

COMMITTEE REPORT

Date: 9 June 2016 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 16/00665/FULM
Application at: Land to the South of Partnership House Monks Cross Drive Huntington York
For: Mixed use development including erection of electrical retail store with associated workshop, storage and offices and a drive-thru restaurant
By: Mr Chris Hale
Application Type: Major Full Application (13 weeks)
Target Date: 15 June 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a building to provide accommodation for an electrical contractors and retail business and a drive through cafe/restaurant on 0.5ha of land located between Partnership House and Monks Cross Drive, Huntington, York.

1.2 The application site is rectangular area of grass land located on the Monks Cross Drive frontage. To the east is a three storey office block partially occupied by Aviva. To the north is an office building (known as Partnership House). To the south is Monks Cross Drive and to the west is the road access which serves the existing office development (to the north) and the proposed site. The land is set above the level of the footpath along Monks Cross Drive.

1.3 The proposal has two distinct elements; the east half of the site is to be used by Herbert Todd and Son to provide new modern premises for their electrical sales, repair and contracting business. The proposal is to construct a long rectangular structure on a north south orientation. The retail showroom would occupy the south end of the ground floor facing Monks Cross Drive. The north half would accommodate storage and workshop space. Offices, WC's and staff facilities would be accommodated between the showroom and storage area. A small mezzanine would be located in the centre of the building and accommodate more storage and office space. The agent indicates that the primary purpose of the building is electrical retail store and showroom; however the building would also serve as a base for the company's contracting team that employs 9 of the 17 staff. The total floor area of the building is 924 sq.m. on a footprint of 701 sq.m.

The height of the building is 6 metres to eaves and 10 metres to ridge. The external walls and roof would be clad in grey profiled sheeting.

1.4 The proposed cafe is sited on the west side of the site. There is no specific end user for the cafe but the applicant says that negotiations with a national coffee chain are at an advanced stage. The cafe building has a footprint of 169 sq.m. It is single storey with a mono-pitched roof and is to be clad in a mix of render, timber and glazing. An outside seating area is proposed on the south side of the building.

1.5 Access is via a new entrance point on the north west corner of the plot; sixty car parking spaces are proposed between the two buildings. Visitor and covered and secure employee cycle parking is proposed for each use. The scheme includes a pedestrian and cycle access point from the Monks Cross Drive frontage.

PLANNING HISTORY

1.6 Permission was granted for the erection of 5 no. two storey and 2no. three storey office units (B1) in February 2007 (06/02541/FULM)

1.7 A temporary planning permission for 3 years was granted in July 2012 for the use of the land as a car park by Aviva employees (12/01917/FUL).

2.0 POLICY CONTEXT

2.1 Policies:

CYE3B Existing and Proposed Employment Sites
CYGP1 Design
CYS6 Control of food and drink (A3) uses

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 Comments awaited.

Planning and Environmental Management (Countryside And Ecology)

3.2 Based on current information and using Natural England's rapid assessment tool the proposed development is highly likely to impact on great crested newts and therefore a European Protected Species Licence would be required. When a European Protected Species licence is required the competent authority (in this case City of York Council) must consider the likelihood of a licence being granted and therefore need to be satisfied that the 'three tests' of overriding public interest, no satisfactory alternative and maintenance of favourable conservation status are

met. With regards to the maintenance of the population of the species concerned at a favourable conservation status in their natural range the Countryside and Ecology Officer is satisfied that the mitigation proposed will ensure this, particularly as it utilises existing mitigation land which, through monitoring, has shown to be successful. Conditions are proposed to ensure the implementation of ecology measures, further ecology work is sought if the development is not commenced within two years and an informative is sought to protect nesting birds during the nesting season.

Planning and Environmental Management (Forward Planning)

3.3 The site is identified as an employment allocation within the 2005 Local Plan and draft Publication Local Plan (2014). However there is evidence to show that there is a reduced demand for office space at Monks Cross from the council's economic policy officer and the applicant. The proposal will retain a York business and also continue to provide employment for 17 staff at the electrical store and create employment at drive-thru restaurant which are all welcomed. Satisfied that the sequential information submitted to show that there are no suitable sites for the development in the city centre or edge of centre locations is acceptable and the sequential test is passed. No impact test (assessment of the impact of the development on the city centre vitality and viability) is required as the development is below the locally set threshold of 1500 sqm. Conditions should be imposed to restrict the retail floor space to that proposed.

Public Protection

3.4 No objections to the principle of the proposal. Noise - likely to involve the provision of a number of items of plant and equipment, including air conditioning units and possible kitchen extraction systems. A condition is requested that details of all plant and equipment audible outside the building is provided. Odour - details of extraction systems are requested by conditions. The phase 1 contamination details submitted are acceptable a condition re unexpected contaminants is requested. In line with the Council's Low Emission Strategy and the National Planning Policy Framework (NPPF) developers are required to demonstrate that they are making all reasonable efforts to minimise total emissions from development sites during both construction and operational phases. As the total number of car parking spaces associated with development is over 50, it is recommended that two electric vehicle recharging points, serving 2 dedicated bays, should be provided on the site. A development informative is requested.

Flood Risk Management Team

3.5 comments awaited.

EXTERNAL

Huntington Parish Council

3.6 No objections however the Parish Council point out that whilst individual applications are considered in a piecemeal way that the cumulatively effect this extra development is having/and will have is exacerbating the problems of congestion and speeding traffic especially on the B1237, Malton Road and New Lane and they consider this is an issue that should be considered in full by planning.

Yorkshire Water

3.7 Company records indicate an existing 110mm diameter live water main crosses through the red line site boundary. The presence of the main may affect the layout of the site and therefore I consider it to be a material consideration in the determination of this application. It is recommended that no obstruction encroaches within 3 metres on either side of the main i.e. a protected strip width of 6 metres. Please note, the proposal at the north eastern end of the site for secure overnight parking appears to have fencing and locked gates very near to or over the water main. To clarify if there will be an impact on the water main, the 'exact line of the main' will have to be determined on site under Yorkshire Water Services supervision. It may be possible for the main to be diverted under s.185 of the Water Industry Act 1991. These works would be carried out at the developer's expense. The cost of these works may be prohibitive. Foul water from kitchen areas should be passed through grease traps. Surface water - Sustainable development requires appropriate surface water disposal. Yorkshire Water promotes the surface water disposal hierarchy. Surface water from hard-surfaced car parks should be passed through interceptors.

Internal Drainage Board

3.8 Insufficient information has been provided by the developer in order for the Board to determine the potential impact that proposals may have on existing drainage systems or existing access arrangements.

Details of the existing surface water system should be provided in conjunction with details of the proposals for the new development. This will facilitate the assessment of any impact of the proposal on the downstream watercourse.

Police Designing Out Crime Officer

3.9 Initially raised concerns about the design of the development considering that there has been significant crime in the area, mostly shoplifting. The applicant has provided details of security measures proposed within the scheme. Crime prevention have now confirmed that they are satisfied with the details.

4.0 APPRAISAL

4.1 Key issues

- Policy background
- Principle of the development considering employment and retail issues
- Design and siting
- Highways access and parking arrangements
- Sustainability
- Ecology
- Crime prevention
- Drainage

POLICY BACKGROUND

National Planning Policy Framework (NPPF)

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 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. At paragraph 20, to help achieve economic growth, the NPPF sets out that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The government attaches great weight to supporting existing business though paragraph 21 which states: 'Local Planning Authorities should... support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area.' Paragraph 22 advises that 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.

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 floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.5 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 development schemes.

4.6 The NPPF says at Annex 1, paragraph 216, 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).

National Planning Policy Guidance (NPPG)

4.7 In terms of retail 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).

Development Control Local Plan

4.8 The City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP) is not adopted policy but was approved for Development Management purposes. Policies in the DCLP are capable of being material considerations in the determination of planning applications where these are consistent with those in the NPPF.

4.9 The site is identified as a Premier Employment Allocation on the 2005 Proposals Map. Policy E3b stipulates that standard employment sites (including E1a.2/North of Monks Cross) should be retained within their current use class and that planning permission for other uses will only be given where there is sufficient supply of employment land to meet both immediate and longer term requirements over the plan period, the development of the site for other uses will lead to significant benefits to the local economy.

4.10 Policy S6: Control of Food and Drink (A3) Uses seeks to control the development impacts of food and drink premises that give rise to residential and visual amenity concerns.

4.11 The retail policies of the 2005 plan have been superseded by the evidence base to the emerging local plan (Retail Study Update (2014)).

4.12 Policy GP1: 'Design' says that development proposal must respect or enhance the local environment.

Emerging Local Plan

4.13 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.

4.14 The emerging Local Plan aims to support the city's economy, recognising economic growth as a key driver to growth within the city. The plan identifies sites to meet the economic needs of the city over the plan period. Monks Cross currently offers a range of employment opportunities and is acknowledged to be part of a range of sites which form York's core employment offer. Policy EC1: Provision of Employment Land, identifies the application site for 3,000sq.m.of light industrial, storage and distribution (B1b/B1c/B2/B8) uses (Allocation E2: Monks Cross Drive).

4.15 Policy EC3: Loss of Employment Land aims to retain employment subject to a satisfactory statement submitted by the applicant that demonstrates that:

- i. The existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and /or compatibility with adjacent uses; and
- ii. The proposal would not lead to the loss of a deliverable employment site that is necessary to meet employment needs during the plan period.

4.14 Policy R1 seeks to maintain and enhance the vitality and viability of the City Centre, district and local centres and neighbourhood parades through sequential site assessment.

4.15 Policy R4 relates to out of centre retailing and aims to direct development to city centre locations first. The policy seeks to restrict floorspace or goods sold by condition to prevent out of centre proposals having a negative impact on the vitality and viability of the city centre.

Evidence Base

i Employment

4.16 The DJD Economic Baseline Report which formed part of a suite of documents known as the Economic and Retail Growth and Visioning Study (2014) says that York's ability to attract and retain investment into the city and support business expansion is in part dependent on ensuring the availability and suitability of employment land.

4.17 The application site has been taken through the site selection process for the emerging Local Plan as Site 635: Land North of Monks Cross Drive. The site passed the criteria assessment and was analysed for its employment potential. This site was shortlisted for employment use through the employment analysis. Consequently the site was allocated for an office employment allocation in the Preferred Options and Publication Draft Local Plan.

ii Retail

4.18 The most relevant evidence base is the Retail Study Update (2014). The document is supportive of the town centre first approach to retail development set out in the NPPF.

PRINCIPLE OF DEVELOPMENT

Loss of Employment Land

4.19 The site is allocated for employment use in the DCLP and in the emerging local plan. The Policy aim of both documents is to reduce the loss of employment sites for non-employment uses. The NPPF says that employment allocations should be regularly reviewed and where there is no reasonable prospect of the site being used for the allocated employment use applications for alternative uses of land should be treated on their merits. It is recognised by the Council's Economic Policy Officer that there is currently less demand for office space at Monks Cross.

In addition he indicated that unmet office demand in York is largely city centre focused due to the city's excellent rail links, or where it is linked to particular assets, such as the University of York. Because of the location of Monks Cross on the northern outer ring road, access and levels of congestion mean that there are other more favourable sites, both out of town and city centre, for office development. A transition away from office space in this location is considered acceptable. This view is consistent with information provided in a letter included in the applicants Planning Statement (Appendix 4), which was written on 24th February 2016 by Reeves & Co Chartered Surveyors. The letter indicates that the site was first marketed for office development in 2007 by Savills and King Sturge.

The property is still marketed by Reeves and Co. Chartered Surveyors and has remained on the Monks Cross website since first marketed. Despite the continued marketing of the site there has been no viable interest in the site for employment use and there has been a fall in demand for office space in the Monks Cross area.

4.20 The retention of a York business is also welcomed as is the continued employment for the existing 17 staff working for the electrical store and the new jobs that will be created as part of the drive-thru cafe. The application supports desired outcomes of business growth and jobs in the city albeit different to the identified use set out in emerging policy.

Retail

4.21 The key policy test, in national policy and local guidance, for new retail floor space is the sequential test. Policies are aimed at ensuring that the vitality and viability of the city centre (and other identified centres Acomb and Haxby in this case) are protected from out of town development. Under the sequential test, applications for main town centre uses (Main town centre uses are defined in Annex 2 of the NPPF and includes office and retail floor space) should be located first in town centres, then on the edge of centres and, only if suitable sites are not available in these locations, out of centre. If the proposals fail to satisfy the sequential test there would be a policy objection. The up to date retail evidence base to the emerging local plan supports the sequential approach to development.

The application seeks the re-location of the business from its existing site in Percy's Lane. The applicant considers that the area has changed since the business established there 40 years ago, to a point where the site is no longer viable. The company is competing with national electrical goods retailers in prominent locations. Added to this the business has expanded as far as it can on the current site and has to relocate to grow the business further.

4.22 A thorough assessment of the suitability, viability and availability of locations for main town centre uses has been undertaken by the applicant. The applicant has looked at all the major city centre allocation and concluded that none are available to accommodate the retail floor space.

In addition the applicant has looked at vacant buildings in the city centre, 11 in all, and concluded that eight were unavailable and three did not match the floor space criteria and were discounted for this reason. Based on the information submitted it is considered that the sequential test is passed.

4.23 The Retail Study Update (2014) requires impact tests on sites over 1500sq.m. As the proposals are under the locally set threshold of 1,500sqm an impact assessment would not be required for this development.

4.24 Restrictions are proposed on the retail floor space of the electrical contractors building to ensure that there is no impact on the vitality and viability of the city centre through the provision of small scale retail units providing similar facilities to those available within the city centre. Similarly the cafe will be restricted to A3 use to ensure that consideration of a shop use (A1 retail) has regard to the sites out of town location.

4.25 Overall, Officers consider that the development represents sustainable development and is in principle supported by relevant policies in the NPPF subject to the detailed considerations set out below.

ECOLOGY

4.26 The application is supported by a preliminary ecological appraisal carried out by RDF Ecology, March 2016. An extended Phase 1 Habitat Survey was undertaken on the site in December 2015. The site predominantly comprises a mosaic of semi-improved grassland with tall ruderal vegetation and an area of dense bramble. There are no permanent water bodies on site but the terrestrial habitat is suitable for amphibians.

4.27 As a result of other developments there is a high level of information on great crested newts in the surrounding area. The site is separated from ponds and existing great crested newt mitigation land to the west by small roads and the cement works.

To the east of the application site is a small pond adjacent to the AVIVA building, connected to the site by a strip of vegetation interspersed with hardstanding (e.g. footpaths). This pond had initially been assessed as having average suitability to support great crested newts. Surveys undertaken of this pond in April 2016 have revealed a large population of stickleback fish. These fish are known to be voracious predators eating invertebrates and amphibian larvae. Studies have shown that although smooth newts can survive and breed in ponds with a few small fish, great crested newt rarely does. Accounting for the presence of fish the Habitat suitability is poor. It is therefore very unlikely that great crested newts are present in this pond.

4.28 However as there is known to be Greater Crested Newts in the area it is highly likely that a European Protected Species Licence would be required. When a European Protected Species licence is required the competent authority (that is City of York Council in this case) must consider the likelihood of a licence being granted. As the competent authority three tests need to be satisfied in order for the application to be acceptable. The three tests are whether the development is of overriding public interest, no satisfactory alternative (to the development of the site) exists and maintenance of favourable conservation status. With regards to the maintenance of the population of the species concerned at a favourable conservation status in their natural range the Countryside and Ecology Officer is satisfied that the mitigation proposed will ensure this, particularly as it utilises existing mitigation land which, through monitoring, has shown to be successful. In terms of public interest this is an area of land that has been allocated for employment use and has had planning permission for the erection of office development. The development of the site is considered to be sustainable development having regard to advice in the NPPF which balances social, economic and environmental issues. It is considered to be in the public interest that such sites are brought forward where no other planning constraints exist and where planning permission has previously been granted for development. The site is allocated for employment in the emerging local plan and the allocation has been informed by a site selection process. The applicant has also undertaken a sequential test which has not identified an alternative, more sustainable location for the development. Officers conclude that no satisfactory alternative to the development site can be identified at this time. Officers consider that the three tests are satisfied and that as the competent authority (the Council) have discharged their obligation to consider the likelihood of a European Protected Species licence being granted.

4.29 Conditions are proposed to ensure ecology is reviewed if the scheme is not implemented in a two year period and to ensure measures to protect Greater Crested Newts within the ecology report are implemented.

DESIGN, SITING AND LANDSCAPING

4.30 This area of Monks Cross is predominantly modern development with no overriding building design or character that would inform the approach to the layout and design of new buildings. The land has a number of underground services which has determined where buildings can be sited. The proposed retail element of the electrical contracting business requires a road frontage presence. This building has been detailed so that there is a shop front to Monks Cross Drive with accessible side entrance, including pedestrian and cycle access, from the road frontage. The position of the building in a north/ south orientation is acceptable as is the design.

4.31 The cafe building is small scale and modern in appearance and sits away from boundaries with outside seating area. There are no objections to the location or design of this building. It is considered that the design complies with policies in the NPPF and GP1 of the DCLP.

4.32 The quality of the area is derived from the mature trees and other landscaping. The land is above the level of Monks Cross Drive; there will be a small earth bund to the road frontage. Sufficient margins have been provided around the site boundaries on the south and western (road) frontages to incorporate appropriate landscaping and the submission of a landscape scheme will be conditioned.

HIGHWAYS, ACCESS AND PARKING ARRANGEMENTS

4.33 Access to the site is via the unnamed side road from Monks Cross Drive. A new access is to be created into the land from the north-western corner. This access position is similar to the approved office scheme. The development proposes 60 parking spaces; four have been removed from the original scheme to accommodate greater planting margins to the road frontage. Pedestrian and cycle access are provided from the Monks Cross Drive frontage and each use incorporates its own visitor and employee cycle parking. There is a bus service with bus stops along Monks Cross Drive and the site is within reasonable distance of the park and ride facility on the south side of Monks Cross. The site is considered to be a sustainable location and the detail of the design satisfactorily incorporates the needs of cyclists and pedestrians. The formal comments of Highway Network Management have not been received and will be reported direct to committee.

SUSTAINABILITY

4.34 The application is supported by a sustainability statement which sets out the principle to be applied to the building in order to ensure maximum energy efficiency. The document also looks at the potential sources of on site energy generation but the document does not commit to a particular source of renewables for the site. In accordance with the Sustainable Design and Construction Interim Planning Statement commercial development over 1000sq.m. should provide BREEAM

assessment (which assesses the sustainable credentials of the built environment of the development) to show that the building can achieve a 'very good' rating. An appropriate planning condition is proposed.

CRIME PREVENTION

4.35 The Designing out Crime Officer identified in his initial consultation response that the area of Monks Cross has been subject of a number of reported crimes. The majority of incidents relate to shop lifting but other crimes were identified. The applicant has responded to the crime prevention measures suggested. The Designing out Crime Officer is satisfied that the applicant has addressed his concerns and raises no objections to the application.

DRAINAGE

4.36 The site is located in flood zone 1 (low risk) and should not suffer from river flooding. As part of the development to the north of this site drainage has been installed on the application area. Additional information is still needed to ensure that the drainage from the new buildings can be accommodated within the capacity of the existing system and to ensure that attenuation for climate change is incorporated in to the drainage design. Additional information will be presented to committee on this point.

5.0 CONCLUSION

5.1 The site is identified as an employment allocation within the 2005 Local Plan and draft Publication Local Plan (2014). However there is evidence to show that there is a reduced demand for office space at Monks Cross from the council's economic policy officer and the applicant. The proposal would retain a York business which would continue to provide employment for 17 staff and would create new employment in the drive-thru cafe. Retention and creation of new jobs are welcomed.

5.2 The submitted sequential test has shown that there are no sequentially preferable development sites within or in an edge of York City Centre location that are both suitable and available at the present time.

5.3 Overall, Officers consider that the development represents sustainable development and is in principle supported by relevant policies in the NPPF.

5.4 The details of the scheme are considered to be acceptable subject to the further comments of Highway Network Management and Flood Risk Management and the imposition of appropriate planning conditions.

6.0 RECOMMENDATION: Approve

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1 TIME2 Development start within three years

2 PLANS1 Approved drawings

3 No construction works 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 and shrubs along the southern and western boundaries of the site. 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.

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used for the construction of the drive-thru cafe shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

5 Prior to the commencement of the development all ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal by RDF Ecology and dated March 2016 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure the favourable conservation status of a European protected species.

6 The following works; vegetation removal, ground clearance, regarding and drainage works that is likely to cause harm to great crested, shall not in any circumstances commence unless the local planning authority has been provided with either:

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a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead; or

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure the favourable conservation status of a European protected species.

7 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. 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 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 nearby properties and the environmental qualities of the area.

8 If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures secured through Condition 5 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of great crested newts and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development.

Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To take account of delays in development and changes in the status of protected species.

9 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

10 In the event that previously unidentified 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.

11 The development shall be carried out to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building (or in the case of the certificate as soon as practical after occupation).

Where it can reasonably be demonstrated that a very good rating is not feasible, full justification for the lower rating shall be submitted to and agreed by the LPA prior to occupation. Should the development fail to achieve a BREEAM standard of 'very good' or the agreed alternative rating, a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve the agreed standard. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local Plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

12 Two (2) electric vehicle recharge points, serving two car parking bays, should be installed prior to first occupation of the site. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. To prepare for increased demand in future years, appropriate cable provision should be included in the scheme design and development in agreement with the Local Planning Authority. Prior to first occupation of the site, the applicant will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

13 The drive thru cafe hereby approved shall be used for A3 (restaurant and cafe) only and for no other purpose in the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

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

14 No more than 329 sq m net floorspace within the electrical contractors building on the east side of the site shall be used for retail purposes falling within Class A1 to the schedule of Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment), .

Reason: In the interest of the vitality and viability of York City Centre in accordance with the provisions 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:

- Amended plans received following a meeting to discuss the details of the scheme.

2. WILDLIFE AND COUNTRYSIDE ACT 1981

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

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