

COMMITTEE REPORT

Committee: East Area
Date: 7 July 2010

Ward: Huntington/New Earswick
Parish: Huntington Parish Council

Reference: 10/01012/FULM
Application at: Starbucks Unit F1 Monks Cross Shopping Park Monks Cross Drive Huntington
For: Erection of 3no retail buildings (total floor space 1440 sq m) for Class A1 (retail), and/or Class A3 (restaurants and cafes) and/or Class A5 (hot food takeaway) with modifications to existing car park, introduction of new servicing, landscaping and highway works (resubmission)
By: Monks Cross Shopping Park Trust
Application Type: Major Full Application (13 weeks)
Target Date: 6 August 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is located within the existing Monks Cross Shopping Park in Huntington on the northeast outskirts of York. It is situated within an existing customer car park. Monks Cross Drive lies to the west. Further to the west on the opposite side of Monks Cross Drive lies a series of retail and commercial blocks. The main roundabout leading to and from Monks Cross Shopping Park and other road networks including Jockey Lane and Monks Cross Drive are situated to the south of the application site. Further to the south along Julia Avenue lies a row of retail units. As part of the overall development a separate application has been submitted to install 598sqm mezzanine floor and to carry out external alterations to the existing building (10/01014/FUL). In accordance with the Council's scheme of delegation, this separate application has been determined (approved) at officer level

Proposal Description:

1.2 Following the withdrawal of scheme for a similar form of development early this year this is a revised planning application to erect:

- i. a 1,161sq.m building for A1 (retail), A3 (food and drink) and/or A5 (Hot Food Takeaway) purposes including a full cover mezzanine for storage purposes;
- ii. a 139sq.m A3 (food and drink) pavilion; and
- iii. a 139sq.m food and drink 'infill' unit between PC World and Starbucks for mainly A3 (food and drink) purposes.

1.3 Associated reconfiguration of car parking, servicing, highways, public realm and children's play area also form part of the proposals.

1.4 The proposed 1161sq.m retail building would be situated within the southern customer car park and would run parallel with Monks Cross Drive, leaving a gap of

10.0m in between. A service yard and a strip of landscaped area are proposed within this 10.0m gap, both of which would be situated at the back of the main retail building facing towards Monks Cross Drive.

1.5 An open piazza is proposed between the main retail building and the existing food and drink units to the north. At the heart of the piazza is a standalone oval pavilion, which would be used for food and drink purposes. Both the piazza and the pavilion would be situated within an existing children's play area.

1.6 The original scheme was withdrawn mainly due to issues concerning its adverse effects upon existing trees around the site boundary, which are now protected by a Tree Preservation Order (planning ref. no.: 09/01975/FULM). Highway Network Management did not object then to the original proposal, although some modifications were requested. The Environment Agency has also raised some technical issues regarding the Flood Risk Assessment.

1.7 The revised scheme seeks to address previous officers' and Environment Agency's concerns by:

i. repositioning the main 1,161sq.m retail building further forward towards the customer parking area to allow a strip of land facing Monks Cross Drive to be retained for the replanting of trees while maintaining sufficient width for servicing at the back of the building.

ii. retaining the majority of trees around the perimeter of the site with the exception of the strip of land facing Monks Cross Drive;

iii. incorporating a children's play area into the public realm near the pavilion;

iv. widening the piazza by reducing the scale of the towers on both ends of the main retail building; and

v. proposing mitigation measures to reduce the risk of flooding. These include a new drainage system, attenuation storage to accommodate a 1 in 30 year storm, non-infiltration Sustainable Urban Drainage System (SUDS) and detailed design of external levels to provide mitigation against residual risks.

1.8 Modifications requested by Highway Network Management team, such as the retention of existing cycle parking, removal of 2 car parking spaces to provide an internal Toucan crossing and extension to the footway in the car park, repositioning of a secure gate on the service yard and kerb alignments have also been incorporated as part of the amendments.

1.9 The original (withdrawn) scheme would have involved the removal of 41 car spaces out of a total of 1,146 spaces. By virtue of the aforementioned amendments the number of parking spaces would be now be reduced by 54 parking spaces to a total of 1,092 spaces.

1.10 Links and connectivity between the retail park and the surrounding facilities within Monks Cross have been reconsidered as part of the scheme. It is proposed to

move the Toucan Crossing connection across Monks Cross Drive by 55 metres to allow linkage between the proposed open piazza and the existing retail facilities to the west of Monks Cross Drive. Internally within the shopping park the existing pedestrian and cycle routes would be extended to the open piazza.

Relevant Planning History:

1.11 10/01014/FUL: Construction of 598sq.m mezzanine floor and external alterations to the existing 1,177sq.m retail unit at Julia Avenue (known throughout the report as "the Julia Avenue site"). Whilst the application site relating to this proposal is situated some 150.0m south of the scheme under consideration on the opposite side of Monks Cross roundabout and Jockey Lane it is considered by the applicants that both schemes are interrelated. The unfettered planning consent currently enjoyed by the retail operators at the Julia Avenue site is capable of being sub-divided without planning consent. Comparison goods (i.e. goods usually found in town centres) can also be sold with the Julia Avenue site without any planning restriction. It is proposed to 'transfer' this unfettered position from the Julia Avenue site to the application site under consideration by allowing the Local Planning Authority to impose restriction on the sales of comparison goods at the Julia Avenue site. The 'fallback' position relating to the Julia Avenue site is a material consideration for the purpose of assessing the merits of this proposal.

1.12 09/01975/FULM: Erection of 3 retail buildings (total floor space 15500 sq ft) for Class A1 (retail), and/or Class A3 (restaurants and cafes) and/or Class A5 (hot food takeaway). This application was withdrawn in January 2010 due to reasons outlined in paragraph 1.6 above.

1.13 09/01977/FUL: Construction of mezzanine floor and external alterations at Julia Avenue. This former Julia Avenue site application was also withdrawn in January 2010 following officers' concerns regarding planning application 09/1075/FULM.

1.14 3/66/650AK and 3/61/207G/OA: Outline planning permission was granted in September 1994 for a shopping centre comprising 360,000sq.ft A1 retail floorspace (Gross Leasable Area), plus management space, fast-food provision, circulation space and ancillary facilities. Out of the 13 conditions attached to this planning permission condition 3 (Floorspace and goods restriction) is considered to be most applicable to the proposal. In addition a Deed of Unilateral Undertaking was signed requiring an amount not exceeding £20,000 towards a public art feature and the implementation of a planting scheme.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

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

Floodzone 2 GMS Constraints: Flood zone 2

2.2 Policies:

CYSP7A

The sequential approach to development

CYSP7B

York City Centre and Central Shopping Area

CYSP8

Reducing dependence on the car

CYGP1

Design

CYGP3

Planning against crime

CYGP4A

Sustainability

CYGP9

Landscaping

CYGP11

Accessibility

CYGP15

Protection from flooding

CYGP16

Shopfronts

CYNE1

Trees, woodlands, hedgerows

CYT4

Cycle parking standards

CYS2

Out of centre retail warehouse criteria

CYS6

Control of food and drink (A3) uses

CYL1C

Provision of New Open Space in Development

CYV1

Criteria for visitor related devt

3.0 CONSULTATIONS

EXTERNAL

3.1 Neighbours notified, site notice posted and press advertised. Consultation expired on 23 June 2010 - no response received.

3.2 Huntington Parish Council consulted - response received on 3 June 2010:

- The Parish Council objects to this application on the grounds that such a development would have a detrimental impact on the already inadequate parking facilities at Monks Cross Shopping Park.

3.3 Environment Agency consulted - latest response received on 11 June 2010:

- The flooding and drainage appraisal shows that in principle it will be feasible to attenuate surface water run off from the site. It does not however provide enough detail about how this will be done therefore the proposed development will only be acceptable if a planning condition is imposed requiring further drainage details.

3.4 Yorkshire Water consulted - consultation expired on 8 June 2010 - no response received.

3.5 North Yorkshire Police - response received on 19 May 2010:

- comments made in relation to the previous planning application 09/01975/FULM regarding crime prevention measures, covered cycle bay area, Safer Parking Award for car parking facilities and the positioning of bollards alongside the frontage of the A1/A3 unit still apply.

3.6 Foss Internal Drainage Board consulted - response received on 24 May 2010:

- The site is for the development of existing site. The site is an existing "hard" area and as such there will be no significant increase in the discharge of surface water.
- Surface water is discharged to an existing controlled system, which is managed by Yorkshire Water.
- As such the Board have no objections subject to recommended conditions.

INTERNAL

3.7 Highway Network Management - response received on 2 June 2010:

- The creation of the units will result in a net loss in car parking of 54 spaces.
- The application was therefore supported with parking accumulation surveys undertaken on a Saturday.
- A further 20% sensitivity loading was then added to these figures to represent a worst-case scenario and to take into account busier periods of operation such as Christmas.
- These surveys identified that sufficient car parking would remain following completion of the development.
- Traffic generation associated with the scheme is negligible and will not be noticeable over normal daily traffic fluctuations.

- The level of traffic associated with the proposals will also be reduced further due to the high number of linked trips between the new and existing units on the park, which could be reasonably expected to occur.
- The new units will be serviced from a new gated yard with access from Monks Cross Drive.
- Access for servicing traffic will be restricted to left turn in and left turn out only in order to avoid conflict between servicing HGV's and through traffic.
- This will be achieved through kerb alignment and the creation of new kerbed splitter islands on Monks Cross Drive to physically prevent vehicles attempting the manoeuvre.
- Vehicle swept paths have been provided which demonstrate that vehicles can satisfactorily undertake this manoeuvre.
- The sites location is considered to be very sustainable; with the site served by good quality pedestrian and cycle facilities together with frequent public transport including a park and ride service.
- As part of the proposed works officers have secured improvements to the existing northbound bus stop on Monks Cross Drive consisting of kerb realignment to improve access for buses and the installation of Kassel kerbs.

3.8 City Development team - response received on 9 June 2010:

- comments made on previous application 09/01975/FUL remain the same as no significant changes have been made to the proposal in terms of the subdivision of the main retail unit.
- The applicant's offer to restrict the subdivision to 5 units would not alleviate the potential impact on the city centre as units ranging from 200sqm - 254sqm would be in direct competition with city centre units.

3.9 Urban Design and Conservation (Landscape) - response received on 18 June 2010:

- Since the last submission the scheme has been improved in that:
 - i. it retains the existing trees along the main access road;
 - ii. the perimeter parking bays shall be of porous construction to aid the trees' growth;
 - iii. the main gateway building will have a green roof;
 - iv. the service yard wall has strings of coloured brickwork and includes some mesh panels to break up its solid mass and provide a degree of transparency;
 - v. trees to be removed along Monks Cross Drive alongside service yard would be replaced.

Existing play area:

- contrary to previous site meeting the playground is back open and in use.
- The existing play area is of value but is somewhat isolated/tucked away behind the blank elevation of the end unit.
- The introduction of the pavilion and new 'piazza' space with seating and sculptural play elements would thus help to marry the play facilities with the retail activities at a clearly defined point.
- Play equipment would be installed at the edge of the piazza where it could be overlooked by the seating - both outside and indoors due to the high level of glazing.
- Variations in the hard surfacing could also contribute to the play potential.

- it should be noted that the equipment is a bit regimentally placed against the existing food hall; it could relate better to the overall curved layout.

Existing trees along Monks Cross Drive:

- the proposed piazza and play area would result in the removal of all but one of the trees in this group adjacent to Monks Cross Drive.
- Replacement trees would be planted but the result would be a much narrower belt with a reduced visual benefit.
- The trees to be removed include the mature Oaks, which are subject to a TPO.
- The Oaks appear to be remnant hedgerow trees, which continue across the road into the boundary of the Sainsbury petrol filling station.
- These Oaks are in decline, probably due to the initial retail development and a change in water table levels due to the introduction of mass hard surfacing in the immediate area and beyond.
- Whilst the crowns contain some deadwood that needs removing, the trees do not need to be felled at this time but their condition does reduce their natural long-term viability.
- The existing tree planting (including new Oaks) is establishing well and requires some thinning.
- A very small portion of this will be retained where it coincides with the proposed layout.
- The existing young trees along Monks Cross Drive (to the rear of the proposed unit) would be removed.
- Whilst all attempts have been made to retain these trees, they are not compatible with the proposed development, which consequently seeks to remove and replace them with semi-mature stock within a slightly narrower margin (just over 2m).
- This is deemed acceptable due to the young age and relatively small size of the trees within a limited stretch.

Existing trees along the main access road:

- The value of the trees around this site is recognised.
- Extensive removal of trees is not agreeable; hence the scheme was revised to enable retention of the trees along the main access road.
- It is the council's intention to protect all the perimeter trees/groups with a permanent TPO.

Loss of view/openness:

- The revised crossing point and presence of the pavilion would make a better connection with the retail development on the opposite side of the road (Sainsbury/TK Maxx/Argos);
- Currently this area of parking offers a welcome openness to Jockey Lane and Monks Cross Drive.
- The existing 19 units at Monks Cross Shopping Park are arranged around three sides of a central car park, which leaves the entire southern length open. ASDA superstore forms an additional leg on the eastern 'wing'.
- This arrangement allows visibility into the site from the main approaches from Jockey Lane and the roundabout.

- The introduction of the new unit closes off this view.
- It also blocks out views to the layers of other trees, thereby effectively reducing the impression of a treed development.
- Nevertheless the length of the building has been kept tight to the outside boundary and oriented to maintain the quality of the space experienced within the car park created by the existing perimeter buildings.
- Green Roof: Further details of the green roof proposed on the 1161sq.m A1/A3 unit are required.

Piazza area:

- A cycle way is proposed to pass through the new piazza.
- This renders the zone of paving beyond it less practical for locating seating and play equipment.
- In order to bring this significant area of paving into the piazza it would be suitable to plant several specimen trees (with high crowns to avoid screening at eye level) within this eastern edge to complete the space. This must be suitably detailed for trees to succeed in this hard environment.
- The north elevation of the new unit should have climbing plants up in either side of the tower as previously suggested. The blank cladding is not appealing from the close proximity of the piazza. Climbers would help to reinforce a more pleasant greened environment for outdoor seating and as a setting to the pavilion, which is fairly minimal given the scale of the surrounding units.
- Although the planting approach has been to create a Holly hedge along the service yard wall, it would benefit from some climbers.
- The replacement trees between the pavilion and Monks Cross Drive should include at least three specimens of larger species, i.e. Oak.

3.10 Drainage consultancy - response received on 10 June 2010:

- The team objects to the proposal as insufficient information has been provided by the applicants to determine the potential impact the proposals may have on the existing drainage systems.

3.11 Environmental Protection team - response received on 18 June 2010:

- no objections subject to the imposition of a planning condition relating to construction environmental management to ensure local business amenity is not affected by the development.

4.0 APPRAISAL

4.1 The main issues to be considered are as follows:

- i. Principle of the development
- ii. Design, appearance and visual amenity
- iii. Protected trees and Landscape
- iii. Parking and Highway Safety
- iv. Sustainability
- v. Environmental Protection Considerations
- vi. Flood Risk

NATIONAL, REGIONAL AND LOCAL PLANNING POLICY CONTEXT:

4.2 The following national and local planning policies are considered of most relevance to this application:

i. Planning Policy Statement 1 (PPS1) (2005) "Delivering Sustainable Development"- sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. It offers guidance on sustainable and inclusive pattern of development, the quality of natural and historic environment, the prudent use of natural resources, and the promotion of strong, stable and productive economy. The policy statement promotes high quality inclusive design; it advises that high level of protection should be given to most valued townscapes, landscapes and natural resources (paragraph 17).

ii. PPS Supplement (2007) "Planning and Climate Change" - sets out how planning should contribute to reducing emission and stabilising climate change, taking into account the unavoidable consequences.

iii. PPS4 (2009) "Planning for Sustainable Economic Growth" - sets out planning policies for economic development. It supersedes the previous national planning advices on industrial, commercial development and small firms (PPG4, 1992), PPG5 "Simplified Planning Zones" (1992), PPS6 "Planning for town centres" (2005), and parts of PPS7 "Sustainable development in rural areas" and PPG13 "Transport). Policy EC19 of the PPS4 requires Local Planning Authorities to make effective use of planning conditions to prevent developments from being sub-divided into smaller shops or units, ensure that ancillary elements remain ancillary to the main development, limit any internal alterations to increase the amount of gross floorspace by specifying the maximum floorspace permitted, limit the range of goods sold, and resolve issues relating to the impact of the development on traffic. The overall aim is to ensure effective implementation of policies and proactive management of the impacts of development.

iv. PPS9 (2005) "Biodiversity and Geological Conservation" - promotes sustainable development by ensuring that biological and geological diversity are conserved and enhanced. It seeks to conserve, enhance, and restore the diversity of wildlife and geology and to support urban renaissance through enhancing biodiversity amongst developments. High quality development should also be achieved by taking into account the role and value of biodiversity.

v. PPG13 (2001) "Transport" - seeks to promote more sustainable transport choices for people, and to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and seeks to reduce the need to travel, especially by car in new developments.

vi. PPG17 (2002) "Sport and Recreation" - includes advice to adopt a strategic approach to the provision of sport and recreation facilities, to protect open space for the community, to resist the loss of such provision, unless an equivalent provision or better is proposed. In delivering broader Government's objectives, the Guidance stresses the vital role of open spaces, sports and recreational facilities in promoting

the "social development of children of all ages through play, sporting activities and interaction with others" (page 4).

vii. PPS25 (2006) "Development and Flood Risk" - sets out the importance the Government attaches to management and reduction of flood risk in the planning process. Paragraph E3, Annex E of the Statement sets out a list of requirements a properly prepared flood risk assessment should include, as minimum.

viii. Regional Spatial Strategy (RSS) for Yorkshire and the Humber (2008): It is the intention of the new coalition government to "rapidly abolish the Regional Strategies and return decision powers on housing and planning to local councils". A letter from the new Secretary of State for Communities and Local Government Rt Hon Eric Pickles MP dated 27 May 2010 has confirmed the above intention. The letter also states, inter alia, that Local Planning Authorities and the Planning Inspectorate are expected to have regard to the above as a "a material planning consideration in any decisions they are currently taking".

ix. Relevant City of York Local Plan Deposit Draft (May 2005) Local plan policies are listed in section 2.2 of the report and are made reference to in the paragraphs below.

PRINCIPLE OF THE DEVELOPMENT

4.3 The proposal is to erect 3 retail buildings with a total sales floor area of 1439sq.m for Class A1, A3 and/or A5 purposes within an existing out-of-town shopping park in Monks Cross. In accordance with Policies EC14.3 and EC15 of Planning Policy Statement no.4 (2009) "Planning for Sustainable Economic Growth" and policy SP7a of the City of York Draft Local Plan 2005 a sequential assessment and a retail impact assessment have been submitted in support of the proposal.

Sequential assessment:

4.4 The submitted sequential test assessed alternative sites around York including Castle Piccadilly, Hungate, York Northwest, Foss Island Retail Park, the vacant Homebase Unit at Foss Bank Retail Park and Stonebow House in Hungate.

i. Castle Piccadilly - It has been accepted by the Policy team that the long timescales associated with Castle Piccadilly mean that it would not be an appropriate location for the proposed development.

ii. Hungate - The recent planning permissions at Hungate are small scale, local retail making this location unsuitable for the proposed development.

iii. York Northwest - This is recognised as being a site that will be available in the long term and therefore not available in the short term.

iv. Foss Island Retail Park - this is defined as out of centre (same as MCSP) and the currently vacant units do not appear to meet the needs of the proposed development.

v. The Hungate Planning Brief considers both Stonebow House and the BT Telephone Exchange appropriate for the potential extension of the Hungate development site for retail development following 2011 but not at the present time. As such it is accepted that there are no other sequentially preferable site, which could accommodate the development.

Impact assessment:

4.5 According to the applicant (under paragraph 5.32 of the Planning report) the turnover of the proposed development, circa £5.7 million is not significant given the turnover for comparison goods in York city centre i.e. £402 million. The turnover for comparison goods will be even less if any of the units are occupied by food and drink retailers.

Fallback Position

4.6 Permission has been sought for an unfettered open A1 use in respect of the main 1,161sq.m retail building, although the applicants are agreeable to restricting the sub-division to no more than five units. Their justification relates to a separate retail unit some 150m south of the application site on the opposite side of Monks Cross roundabout and Jockey Lane (i.e. a site known as Julia Avenue as explained in paragraph 1.11 above).

4.7 At present this 1,161sq.m unit at Julia Avenue has unfettered retail consent with no sales restriction and can be subdivided into any number of smaller units. Through the incremental addition of mezzanines, 200sq.m at a time (which in the opinion of the applicant would not require planning permission), it is in theory possible that the unit could achieve a full cover retail mezzanine making the total floorspace of the building 2,322sq.m.

4.8 In retail terms, on the basis that a full cover retail mezzanine is inserted at the Julia Avenue site, its likely sales turnover would be materially greater than the estimated turnover likely to be generated by the proposed 1,161sq.m retail building (£8.4 million in 2014 at the Julia Avenue site compared to a turnover of £5.7 million in the same year likely to be generated by the proposed 1,161sq.m retail building).

4.9 The applicant contends that on this basis the existing retail unit at Julia Avenue could potentially have a greater impact than that proposed development. Thus by 'transferring' the unfettered retail consent 150m to the north and restricting the Julia Avenue site to the sale of bulky goods only would, according to the applicants, result in less of a potential impact upon York City centre.

4.10 However, the 'fallback position' put forward by the applicants to justify an open unfettered retail consent as summarised above is not considered to be acceptable for a number of reasons. First and foremost, the applicants case is based entirely on the potential (or at least a possibility) that mezzanine floors could be inserted incrementally, 200sq.m at a time, to create a full mezzanine equivalent to the existing retail unit without the need for planning permission.

4.11 The Julia Avenue site was given outline planning consent in September 1997 with the reserved matters being approved in January 1998 (97/01610/OUT and 97/02277/REM). It has been open for business for approximately 9/10 years since. To date, notwithstanding the opportunity to insert mezzanine floors within the 200sq.m allowance without planning permission, a recent site visit has confirmed that none of the past and present retail operators have taken advantage of this position in order to increase turnovers (i.e. mezzanine floors have not been inserted to make use of the roof space above despite of the ceiling heights). Based on the existing trend, it is not anticipated that in the foreseeable future the hypothesis put forward by the applicants would materialise, generating the level of turnover (as estimated by the applicants) that could have an adverse impact upon the vitality and viability of York City Centre.

4.12 The characteristics of the Julia Avenue site to which the 'fallback position' relates are also considered to be materially different. The Julia Avenue site is some 150m away from the main Monks Cross Shopping Park and segregated by a large roundabout and an approximately 15m wide road (Jockey Lane). The Monks Cross Shopping Park clearly functions as the main shopping park with a total floor area of 33,444sq.m (the floorspace approved originally in 1994 ref. no.: 3/66/650AK/OA) compared to the existing Julia Avenue site with just 1,177sq.m.

4.13 Due to site constraints as described above it is not unreasonable to expect that most users of the Monks Cross Shopping Park would gain access to and from the Julia Avenue site by private vehicles. By virtue of the size and appearance of Monks Cross Shopping Park in relation to the Julia Avenue site it is also not considered unreasonable to regard the retail units at Julia Avenue as secondary and thus less attractive for both the retailers and customers compared to the main Monks Cross Shopping Park. Given that both sites are so intrinsically different, with one likely to create greater turnover than the other it is likely that the proposed transferral of unfettered retail floorspace from the Julia Avenue site to Monks Cross Shopping Park would have far greater impact upon the City Centre, in real terms, than if both sites are of similar size and easily reached from one to another on foot.

4.14 For these reasons it is not considered that the 'fallback position' carries sufficient weight to justify an unfettered open A1 retail consent in an out-of-town location. As such, and having taken into account the level of trade likely to be drawn from the city centre (an equivalent of 1.4%) and the advice contained within Policy EC19 of PPS4, conditions have been recommended to limit the range of goods sold (condition 3), to ensure that ancillary element remain ancillary to the main development (condition 4), to limit any internal alterations to increase the amount of gross floorspace (condition 6), and to ensure that the mezzanine floors will be used for storage purposes only (condition 5).

4.15 Given the proposed size of the retail floor space (1,161sq.m) it is considered to be unreasonable, and thus would fail to pass one of the tests set out in Circular 11/95 to impose a condition preventing the development from being sub-divided into units no less than the minimum floorspace as set out in Policy S2 of the City of York Draft Local Plan (i.e. no less 1000sq.m). This is because the implication of such a condition could result in the other half of the unit having a gross floor area of just 161sq.m.

A3 (Food and Drinks) and/or A5 (Hot Food Takeaway) uses:

4.16 The two smaller units proposed, namely the 139sq.m pavilion and the 139sq.m infill unit between Starbucks and PC World would be acceptable for A3 and/or A5 uses in line with policy S6. It would also be acceptable for the sale of non-food goods ancillary to the main A3 and/or A5 uses. A condition has been recommended to ensure that these smaller units would remain in use for food and drink sales only (condition 7). This is agreed by the applicant as confirmed in paragraph 5.4 of the submitted Planning Statement.

DESIGN, APPEARANCE, VISUAL AMENITY

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

4.18 The bulk of the development proposals are oriented parallel to Monks Cross Drive to retain, as much as possible, the open aspect of the entrance to the retail park. Whilst the architectural rhythm of the proposed terrace building along Monks Cross Drive is to be set apart from the established buildings as a stand-alone structure, the front façade would relate harmoniously with the modern design and simplicity of the existing park. The tower feature at both ends of the building would provide a visual focal point, which would enhance the visual quality of the scheme. Whilst the overall scale and massing of the terrace is considered to be large it is also considered to be subservient to existing retail buildings and in proportion with the surrounding settings.

4.19 The proposed single storey oval pavilion between the proposed terrace and the existing cafes/restaurants is designed to draw activity to that part of the site and provide a link between the existing and the new development. Its unusual design, roof details and choice of materials would create a landmark would enhance the visual quality of the existing park.

4.20 As part of the scheme a Class A3 (restaurant/cafe) infill unit is proposed between the existing retail building to the north and existing café/restaurants to the south. Externally this would be a glazed link between the two buildings, which in design term is considered to be acceptable.

4.21 The proposed development would involve the removal of an existing play area. Whilst this is of value to the users of the site it is situated in an isolated location and tucked away behind the blank elevation of the end unit. It is considered that the introduction of the pavilion and piazza space with seating and play facilities would provide a more secure and attractive play area as well as helping to integrate the play facilities with the wider Shopping Park.

PROTECTED TREES AND LANDSCAPE

4.22 The proposed piazza and pavilion would result in the removal of all but one of the trees in the group adjacent to Monks Cross Drive. The trees to be removed include the mature Oaks, which are the subject of a TPO. Replacement trees would be planted, although the result would be a narrower belt with a reduced visual benefit. Whilst the removal of trees around the existing play area is a concern it is also unavoidable if the benefits of the pavilion and piazza are to be achieved. Notwithstanding the information contained within the submitted planting scheme, revisions to the tree species and additional planting are required to provide adequate compensation. In addition more trees to the eastern edge of the pavilion and climbing plants to building façade are required to compensate the loss of greenery and the impression of a treed development. Other than the proposed Holly hedge along Monks Cross Drive climbing plants to the proposed service yard wall are recommended. These would be secured by landscaping conditions (conditions 26-28).

4.23 Following the concerns raised in the previous application the scheme has now been revised to enable the trees along the main access road to be retained. It is the Council's intention to protect the perimeter trees with a Tree preservation Order. To protect the perimeter trees the outer edge of the car park is also required to be constructed of porous paving materials. Again this would be secured by condition (condition 28).

PARKING AND HIGHWAY SAFETY

4.24 The proposal would result in a net loss of 54 car parking spaces. Nevertheless the parking accumulation surveys undertaken on a Saturday found that even with the reduced capacity the proposed car park can still comfortably accommodate the existing demand with its peak accumulation of 898, which is 78.2% of the total proposed car park capacity of 1147, leaving 249 spaces spare (paragraph 4.1.9 of the submitted WSP Transport Assessment).

4.25 The second part of the parking assessment examines whether the reduced parking capacity can accommodate additional parking demand created by the proposed 1,161sq.m retail scheme. Based on the survey previously taken at the Julia Avenue site, which also has a similar gross retail floorspace (paragraph 4.1.11 of the submitted transport assessment) the survey found that the proposed capacity can still comfortably accommodate the demand generated by the proposal, with a peak predicted demand of 920, which is 80.2% of the total capacity (paragraph 4.1.16). A further 20% sensitivity loading was then added to these figures to represent a worst case scenario and to take into account busier periods of operation such as Christmas, and found that the peak accumulation is 1102 which is 96.1% of the total proposed capacity leaving 45 spare spaces in the busiest 15 min period (paragraph 4.1.20 of the submitted transport assessment).

4.26 On the basis of this empirical evidence the Highway Network Management team is satisfied that there would be sufficient car parking to accommodate the demands generated by both the existing and the proposed retail operation.

4.27 Due to the high number of linked trips between the proposed and existing units within the park, which could be reasonably expected to occur, the level of traffic associated with the proposals is likely to reduce further. Overall it is considered by the highways team that the traffic associated with the scheme is negligible and will not be noticeable over normal daily traffic fluctuations.

4.28 The proposed retail units would be serviced from the gated yard with access from Monks Cross Drive. Access for service vehicles will be restricted to left turn in and left turn out only in order to avoid conflict between the servicing HGVs and through traffic. This would be achieved through kerb alignment and the creation of new kerbed splitter islands on Monks Cross Drive to physically prevent vehicles attempting the manoeuvre. Vehicle swept paths have been provided which demonstrate that vehicles can satisfactorily undertake this manoeuvre. As such the proposal is unlikely to create conditions prejudicial to highway safety.

SUSTAINABILITY

4.29 The site is considered to be situated in a very sustainable location, being served by good quality pedestrian and cycle facilities together with frequent public transport including a park and ride service. As part of the scheme the existing northbound bus stop on Monks Cross Drive would also be upgraded. The proposed kerb realignment and the installation of Kassel kerbs would allow access for buses to be improved.

4.30 Furthermore, the revised crossing point and presence of the pavilion and piazza would make a better connection with the retail development on the opposite side of the road (Sainsbury/TK Maxx/Argos). It would also improve pedestrian safety and thus encourage linked pedestrian trips and minimise car use.

4.31 In accordance with Policy GP4a "Sustainability" of the City of York Draft Local Plan 2005 a Sustainable Statement has been submitted setting out the principle of sustainability. In compliance with the requirements set out in the City of York Interim Planning Statement on Sustainable Design and Construction the applicants have confirmed that it would be practical to achieve a 'very good' BREEAM rating for the proposed development (paragraph 6.6 of the submitted planning statement). This would be secured by a suitable BREEAM condition (condition 21).

4.32 According to the applicants the end users of the retail and restaurants units are unknown and as such yearly energy consumption cannot be calculated or provided. Notwithstanding this position put forward by the applicants the City of York Interim Planning Statement (IPS) requires at least 10% of the 'expected' energy demand to be provided by on-site renewable generation. Given that the requirement relates to 'expected' energy demand for, in this instance general A1, A3 and/or A5 uses it is not considered that an end-user is required before energy consumption can be effectively calculated. As such, and in accordance with the IPS requirements a condition relating to 10% of the expected energy demand to be provided by on-site renewable generation is recommended.

OTHER MATERIAL CONSIDERATIONS

4.33 ENVIRONMENTAL PROTECTION - Whilst no objections have been raised by the Environmental Protection team, a condition requiring a Construction Environmental Management Plan to be submitted and approved prior to the commencement of development has the recommended (condition 24). The plan would identify the steps and procedures to be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the construction process. The purpose of the condition is to protect the amenities of local business units. In addition a condition restricting the hours of construction and demolition has also been recommended (condition 25).

4.34 FLOOD RISK - The development is situated in low risk Flood Zone 1 and should not suffer from river flooding. Nevertheless a Flood Risk Assessment has been submitted as the development area is greater than a hectare (1.6ha). Both the Environment Agency and Foss Internal Drainage Board have been consulted and have raised no objections as the flooding and drainage appraisal shows that in principle it would be feasible to attenuate surface runoff from the site. Furthermore, it is considered by the Internal Drainage Board that the development is situated within an existing 'hard' area and as such there will be no significant increase in the discharge of surface water. Nevertheless a condition requiring further details to show how this will be achieved has been recommended. The information requested by the Council's drainage team can be dealt with by the imposition of planning condition (condition 9).

4.35 PLANNING AGAINST CRIME: The recommendations put forward by the Architectural Liaison Officer are required to be implemented and secured via a Secured-by-Design condition (condition 8).

4.36 Having taken the above into account, subject to conditions, it is considered that the proposed development accords with national planning advice contained within Planning Policy Statements and Planning Policy Guidance and the policies set out in the City of York Draft Local Plan. Hence, this application is recommended for approval.

5.0 CONCLUSION

By virtue of the above this application is recommended for approval.

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:-

0825-P-02/F SITE PLAN

0825-P-07/D ROOF PLAN
0825-P-09-B STORAGE MEZZANINE
0825-P-04/D CLASS A1/A3 UNIT ELEVATIONS AND SECTION
0825-P-03/D CLASS A1/A3 UNIT ELEVATIONS
0825-P-05/C INFILL UNIT ELEVATIONS AND SECTION
0825-P-06/D POD PLAN AND ELEVATIONS
0825-P-01/C LOCATION PLAN

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

3 Note: Conditions 3 to 6 relate to the building shown as Class A1/A3 Unit (1,161sq.m) on drawing ref. no.: 0825-P-02/F SITE PLAN:

The following range of goods shall not be sold unless ancillary to the main range of goods:

- a) Clothing, footwear and fashion accessories (including jewellery and watches);
- b) Music/Video/DVD recordings and computer games;
- c) Cameras (including camcorders) and other photographic equipment;
- f) Electronic goods (including TV, Video, DVD, PC and hi-fi equipment);
- g) Toys;
- h) Pharmaceutical goods;
- i) Books, magazines and stationery;
- j) Household textiles; and
- k) Sports goods.

Reason: In the interest of the vitality and viability of York City Centre in accordance with Planning Policy Statement no.4 "Planning for Sustainable Economic Growth" and policies SP7a and S2 of the City of York Draft Local Plan 2005.

4 The amount of sales floorspace used for the sale and display of those goods restricted in condition 3 in any unit shall not exceed 15% of the total net sales floorspace within that unit.

Reason: To minimise the impact of comparison goods sold at these stores competing with York City Centre retail outlets selling the same goods.

5 The mezzanine as shown on plan ref. no.: 0825-P-09-B hereby approved shall at all times be used only for storage relating to Use Classes A1, A3 and/or A5 of the Town and Country Planning (Use Classes) Order 1987 as amended.

Reason: In the interest of the vitality and viability of York City Centre in accordance with Planning Policy Statement no.4 "Planning for Sustainable Economic Growth" and policies SP7a and S2 of the City of York Draft Local Plan 2005.

6 Additional mezzanine floors beyond the 1,161sq.m hereby approved shall not be permitted at any time unless otherwise agreed in writing by the Local Planning Authority.

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

7 Note: Condition 7 relate to the buildings shown as Pavilion (139sq.m) and Infill Unit (139sq.m) on drawing ref. no.: 0825-P-02/F SITE PLAN:

The premises shall be used for Class A3 (Restaurants and Cafes), and/or Class A5 (Hot Food Take-aways) and for no other purpose in the Schedule of 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: In the interest of the vitality and viability of York City Centre in accordance with Planning Policy Statement no.4 "Planning for Sustainable Economic Growth" and policies SP7a and S2 of the City of York Draft Local Plan 2005.

8 Prior to the development commencing details that show how 'Secured by Design' principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority and once approved the development shall be implemented in accordance with the approved 'Secured by Design' details prior to occupation or use of any part of the development hereby approved.

Reason: In the interest of community safety, to reduce the fear of crime and to prevent, crime and disorder in accordance with the provisions of Section 17 of the Crime and Disorder Act 1998.

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.

INFORMATIVE

To satisfy this condition the applicants are expected to comply with the following requirements:

i. Details to include calculations and invert levels of the existing surface water system should be provided together with details to include calculations and invert levels of the proposals for the new development.

ii. A topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties should be provided. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

iii. Existing and proposed surfacing should be specified.

iv. Additional surface water shall not be connected to any foul / combined sewer, if a

suitable surface water sewer is available.

v. In accordance with PPS25 and in agreement with the Environment Agency / Foss IDB, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

vi. The Flooding and Drainage Appraisal by WSP states that existing impermeable areas are 0.7ha. Connection of this should be proven by CCTV survey prior to a permissible surface water discharge rate being agreed.

10 HWAY18 Cycle parking details to be agreed

11 HWAY19 Car and cycle parking laid out

12 No gate shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

13 HWAY35 Servicing within the site

14 HWAY37 Control of glare etc from lighting

15 The development hereby permitted shall not come into use until the highway works as indicatively shown in drawing 0735/GA/04 Rev D (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

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

16 HWAY40 Dilapidation survey

17 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. Such a statement shall include at least the following information:

- i. the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- ii. where contractors will park
- iii. where materials will be stored within the site

- iv. details of how the car parking area will be managed during the construction period to ensure adequate car parking remains
- v. 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 local amenity, free flow of traffic or safety of highway users.

18 VISQ8 Samples of exterior materials to be app

19 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

INFORMATIVE

To comply with this condition the service yard wall facing Monks Cross Drive is expected to be constructed with contrasting brick bands and include mesh panels to break up its solid mass and provide a degree of transparency.

20 Prior to the commencement of development details of the lighting columns to the car park shall be submitted to and agreed in writing by the local planning authority. Thereafter the lighting columns shall be installed in accordance with the approved details.

Reason: To protect the amenity of adjacent occupiers.

21 The developer shall aim to achieve a Building Research Establishment Environmental Assessment Method (BREEAM) assessment standard of at least "very good" for the development. Unless otherwise agreed in writing prior to the commencement of the development, the developer shall submit in writing for the approval of the Local Planning Authority a BREEAM design assessment demonstrating the progress of the BREEAM assessment, the percentage score expected to be achieved and the standard to which this relates. Where this does not meet at least a 'very good' standard then the developer shall demonstrate the changes that will be made to the development in order to achieve this standard.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the Interim Planning Statement on Sustainable Design and Construction.

22 Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 10% of the expected energy demand for the development hereby approved shall be provided through on site renewable generation for heat and/or electricity. Prior to the commencement of development a statement outlining how these are achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved statement unless otherwise agreed in writing by the Local

Planning Authority.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the City of York Interim Planning Statement on Sustainable Design and Construction.

23 Prior to the commencement of development details of the children's play area shall be submitted to and agreed in writing by the local planning authority. Thereafter the children's play area shall be installed in accordance with the approved details.

Reason: To ensure that the users of the site have access to safe, attractive and useable public open space.

24 Prior to any works commencing on site, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork, construction and demolition phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Once approved, the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the amenities of local business units.

25 All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday	08.00 to 18.00
Saturday	09.00 to 13.00
Not at all on Sundays and Bank Holidays.	

Reason: To protect the amenities of local business units.

26 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 and shrubs. 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 the Local Planning Authority agrees alternatives in writing.

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

27 Before the commencement of development, including excavations, installation or modification of utilities, demolition, building operations, the importing of materials and any other associated works, a tree protection method statement for the existing trees shown to be retained on the approved drawings shall be submitted to and

approved in writing by the Local Planning Authority. An arboriculture consultant or other suitably qualified person shall compile this. The statement shall include details and locations of protective fencing, phasing of works, site access, type of construction machinery/vehicles to be used, locations for parking of site vehicles, locations for storage of materials and location of site cabins/compound. The statement shall also include the methodology and construction details for changes in surface materials within the root protection area and/or canopy spread of existing trees. Thereafter the approved details shall be fully implemented prior to the commencement of development unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

28 The development hereby approved shall not commence until the following landscape details have been submitted to and approved in writing by the Local Planning Authority:

- i. Planting details of green roof on the 1,161sq.m Class A1/A3 unit;
- ii. Details of play equipment and associated hard surfacing;
- iii. Porous paving details for outer edge of car park; and
- iv. Tree pit details.

Thereafter the approved details shall be fully implemented prior to the first occupation of the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- Principle of the development
- Design, appearance and visual amenity
- Protected trees and Landscape
- Parking and Highway Safety
- Sustainability
- Environmental Protection Considerations
- Flood Risk

As such the proposal complies with Policies SP7a, SP7b, SP8, GP1, GP3, GP4a, GP9, GP11, GP15, GP16, NE1, T4, S2, S6, L1c and V1 of the City of York

Development Control Local Plan.

2. INFORMATIVE:

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.

3. INFORMATIVE:

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:

Alterations to the highway - Section 278 - Michael Kitchen (01904) 551336

4. The applicant is advised that Advertisement Consent is likely to be required for signage associated with the development hereby approved including the totem sign.

5. If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a remediation scheme to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

6. The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

i. The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

ii. All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

iii. The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

iv. All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

v. There shall be no bonfires on the site.

Contact details:

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Tel No: 01904 551326