

## COMMITTEE REPORT

**Date:** 21 April 2011                      **Ward:** Skelton, Rawcliffe, Clifton Without  
**Team:** Major and Commercial Team      **Parish:** Clifton Without Parish Council

**Reference:** 11/00483/FULM  
**Application at:** Maxiprint Centre Kettlestring Lane York YO30 4XF  
**For:** Change of use from print centre (use class B2) to storage and distribution (use class B8) with ancillary trade counter and external alterations  
**By:** Howden Joinery Properties Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 7 June 2011  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site is situated in Clifton Moor. It is a corner property abutting Clifton Moorgate to the southwest and Kettlestring Lane to the southeast.

1.2 It is proposed to change the use of the premises from Class B2 (print centre) to Class B8 (Storage and Distribution) with ancillary trade counter. External alterations to the existing entrance and creation of new opening are also proposed as part of the scheme. The total gross internal floor area of the existing building is 1,158sq.m. The site area is 0.34ha.

1.3 The purpose of the proposal is to enable Howdens Joinery, a Class B8 operator to occupy the site. The information submitted with the application confirms a total of 8 full time staff will be employed within the site. The hours of opening will be 8:00 - 18:00 Mondays to Fridays, 8:00 - 13:00 on Saturdays, closed on Sundays and Bank holidays.

1.4 Access into the site is off Kettlestring Lane. There are currently 19 vehicle parking and 1 disabled parking space. The number of parking spaces will be reduced to 14 by virtue of the development proposal, although the number of disabled parking space will remain unchanged.

### 1.5 RELEVANT PLANNING HISTORY

1.6 08/01774/FUL: Change of use from Class B2 to Class B8. Permission granted in 2008.

1.7 03/00528/FUL: Erection of single storey pitched roof extension to North elevation. Permission granted in 2003

1.8 3/27/183/PA: Erection of printing works and offices. Permission granted in 1987.

## **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

Schools GMS Constraints: Lakeside Primary 0207

### 2.2 Policies:

CYE3B

Existing and Proposed Employment Sites

CYS2

Out of centre retail warehouse criteria

CYGP1

Design

CYGP4A

Sustainability

CYT4

Cycle parking standards

## **3.0 CONSULTATIONS**

### EXTERNAL

3.1 Neighbours notified, site notice posted and press advertised – consultation expires on 20 April 2011. No response received to date.

3.2 Clifton Without Parish Council – no response received to date.

3.3 Clifton Moor Business Association - no response received to date.

### INTERNAL

3.4 Highway Network Management consulted – no objections

3.5 Economic Development Unit – no response received to date.

3.6 Environmental Protection Unit – no response received to date.

## **4.0 APPRAISAL**

4.1 The main planning issues raised by this application are whether the proposed change of use would result in the loss of employment land and whether proposal would have a detrimental impact on the amenities of nearby properties, in particular whether it would create conditions prejudicial to highway safety.

4.2 Policy E3b of the City of York Draft Local Plan 2005 seeks to retain the use of sites or premises which are either currently or previously in employment use. Paragraph 8.15 of the Local Plan further states applications for uses other than B1, B2 or B8 will be refused planning permission unless the applicant's proposal conforms to criterion (a) to (d) of policy E3b.

4.3 It is clear from the above that the objective of policy E3b is to protect land and premises for employment use rather than to restrict their use solely to the existing designation under Classes B2, B1 and B8. Furthermore, Clifton Business Park does not feature in the Employment Chapter of the Draft Local Plan either as a Schedule 1 or a Schedule 2 site. The area also consists of a broad mix of Class B1 Business uses, B2 General Industrial and B8 Storage/Distributions. By virtue of the above, there are no policy objections raised with regard to the proposed change of use.

4.4 A number of conditions have been imposed on original printing works and office applications and the subsequent single storey extension application. However none of the conditions imposed restrict the use of the premises for uses other than Class B2 General Industrial.

4.5 As part of the scheme a small 6.6m x 7.8m trade counter is proposed by the main entrance within the building. According to the information provided this ancillary trade counter is designed to serve as a subordinate or "de-minimis" feature of the overall use of the premises. Paragraphs 4.10 to 4.12 of the supporting statement confirms the proposed operation will not, in any way be associated with sales to the visiting members of the public but confined to trade. It is further noted from the information provided that just 10% of the sales take place over the counter in the form of 'cold' ordering. The remainder of orders are made either by telephone or facsimile and then collected, or distributed from the warehouse itself.

4.6 On the issue of whether a trade counter in this instance is ancillary to the main B8 use, previous High Court rulings have established that a limited amount of industrial or retailing activities may be considered to be ancillary to the primary use, subject to there not being a material change of use to the building, that the activity is subordinate to the primary use, and that there is no effect on the neighbouring area as a consequence of the activity itself. Provided that sales are not to be public but confined to trade, a trade counter of a builders' merchant (as in this instance) may be classified as being within Class B8 use.

4.7 Given the nature of the proposed use (storage and distribution to be occupied by a builders' merchant), the internal floorspace of the trade counter (51.5sq.m), and the percentage of sales likely to take place over the counter in the form of 'cold' ordering in an industrial estate, it is unlikely that sales arising from the introduction of a trade counter would materially change the use of the building to an A1 retail use, such that the approval of the trade counter in an out-of-town location would compromise the vitality and viability of the city centre. This is subject to conditions

restricting the floor area of the trade counter to that shown, a condition restricting sales from taking place other than within an area shown as trade counter area, and a condition restricting sales, display and services to visiting members of the public at all times.

4.8 Highway (Network Management) have raised no objections as the proposed B8 use is likely to generate lower volumes of traffic than the current B2 use. As such it is unlikely that the proposed change of use would create conditions prejudicial to highway safety. It is also considered that the proposed parking provision, together with the existing access arrangements are capable of accommodating the proposed use. In accordance with Policy T4 of the City of York Draft Local Plan a covered cycle parking spaces condition has been recommended.

4.9 The application site is surrounded by commercial and industrial buildings. The nearest residential properties are situated over 20m away on the opposite side of Clifton Moorgate. Furthermore, the potential for any statutory nuisances associated with the proposed use is likely to be less than the existing B2 general industrial use. Hence subject to no objections being raised by the Environmental Protection Unit, the proposal is considered to be satisfactory in this respect. This is subject to conditions restricting the hours of operation and the type of machinery, plant and equipment to be installed. A condition has also recommended to restrict the hours of demolition and construction works, in order to protect the amenity of the nearby residents, in particular the local residents along Gouthwaith Close.

4.10 The external alterations proposed are considered minor and unlikely to materially change the design and appearance of the existing building.

4.11 Having regard to the above it is considered that the proposal accords with the aims and policies of the local plan and is recommended for approval.

## **5.0 CONCLUSION**

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

## **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:-

Floor Plan, Elevations and Site Plan drawings received by the City of York Council on 7 March 2011

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

3 The trade counter shown on the submitted Floor Plan received on 7 March

2011 hereby approved shall not, at any time be used for the sales, display and services to visiting members of the public.

Reason: To protect the vitality and viability of York City Centre.

4 The gross floor area of the trade counter shown on the submitted Floor Plan received on 7 March 2011 hereby approved shall not exceed 52.0 square metres.

Reason: To protect the vitality and viability of York City Centre.

5 Sales shall not take place within or outside the building other than from the trade counter area shown on the submitted Floor Plan received on 7 March 2011.

Reason: To protect the vitality and viability of York City Centre.

6 The hours of opening including hours of operation shall be confined to the following hours:

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

Reason: To protect the amenities of adjoining occupants

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

Reason: To protect the amenities of adjoining occupants.

8 All demolition and construction works and ancillary operations, including deliveries to and dispatch 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 amenity of neighbouring occupants.

## **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 loss of employment land, the vitality and viability of York City Centre, residential amenity and highway safety. As such the proposal complies with Policies E3b, S2, GP1, T4 and GP4a of the City of York Local Plan Deposit Draft.

2. 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.

3. 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 attached to any planning approval, 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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