

COMMITTEE REPORT

Date: 21 April 2016 **Ward:** Rawcliffe And Clifton
Without
Team: Major and **Parish:** Clifton Without Parish
Commercial Team Council

Reference: 15/02856/FULM
Application at: Former Grain Stores Water Lane York
For: Erection of food store with car park with access off Water Lane
By: Mr Jason Stowe
Application Type: Major Full Application (13 weeks)
Target Date: 22 April 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The Grain Stores, Water Lane , Clifton comprises a large derelict area of hard standing forming part of a former military airfield which has been subject to an Outline Planning Permission for a mixed use development granted on appeal reference 11/00860/OUTM. The housing element of the proposal has been partially implemented and planning permission is now sought for construction of a 1,742 sq metre Aldi Grocery Supermarket on part of the remainder of the site adjacent to the junction of Water Lane and Green Lane.

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

City of York Draft Local Plan adopted for Development Control Purposes in 2005 (DCLP).

Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

CYGP1 -Design

CGP15A - Development and Flood Risk

3.0 CONSULTATIONS

INTERNAL:-

3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned to require the remediation of any land contamination and to control noise and other disturbance associated with construction.

3.2 Highway Network Management raise no objection to the proposal subject to the details of the access and parking arrangements being conditioned in details as part of any planning permission.

3.3 Planning and Environmental Management (Landscape) express concern with regard to the nature and layout of the proposed landscaping to the external boundaries to the site.

3.4 Planning and Environmental Management (Forward Planning) initially expressed concerns in respect of the retail impact of the proposal upon the Haxby District Centre and the City Centre and also the robustness of the submitted Sequential Test. A revised Sequential Test and a detailed Retail Impact Assessment has subsequently been submitted which addresses these concerns in their entirety.

EXTERNAL:-

3.5 Clifton (Without) Parish Council raises no objection in principle to the proposal but wish to see additional cycling provision within the site.

3.6 Yorkshire Water Service Limited raises no objection to the proposal.

3.7 Three letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- i) Concern in respect of the impact of the proposal upon road safety and traffic generation in the locality;
- ii) Concern that the proposal will lead to an increase in on-street parking in the locality;
- iii) Concern that the proposed opening hours would give rise to conditions prejudicial to residential amenity of properties in the vicinity;
- iv) Concern that sequentially preferable sites in the near vicinity have been discounted.

3.8 Two letters of support have been received highlighting the number of elderly residents in the locality and the proximity of the Redrow housing development in the process of construction.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the vitality and viability of the City Centre and Local District Centres;
- Loss of employment land;
- Impact upon the visual amenity of the wider street scene;
- Impact upon the safety and convenience of highway users.

PLANNING POLICY CONTEXT:-

STATUS OF THE EMERGING LOCAL PLAN:-

4.2 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.3 The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

4.4 Retailing:- Central Government planning policy as outlined in paragraphs 24 to 27 of the National Policy Framework indicates that Local Planning Authorities should seek to ensure that planning applications for main town centre uses that are not in existing centres and not within an up-to-date development plan should be subject to a detailed sequential test demonstrating that such proposals should be located within principal centres and only in edge of or out of centre sites where suitable locations are otherwise not available allowing for flexibility in terms of format and scale. At the same time Local Planning Authorities should seek an appropriate impact assessment of all proposals for retail development outside of defined centres which are not in accordance with an up-to-date Local Plan and fall above an adopted locally defined threshold such an assessment should take clear account of committed and proposed investment in centres within the retail catchment area along with impacts upon the vitality and viability of the town centre and other centres within the appropriate catchment for a period of five years. Whilst the Policies may only be afforded limited material weight, Policies R1 and R4 of the (Emerging) Publication Draft York Local Plan(2014) seek to restrict the development of town centre uses outside of defined Town and district centres. This sets out a requirement for retail impact assessment of all developments above a defined

threshold of 1,500 sq metres and permission only be given where it can be clearly demonstrated that no sequentially preferable sites are readily available and that there would not be a significant material impact upon the vitality and viability of the town or district centre either individually or cumulatively.

4.5 Loss of Employment Land:- Central Government planning policy as outlined in paragraph 22 of the National Planning Policy Framework indicates that where there is no reasonable prospect of allocated employment sites being used for the allocated employment use then applications for other alternative uses should be judged strictly on their merits. Whilst the policy may only be afforded limited material weight, Policy EC3 of the (Emerging) Publication Draft York Local Plan(2014) sets out presumption against the loss of land allocated for employment use unless it can clearly be demonstrated that the site has been marketed for a prolonged period (a minimum of six months) for employment use without any success.

IMPACT UPON THE VITALITY AND VIABILITY OF THE CITY CENTRE AND LOCAL DISTRICT CENTRES:-

4.6 The application seeks planning permission for erection of a medium sized grocery store within the terms of the operator's business model (1,742 sq metres gross internal floorspace) for Aldi on land with an existing Outline planning permission for a mixed use development within the outer northern periphery of the City. A detailed sequential test was submitted with the proposal and a detailed retail impact assessment has also subsequently been submitted. The proposed development has been brought forward by the applicant as part of an expansion of their range of smaller and medium sized stores within the wider area.

4.7 Sequential Test:- The Sequential Test as initially submitted examined impacts upon centres within the local area including Skelton, Rawcliffe and Clifton Moor. In view of the size of the store and the nature of the applicant's business model this was judged to be unduly restrictive in terms of compliance with the requirements of the National Planning Policy Framework.. As a consequence a revised sequential test was subsequently submitted looking at sites within the wider City notably the Acomb and Haxby District Centres, edge of Centre sites such as York Central and sites within the City Centre itself such as Castle Piccadilly and Stonebow House. The result of the Sequential Tests defined narrowly and broadly is that no sequentially preferable sites are presently available. Three sites within the City Centre area (Stonebow House, York Central, Castle Piccadilly) were of the requisite size and configuration but were otherwise not deliverable. Stonebow House is on multiple levels which would have created unreasonable difficulties in terms of stock delivery and management and access for customers and York Central and Castle Piccadilly are not otherwise deliverable within the time frame required by the developer due to landownership and infrastructure difficulties.

4.8 A third party has raised a site at Lysander Way within Clifton Moor. This again is an allocated employment site with evidence of continuing employment interest and it is poorly related to the surrounding road network. The site is therefore not felt to be sequentially preferable.

4.9 Retail Impact Assessment:- The submitted Retail Impact Assessment examines potential impacts upon a range of small, medium and large grocery stores within the wider area using the household data from the evidence base used to support the 2014 retail report prepared in support of the Emerging Local Plan. The issue of comparison goods sales has also been examined in the light of the available net retail floor space(1,254 sq metres) and the operator's business model.

4.10 In terms of overall retail impacts, significant impacts have been identified in respect of the operator's own premises at Monk's Cross, Tesco Extra at Clifton Moor and notably the recently opened Iceland premises at Clifton Moor, where the impact would be of the order of 20% in terms of trade. However, each of the affected stores lies outside of the City Centre or the Haxby and Acomb District Centres and so do not enjoy any policy protection in terms of the National Planning Policy Framework.

4.11 In terms of the split between convenience and comparison goods, Aldi has only a minimal offer in terms of comparison goods and the retail impact assessment assumes an 80/20% division between the sale of convenience and comparison goods within the store. As a consequence the assessment indicates that there would not be a material impact in terms of the sale of comparison goods for other within the wider locality. The maximum area in terms of net floor space devoted to comparison goods within the store would be some 249 sq metres which would fall within the definition of ancillary sales applied to other similar grocery operations and would be acceptable if conditioned as part of any planning permission. The proposal is therefore felt to be acceptable both sequentially and in terms of its retail impact.

LOSS OF EMPLOYMENT LAND:-

4.12 The application site has an Outline planning permission for a mixed use scheme incorporating elements of leisure and employment use as well as the residential development currently in the process of construction to the west and north west. The application site lies within the area set aside within the Outline permission for employment and leisure use and has been included within the Emerging Local Plan as a Draft employment land allocation. Both the National Planning Policy Framework at paragraph 22 and the Emerging Local Plans set out a clear requirement in terms of loss of employment land for evidence to be brought forward that a site is no longer required for employment purposes and that active and meaningful marketing of the site for a prolonged period of usually more than six months without success. The submitted Planning Statement with the proposal clearly indicates that the wider site has been marketed for employment purposes since December 2003 with limited interest and no firm offers and as such the requirements of paragraph 22 of the NPPF have been met. Furthermore the

evidence in terms of marketing the site for employment use was considered in detail in respect of the previous appeal in relation to the application for Outline planning permission and felt to be acceptable by the previous appeal Inspector in determining the application.. The store would also of itself generate a measure of direct employment with the creation of the equivalent of 30 full time jobs. As such the proposal is felt to be acceptable in terms of the loss of employment land.

IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.13 Concern has been expressed in terms of the impact of the proposed development on the visual amenity of the wider street scene, specifically in terms of the treatment of the outer facing boundaries to Water Lane and Green Lane where a mature hedge has become established over the period since the site has ceased to be used a military airfield. The scheme as submitted envisaged the planting of a band of light tree and shrub ground cover around the site boundaries with the area of car parking appearing prominent in views in from the north and east. Further negotiation has enabled the car parking layout to be re-organised to facilitate a wider landscaped planting area adjacent to the junction of Water Lane and Green Lane incorporating an element of hedge planting and more clearly defined native tree planting which is felt to be acceptable and will be reported to Members at the meeting. Subject to the landscaping of the site being resolved in detail through condition attached to any planning permission, the proposal is felt to be acceptable in terms of its impact upon the visual amenity of the wider street scene.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.14 Concern has been expressed in relation to the access arrangements and parking layout for the proposal based upon the anticipated usage of the store with the potential for associated traffic congestion on the surrounding road layout. A detailed Transport Assessment has been submitted with the proposal and further clarification has subsequently been given in respect of accessibility for delivery vehicles, levels of patronage and the level of associated parking provision in order to address the concerns. Subject to the further clarification it is felt that the access alignment is acceptable as is the level of parking provision. The site is at the same time easily accessible by public transport and adequate cycle parking has been provided. The proposal is therefore felt to be acceptable in terms of its impact upon the safety and convenience of highway users.

5.0 CONCLUSION

5.1. The proposal has been subject to a detailed sequential test and retail impact assessment. It is concluded that there are no sequentially preferable sites and the proposal is found to be acceptable in terms of its impact upon the vitality and viability of the City Centre. At the same time the applicant has been able to convincingly demonstrate that the site has not been successfully marketed for employment use.

5.2 The levels of parking and access arrangements have been demonstrated to be acceptable and subject to the detailed landscaping of the site being conditioned as part of any planning permission the proposal is felt to be acceptable in planning terms and approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing Refs:-3851-SKA; 1439 210 E; 1439 214B; 1439 213; 1439 215; 1439 211; 1439 212; W635 E200 P1.

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

3 VISQ8 Samples of exterior materials to be app

4 VISQ4 Boundary details to be supplied

5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees , shrubs and hard landscaping. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

6 ENVA1 Surface water drainage through oil inter

7 No development shall take place until details of the proposed means of surface water drainage including details of balancing and off site works (surface water discharge to not exceed 10 litres per second) have been submitted to and approved in writing by the Local Planning Authority. There shall be no piped discharge of surface water from the development prior to completion of the surface water drainage works in accordance with the approved details.

Reason:- To ensure that the site is safely and efficiently drained and to secure compliance with paragraph 103 of the National Planning Policy Framework.

8 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to

complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk

Reason:- To safeguard the residential amenity of nearby properties and to secure compliance with paragraph 17 of the National Planning Policy Framework.

9 NOISE7 Restricted hours of construction

10 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, 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 retained and appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not 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.

Reason. To protect the amenity of local residents

11 LC1 Land contamination - Site investigation

12 LC2 Land contamination - remediation scheme

13 LC3 Land contamination - remedial works

14 LC4 Land contamination - unexpected contam

15 Before the occupation of the retail accommodation two (2) Electric Vehicle Recharging Point shall be provided in a position to be first agreed in writing by the Council and thereafter retained. Within 3 months of the first occupation of the accommodation, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging

Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point .

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

16 HWAY14 Access to be approved, details reqd

17 HWAY18 Cycle parking details to be agreed

18 HWAY19 Car and cycle parking laid out

20 HWAY31 No mud on highway during construction

21 HWAY35 Servicing within the site

22 HWAY40 Dilapidation survey

23 The development shall not be first brought into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb/footway to match adjacent levels.

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

24 The site shall not be used for the purpose of food retail until the following highway works (as shown indicatively on drawings; 210 Rev E and 3851-SK6 Rev A) have been implemented in accordance with the aforementioned approved plans or arrangements entered into which ensure the same;

1) Widening of the existing footway to 3m along the Water Lane frontage from the Toucan crossing to the pedestrian/cycle access to the store (save for a localized pinch point around the BT cabinet)

2) Formation of a new bus stop on Water Lane consisting of a bus half layby with associated footway and kerb works,

Reason; In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic.

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

25 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. All works on the site shall be carried out in accordance with the

approved works statement. Such a statement shall include as a minimum the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

26 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or any order amending, revoking or re-enacting that Order, or the description of development associated with this permission, no more than 249 square metres or 20% of the net floor space (whichever is the lower figure) of the retail development hereby authorised shall be used for the **display and sale of comparison goods**.

Comparison goods are defined as follows:-

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

Reason:- To safeguard the vitality and viability of the City Centre and to secure compliance with paragraphs 24 to 26 of the National Planning Policy Framework.

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:

- i) the submission of a supplementary sequential test and retail impact assessment;
- ii) submission of an amended highway layout and clarification in respect of trip generation rates;
- iii) submission of a more detailed and robust landscape layout.

2. HIGHWAY WORKS:-

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 278 /Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. STATUTORY UNDERTAKERS:-

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

Contact details:

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