their intended purpose.

Evidence Base

4.19 The most relevant evidence base is the Retail Study Update (2014). It considers that the retail hierarchy in the emerging plan is sound for planning for future community needs and in the absence of new guidance still represent previous best practice. It is not considered that a blanket threshold is suitable for all types of centres across the city. Instead it is considered more appropriate to have a range of thresholds, a tiered approach whereby the threshold applied at edge of centre and out of centre locations varies in relation to the role and function of the particular centre.

4.20 For comparison retailing, the retail study update advises that there is no requirement to identify any sites for new comparison goods retailing in the local plan. Most of the future requirements could be met through the new floorspace at the stadium site and other planning permissions up to 2023. There is also some floorspace capacity available through vacant units at out of centre retail parks and the city centre that could absorb some of the identified capacity. Historic trends show a shift away from the city centre towards the surrounding retail parks and shopping destinations. Whilst this decline has stabilised since 2004 and 2007 it is recommended that new comparison provision should be focussed towards the city centre. Out of centre locations should therefore be subject to restrictive mechanisms to control further expansion as well as restrictions on the range of goods sold from existing and future floorspace.

PRINCIPLE OF THE DEVELOPMENT - RETAIL POLICY

4.21 Clifton Moor is an out of town retail area. In accordance with NPPF policy a sequential test has been submitted in support of this application. Sequential tests are required to consider sites which are in sequentially preferable locations (city centre first then edge of centre then only if suitable sites are not available should out of centre sites be considered) and to assess these in terms of availability, suitability, and viability. A survey was carried out of the City Centre and it was considered that there were no sites which were of sufficient size to accommodate the development. The sequential test considered sites at Coppergate and Piccadilly/Denys Street as well as development sites at York Central, Hungate and Castle Piccadilly. In each case it is concluded that the site/unit is either unavailable, unsuitable for bulky goods retailing, or is unviable, or a combination of those. Officers agree with the conclusion that that there are no suitably sized units in the city centre for bulky items that are likely to be available in a reasonable timescale. As a result it is concluded that the proposed development would not have an unacceptable impact on the City Centre subject to the use of a bulky goods condition restricting the goods sold. The applicant has confirmed in their submitted statements that they are content with the

use of a bulky goods condition as the end user Furniture Village is a bulky good operator. In relation to the Wilkinson's unit there is no need to carry out a sequential test as the unit already exists. The conditions restricting goods sold, which is less restrictive than a bulky good condition, and the personal permission that restricts occupancy to Wilkinson's only are to be reapplied to this permission (appropriately amended to take into account the reduced floor space of the unit).

4.22 The proposed development results in an additional gross internal floor space of 1637 sq m over and above the existing unit on site. This is below the 2500 sq m threshold set in the NPPF for requiring an impact test. However the Retail Study Update (2014) requires impact tests on site over 1500 sqm. The purpose of an impact test is to assess the impact of a proposal on existing committed and planned investment in a centre and the impact of the development on the vitality and viability of the city centre and wider area (paragraph 26, NPPF). The applicant has submitted an impact test which concludes that they have undertaken a robust assessment of the impact of the proposed development based on the Council's most up to date Retail Study and adopting assumptions commensurate with the scale and type of scheme proposed. The applicant considers that it has been demonstrated that the net uplift in turnover arising from the proposed development is not material and will not have a significant quantitative impact on York City Centre. Officers would concur with this conclusion based on the evidence submitted.

4.23 It is considered that the principle of the creation of the additional retail floor space can be supported having regard to advice in the NPPF and the Retail Study Update 2014 subject to conditions restricting the range of goods to be sold in the new unit and retaining existing restrictions on the Wilkinson's operation.

DESIGN AND LANDSCAPE

4.24 The existing retail unit is of red brick construction with a terracotta roof tile. The roof of the building continues in front of the building line to create a covered walkway. The roof overhangs a significant part of the retail frontage which reduces the perceived height of the shop front. This gives the retail frontage a more low-key appearance. The former Wickes site immediately to the east of the site has been redeveloped to open up the frontage by removing the covered walk way increasing the height of the glazed entrances and using a mansard tiled detail to the upper part of the building. These shop units are updated but still reflect the materials of the original design concept for the park. The proposal is to carry the design through from the Wickes site into the new units adjusting the entrances so that each shop can be served by separate entrances. Totem signage is repositioned to suit the new design. To the rear of the building the design of the extension matches the brick work and roof detail of the existing buildings. The design of the scheme is considered to accord with the principles set out in section 7 of the NPPF which seeks to promote or reinforce local distinctiveness and the integration of development into the built environment.

4.25 Tree Preservation Orders have recently been placed on trees within the borders of Clifton Retail Park as it faces the A1237. Landscaping to the borders of the Park and between the various phases is quite mature and provides some relief from the relatively hard landscaping of the retail park. However landscaping within the park is not protected by the order. The new extension will necessitate changes to the layout of the rear service area and this will reduce the landscaped margin between the site and Stirling Road. Existing tree cover will be lost. The applicant has proposed a new landscape scheme for the reduced planted margin. This incorporates both low level shrubs and 3 substantial trees to replace the 9 trees that will be lost. Whilst it is regrettable to see planted margins reduced and trees lost rather than being incorporated into proposed scheme, it is considered that the new planting will provide a good continuation of the existing planted margin and is acceptable. A Landscaping condition is proposed.

CAR PARKING, CYCLE PARKING AND ACCESSIBILITY

4.26 A Transport Assessment (TA) has been submitted in support of the application which considers the likely traffic movements associated with the proposed development and the impact this may have on the local highway network. The methodology of the TA is in accordance with national guidance and has been based on the net change between the existing use and the development proposed. The TA concludes that the additional floor space and loss of car parking to the rear service yard would not result in any noticeable change in traffic conditions on the local highway network taking into account anticipated levels of diverted, linked and pass-by trips. The report concludes that there is good access to the site via car and cycle and that bus stops are located close to the park so that the site is accessible by all modes of transport. Highway Network Management do not raise any objections to the application. Overall it is considered that the alterations to the site will not impact on the highway network and that the existing network of footpaths, cycle routes, car parks and bus stops are sufficient to serve the development.

4.27 Further information has been sought with regard to cycle parking for staff and visitors and details of these will be reported direct to committee.

DRAINAGE

4.28 The site is located within flood zone 1, low risk and should not suffer from river flooding.

4.29 The application is supported by a drainage assessment which says that the original drainage plans for the site have been obtained and these show surface water sewers are located within the vicinity of the proposed building and are currently utilised to drain the existing roofs of the retail units, together with the

external hardstanding areas. The information shows foul water sewers are located beneath the hardstanding area and within the vicinity of the proposed works.

4.30 It is accepted that the additional development will require surface water runoff to be attenuated and this is proposed to be achieved through the use of oversized pipes (which provide storage capacity so that runoff rates can be restricted). Foul drainage will be via gravity to the existing system.

4.31 A drainage condition is proposed to ensure full drainage details are provided.

5.0 CONCLUSION

5.1 Clifton Moor is an out of town retail area. There are no suitably sized units in the city centre for bulky items that are likely to be available in a reasonable timescale. Subject to conditions restricting the range of goods to be sold in the new unit and retaining existing restrictions on the Wilkinson's operation, it is considered that the sub-division of the existing unit and the creation of the additional retail floor space would not have an unacceptable impact on the City Centre. In terms of design and landscape, car parking, cycle parking and accessibility and drainage the scheme is considered to be acceptable. As such the proposal complies with Policy SP7a, S2 and GP1 of the City of York Development Control Local Plan, the Retail Study Update (2014); evidence base to the emerging local plan and advice within the National Planning Policy Framework.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS1 Approved plans

3 VISQ8 Samples of exterior materials to be app

4 The landscaping details shown on Drawing no. V12456B_LO1 dated 01/2016 shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

5 Prior to the completion of the scheme details of cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local

Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

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

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

Reason: In the interests of highway safety.

7 In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 metre from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014) inclusive

of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

REASON: To safeguard the amenity of occupants of neighbouring premises.

9 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site. The approval of details is required at this stage in order to ensure that the implementation of an acceptable drainage solution is not compromised by the premature commencement of works at the site.

10 Notwithstanding the provisions of section 55(2)(f) of the Town and Country Planning 1990 (as amended) and article 3(1) of the Town and Country Planning (General Permitted Development Order) (England) 2015 , there shall be no subdivision of unit 3B to create units of less than 1,000 sqm, in the absence of any planning permission relating directly to such subdivision.

Reason: In order to protect the vitality and viability of the city and district centres.

11 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or as may be subsequently amended no more than 45% of the existing Class A1 net retail floorspace (2,422 sq m) of Unit 3A shall be used for the sale of the following goods:

- a) Seasonal goods, Christmas goods, luggage, toys;
- b) Electrical goods;
- c) Soft furnishings/homeware/household textiles;
- d) Gas appliances;
- e) Convenience - food and cleaning products;
- f) Toiletries and disposables;
- g) Clothing

Reason: In order to prevent the unit being used as open retail and conflicting with uses in York city centre and nearby district centres, thus protecting the viability and vitality of those centres.

12 The use of unit 3A shall enure for the benefit of Wilkinson Hardware Store Ltd only, and shall not enure for the benefit of the land. Should Wilkinson Hardware

Store Ltd vacate unit 3A the following range of goods shall not be sold in unit 3A, save where ancillary (defined for the purposes of this condition as no more than 15% of the total floorspace of the retail unit) to the main range of goods sold:

- Men's, women's and children's clothing and footwear
- Fashion accessories
- Watches and jewellery
- Music and video
- Cameras and photographic equipment
- Toys
- Pharmaceutical goods
- Books, magazines and stationery
- Food, drink and other convenience goods

Reason: The Local Authority would wish to re-assess the retail impact of any similar proposals in the event of a change in owner/occupier in the interests of the protection of the vitality and viability of the city and district centres.

13 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or as may be subsequently amended the following range of goods shall not be sold in unit 3B, save where ancillary (defined for the purposes of this condition as no more than 15% of the total floorspace of the retail unit) to the main range of goods sold:

- Men's, women's and children's clothing and footwear
- Fashion accessories
- Watches and jewellery
- Music and video
- Cameras and photographic equipment
- Toys
- Pharmaceutical goods
- Books, magazines and stationery
- Food, drink and other convenience goods

Reason: In the interests of the protection of the vitality and viability of the city and district centres the range of goods to be sold shall not compete with typical products found in these centres.

7.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs

186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Requested additional information relating to landscaping and highway issues.
- Discussed appropriate conditions

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