

COMMITTEE REPORT

Date: 16 February 2012 **Ward:** Rural West York
Team: Major and **Parish:** Nether Poppleton Parish
Commercial Team Council

Reference: 11/03253/FULM

Application at: Plot 8B Great North Way Nether Poppleton York

For: Erection of garden centre retail development incorporating restaurant/cafe and farm food hall with associated access, landscaping, car park, outdoor display areas and hand car wash

By: Dobbies Garden Centre Ltd

Application Type: Major Full Application (13 weeks)

Target Date: 15 March 2012

Recommendation: Approved subject to Section 106 and Secretary of State

1.0 PROPOSAL

1.1 The site is a 3.3 hectare plot within the York Business Park. The site is bounded to the east by the East Coast rail line, to the south by industrial units. To the north by White Rose Way and the recent office development of Tudor Court and the office/workshop units of Opus Avenue. To the west is the Great North Way, further to the west and south (min 85 metres) is a large housing estate. The site is designated as employment land in the Local Plan and the emerging Core Strategy.

1.2 The application is for the erection of a garden centre retail development. In addition to the main retail area the building would incorporate a restaurant/cafe and a food hall. Fronting onto Great North Way would be a 351 space car park, with parking spaces for two coaches, and a carwash. The car park would be enclosed by landscaping. The customer vehicle access to the site would be from Great North Way, with servicing vehicles gaining access from Opus Avenue. To the rear of the building would be a large paved area for plant sales, polytunnels and an area for concessions. The building footprint would be 5,332sq metres (including the polytunnels - 7,033 sqm). The open air plant retail area would be 3,342sqm. The external concessions area to the east of the site would be 1,579 sqm, with a resulting total retail floor area of 11,954sqm.

RELEVANT SITE HISTORY

11/02809/EIASN - Screening opinion for development of retail garden centre: EIA not required

01/02169/REM - Reserved matters application for mixed use development of offices and industrial warehousing at Plot 7, 8 and 9 - Approved

99/00238/OUT - Renewal of planning permission 6/116/164Q/OUT for a mixed business, commercial and industrial employment park (Appeal against Non-Determination Allowed 29.12.99)

6/116/164Q/OUT - Outline application for mixed business, commercial and industrial employment park, land at Grid Ref. 457000/453900 Mill field Lane - Approved

6/116/164/F/OA and 6/116/164/G/OA (1990) - Office park including B1 accommodation with ancillary services together with a hotel with conference and ancillary services, and a railway station - Deferred for S106, not completed

6/0116/164/A/OA (1988) and 6/116/164/H/OA (1990) - Business Park including new buildings for high technology including industrial office warehouses and ancillary use - Deferred for S106, not completed

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies:

CYSP7A

The sequential approach to development

CYSP8

Reducing dependence on the car

CYGP1

Design

CYGP3

Planning against crime

CYGP4A

Sustainability

CYGP4B

Air Quality

CYGP9

Landscaping

CYGP11

Accessibility

CGP15A

Development and Flood Risk

CYNE5

Non-statutory nature conservation sites

CYNE5B

Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites

CYNE6

Species protected by law

CYT4

Cycle parking standards

CYT7C

Access to Public Transport

CYT13A

Travel Plans and Contributions

CYT20

Planning agreements

CYE3A

Standard Employment Allocations

CYE3B

Existing and Proposed Employment Sites

CYS2

Out of centre retail warehouse criteria

CYS12

Criteria for garden centres

3.0 CONSULTATIONS

INTERNAL

HIGHWAY NETWORK MANAGEMENT

3.1 States the 351 space car park is below CYC's maximum parking standards for this type of use (401 spaces). The developer is also proposing to introduce 36 covered cycle parking spaces to serve the needs of customers and staff. There are two bus services which are in close proximity to the site. The First No. 10 service and the Transdev No. 20 service. Both services provide a 30 minute week day service and have stops on Millfield Lane.

3.2 In determining the expected trip generations from the new development, the applicant has used data obtained from the Company's existing Garden Centres. Vehicle trips are shown to peak between late morning and early afternoon on a weekday with a maximum combined flow (in and out) of 208 vehicle movements per hour. On a Saturday it occurs mid-afternoon with a maximum combined flow of 385 vehicles per hour. In comparison, the peak traffic periods on the adjoining highway network occur between 8:00am and 9:00am and 5:00pm and 6:00pm on a weekday and between 11.45am and 12.45pm on a Saturday. The percentage impact of the Dobbies development is as follows: -

Great North Way/A1237 Roundabout: -

- 1.4% during the AM network peak;
- 2.7% during the PM network peak;
- 9.3% during the Saturday network peak;

A59/A1237 Roundabout:-

- 0.4% during the AM network peak;
- 0.7% during the PM network peak;
- 2.4% during the Saturday network peak;

A19/A1237/Park & Ride Roundabout: -

- 2.6% during the AM network peak;
- 1.3% during the PM network peak;
- 5.4% during the Saturday network peak;

3.3 The above figures shows that the impact associated with the garden centre will be at its highest on the A19 Roundabout. However the improvement works which have taken place on this roundabout would suggest that it is capable of accommodating the additional percentages especially since they do not coincide with network peak flows.

3.4 Whilst Dobbies percentage impact is the highest on the A19, it is the A59 which raises the most concern. The A59 Roundabout is already running over capacity and whilst the increase from Dobbies development is minimal it will further impact on the situation. However the already planned improvements to this roundabout will result in extra capacity. The development would derive benefit from the proposed improvements and as such it is considered reasonable that the applicant should contribute appropriately towards these improvements, if the application were to be approved. The applicant has agreed to a contribution of £59,000 which has been calculated based on the impact. This would be secured through a Section 106 Agreement.

3.5 Standard conditions HWAY9, HWAY19, HWAY21, HWAY40, and conditions for a travel plan and method of works are suggested.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

ECOLOGY OFFICER

3.6 No objections. The site is designated as a Site of Importance for Nature Conservation (SINC), containing a Great Crested Newt population. However, the extant outline planning consent was approved before the conservation designation was made and before the Great Crested Newt population was identified, and it is therefore considered unreasonable to prevent development if an acceptable alternative site for them can be found.

3.7 The submitted mitigation strategy largely follows the proposals agreed previously in discussions with the applicant. This would involve compensation for the loss of the grassland habitat by carrying out an extensive grassland recreation scheme on land on the other side of the railway to the development site and to the relocation of the Great Crested Newt population.

3.8 The shallow roof lends itself to use as a 'living roof', which could compensate for the loss of vegetation that has colonised the vacant site, and create a further valuable habitat. A mitigation plan via a condition is requested.

LANDSCAPE ARCHITECT

3.9 States the development presents a sufficient width of planting along Great North Way and White Rose Way to allow for tree planting, backed by a hedge and complemented with some wildflower areas. These serve not to screen the development but to create a landscaped setting. There is already a line of established trees along White Rose Way and alongside the roundabout, plus a mixed Beech hedge. The vast majority of these could be retained without compromising the development proposals. However should good reason be given for their removal, they should be replaced with trees of a similar size.

3.10 The car park would comprise a range of materials to visually break down its expanse. Adequately sized planting beds are given to trees within the car park which will be of visual benefit and in the longer term when they reach their mature size, help to reduce the urban heat island effect by creating shade over the areas of hardstanding.

3.11 Given that the car park light columns do not take up much space at ground level they could be located between parking bays rather than in the planting beds, allowing them to be separated from the trees. The routes of the ducts should avoid the potential root growth of the trees.

3.12 Considers that whilst it is noted that this is the service area, the landscaping scheme should at least provide a generous area of planting to continue the aesthetic planting along the Opus Way boundary, in order to respect the setting of the existing blocks and provide a better end vista to Opus Way, rather than a 3.5m close boarded fence. For example the legume and clover mix could be extended; and/or a hedgerow wildflower mix included along the front of the hedge. The Beech hedge would tie in with other hedging in the vicinity, but its seasonal amenity value should be increased by including some Holly and Hawthorn, whilst still offering a neat boundary. A landscaping condition is requested to cover the issues raised.

ARCHAEOLOGIST

3.13 No comments to make.

SUSTAINABILITY PROJECTS OFFICER

3.14 States the installation of various energy efficiency measures is proposed as the method for demonstrating compliance with the Interim Planning Statement (IPS). While addressing energy efficiency is entirely the right approach prior to installation of low/zero carbon technologies, there is still a requirement to install such technologies. To comply with the IPS the applicant is required to provide, as a minimum, a commitment to installing low / zero carbon technology which provides at least 10% of the developments energy demand. There is a requirement to achieve a BREEAM 'Very Good' rating as a minimum. There is a commitment from the applicant to achieving a 'Very Good' rating and the BREEAM Pre-Assessment Report indicates this could be achieved.

FLOOD RISK MANAGEMENT TEAM

3.15 No objections to the application. Request condition that development in line with information submitted.

ENVIRONMENTAL PROTECTION UNIT

3.16 States no information has been submitted with regard to plant and equipment to be installed; a noise impact survey is requested. Also information on light spill is required as well as classification of the site in terms of the Institute of Lighting Engineers. Insufficient information regarding air quality assessment and no assessment of construction impacts on nearby sensitive receptors has been undertaken

3.17 In line with the Council's draft Low Emission Strategy (framework approved June 2011), any developer of the site should demonstrate how they are meeting 'best endeavours' for reducing emissions during construction and operational phases. EPU would like a number of electric vehicles recharge points installed within the development site boundary to promote the uptake of low emission vehicles on site. The submitted energy statement stated that biomass would not be used on this site as it was not considered to be economically viable however if it was considered at a later date would require assessment of emission and information about the operation and maintenance of the installation

3.18 A Construction Environmental Management Plan should be submitted, and conditions for Environmental Management Scheme, hours of construction, treatment and extraction of cooking odours, contamination of land are requested.

ECONOMIC DEVELOPMENT UNIT

3.19 The proposal involves a loss of employment land and therefore not in line with the economic ambitions of the city. However the proposal will create new jobs on a plot that has stood empty for some time. Not maximising the level of employment that the size of site could accommodate but brings new 120 jobs.

INTERGRATED STRATGEY

3.20 States the submitted Planning and Retail Statement indicates that the site has been marketed for 10 months. The emerging Core Strategy seeks the delivery of up to 1,000 jobs per annum and sufficient employment land and premises to meet this growth. This is based on the findings of both the Employment Land Review, validated recently by the conclusions of Arup's work to explore employment land provision in the city. PPS4's widening of the term 'employment' is not relevant in this case given that the evidence base for the proposed job growth and employment does not relate to 'employment' but rather its specific components. For example, B1a employment land is intended for B1a, not simply 'employment use'.

3.21 The emerging Policy CS16 continues the approach to existing employment land set out under E3b in the Local Plan. Policy CS16 sets out that the loss of land and/or buildings which are either identified, currently used or were last used for

industrial, business, office or other employment uses, will only be permitted where it can be demonstrated that the proposal would not have a detrimental effect on the future supply of employment land in either quantitative or qualitative terms. This is important given the conclusions of Arup's recent work relating to margin of choice of employment sites, to enable sufficient churn and flexibility in employment space in York.

3.22 The Core Strategy indicates the level of employment land needed until 2029 to meet the level of employment growth in York during the plan period. This equates to 35.29 hectares in total. The proposal is for a 3.34 hectare site within a site known as Land North of Great North Way, York Business Park, identified within the ELR and emerging Core Strategy for B1(a) and B1(c), B2, B8 uses. The proposal would lead to the loss of employment land and thus contrary to policy. However excluding the Green Belt, a business park location such as the proposed would be the most suitable location should it be decided that the proposal would be economically beneficial to the city. This clearly reflects the scale and nature of the proposal.

3.23 PPS4 and Policy SP7a require that a sequential approach be taken and that sites within the city centre are looked at first. A Sequential Site Assessment has been submitted. It concludes that none of the sites satisfy all three tests of the PPS4 sequential assessment. The Section is satisfied that there are no sequentially preferable sites for the type of development proposed.

3.24 In terms of retail impact the information submitted suggests a trade diversion from York centre of 60,000 or 0.00065% of the comparison goods turnover, and 0.29% for the unrestricted ancillary goods sold at the site based on 15% of floorspace being unrestricted. A 'primary' range of goods to be sold has been supplied by the applicant. It is considered essential that unrestricted goods sold from the premises are restricted to 15% of the floorspace ensure there is not a significant adverse impact on the centre, and that comparison goods identified on the 'primary goods' list are restricted to 15 % of the total floorspace. Conditions to address these restrictions are suggested.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

NETHER POPPLETON PARISH COUNCIL

3.25 No objections. Concerns of local residents and retailers about the possible impact on the several village shops especially in regards of the proposed food hall which may conflict with local sales.

YORKSHIRE WATER

3.26 No comments received, update will be provided at the committee meeting.

ENVIRONMENT AGENCY

3.27 Request conditions for surface water scheme based upon unsustainable drainage principles and an assessment of the hydrological context of the development, surface water drainage from hardstanding shall be drained through a trapped gully.

NETWORK RAIL

3.28 No objections, states:-

- All surface and foul water arising from proposed works must be collected and diverted away from NR property
- All operations adjacent to NR property must be carried out in a fail safe manner and be within a falling distance of 3m of the nearest rail or electrical equipment and supports
- All earthworks/excavations carried out within the vicinity of NR property should be designed and executed so there is no interference with the integrity of the property/structure. Temporary works compounds sited adjacent to operational railway should be included in method statement submitted to NR
- Security of railway boundary needs to be maintained. If works require temporary or permanent alterations to the mutual boundary must contact NR
- An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the line side fencing. NR existing fencing must not be removed or damaged
- Developer must provide a suitable trespass proof fence adjacent to NR and make provision for future maintenance and renewal
- If excavations/piling/buildings are to be located within 10m of the railway boundary will require a method statement
- All buildings should be situated at least 2 metres from the NR boundary
- Where trees/shrubs are to be planted adjacent to the NR boundary these shrubs should be positioned at a minimum distance greater than their predicted height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the boundary; any hedging along this boundary should not damage the fences or provide means to get over the fences
- Lighting to be erected adjacent to the railway the potential for train drivers to be dazzled should be eliminated, the location and colour should not give rise to confusion with the signalling arrangements, details of position of lighting should be conditioned
- All means of providing access to the railway should be kept open at all times
- All children's play areas adjacent to the boundary shall be secured by at least 2 metre high secure fence

POLICE ARCHITECTURAL LIAISON OFFICER

3.29 With respect of 'designing out crime' would support the application.

AINSTY INTERNAL DRAINAGE BOARD

3.30 The original design for the business park identified this plot as being connected to the proposed Yorkshire Water surface water system with direct discharge to the River Ouse

- Request conditions for surface water drainage works; demonstrate the suitability of proposed SUD system

YORK NATURAL ENVIRONMENT PANEL

3.31 The Panel advocate creating a suitably sized green corridor along the south-eastern boundary of the site leading from the pond on the adjacent land to the railway corridor. Suggest the creation of a Sustainable Urban Drainage System (SUDS) to collect water from watering function of the nursery, located away from the neighbouring pond, for example in the eastern corner of the site. With suitable native planting the SUDS could also provide wildlife habitat all the better to enhance the previously suggested green corridor.

3.32 Compared to the existing conditions the proposals, with suitable landscaping, could have a leavening affect on the site. The site is a better location for a proposed garden centre than that previously proposed at Naburn designer outlet. Also states the landscape plan could do with more imagination and detail to better reflect the nature of Dobbies as a nursery. The scheme represents a good opportunity to enhance the landscaping of areas beyond the site itself at the same time as showcasing the plants to be sold at the garden centre.

INTERESTED PARTIES

3.33 3 Letters of objection have been received as summarised below:-

- The proposed garden centre is without value and will compound the traffic issues. A full rebuild of the junction will not improve the situation, and will have detrimental impact on the environment
- Would like to avoid the noise and disturbance of the construction
- Lack of direct public transport means all employees have to travel to work by car
- Would like public transport to the site and parking spaces provided within the development for general use. There is insufficient parking provision within Opus Avenue and Tudor Court development and as such there are cars parked on the road. Concerned regarding the use of Opus Avenue as an access road for deliveries, compound the parking issues.
- Opus Avenue and Tudor Court are too narrow to accommodate heavy delivery traffic, would like all access to the development to be from Great North Way
- Connection between the Great North Way and A1237 Ring Road. Currently traffic flow does not allow vehicles leaving the Business Park to safely enter the traffic flow. Proposed development will compound the issue. Request traffic lights

- The retail assessment states that they used a catchment area of 20 mins drive of the site; however the catchment area shown on the map would seem to indicate a much smaller site. A 20 min drive will extend beyond the boundaries of CYC and neighbouring councils should be consulted.
- With regards to Policy S12 do not consider that the site has been adequately screened, accept that given its location a degree of flexibility may be allowed. Insufficient information to establish if the majority of the site will be used for the cultivation or sale of plants as required by the policy. The majority of the site should be used for cultivation or sale of plants not simply retail horticultural goods as seems to be suggested by the submission. Difficult to tell from the supporting information how much floorspace is given to the sale and cultivation of plants
- The range of goods provided has not been split into horticultural, convenience, and ancillary goods, as such difficult to assess what will make up the ancillary sales and the 15% of the proposed retail floor space. The proposed ancillary retail floor space will be 1800sqm, a large amount of unrestricted sales space, the impact of which has not been fully assessed in the retail assessment, as the report deals primarily with trade diversion. Not all of the goods within the primary range of goods relate to horticulture.
- 'Concessions associated with a garden centre use' and 'eco living and environmental products' are vague and wide ranging, request more information as to the meaning of the terms
- Table 7.7 is likely to be inaccurate as trade draw will encompass a far greater number of retailers than examined by the application, the applicant has not assessed those retailers selling goods which match the proposed concessions or other goods unrelated to horticulture. Therefore does not meet Policy EC16d of PPS4
- The sequential test has looked at available development sites but has not assessed existing retail opportunities. A consequence of the sequential test it that the larger a retail proposal, the less likely it is that a suitable alternative will be able to be found, the appropriateness of the proposed scale of the development should be assessed
- The applicant should demonstrate flexibility that the proposal cannot be located on smaller sites to meet Policy EC15 of PPS4. Such flexibility could include reducing the floorspace and car parking, and consideration of innovative layouts (multi-storey/mezzanines), before discounting smaller sites
- Using the applicant's Retail Planning Statement and Arup report's forecast, there is an oversupply of 12.92 hectares of employment land. However, if land is deducted for the Dobbies application, the proposal at the Vanguard site, and the proposed care home at Great North Way, 16.17 hectares of employment land will potentially be lost. Therefore there would be an undersupply of 3.25 hectares of employment land, albeit using Arup's higher growth figures. There may be insufficient employment land in the near future should faster growth be experienced. Part a) of Policy E3b has not been adhered to as there is potentially insufficient supply of employment land to meet both immediate and longer term requirements over the plan period.

- The applicant argues the proposed development will meet part c) of Policy E3b by creating 120 jobs, but these will potentially be offset by jobs lost at other horticultural businesses. The supporting information states a potential trade diversion of 29% from Poppleton Garden Centre, and similar amounts from other garden centres. (It should be noted table 6b of appendix 4 lists higher trade diversion figures from surrounding businesses, and indeed assesses more businesses than listed in the main body of the report). It is unlikely that any of the businesses listed will be able to absorb such impact without significant job losses, potentially more than those created. The issue of potential job losses is highlighted further as consider there will be a greater overlap between goods retailed at the proposed development and those retailed in protected centres.
- Policy CS16 of the Core Strategy picks up the aims of Policy E3b but also specifies York Business Park as providing B1, B2, and B8
- Marketing report shows that the site has only been marketed for 10 months and does not demonstrate that efforts to secure employment have been exhausted
- There are no other A1 uses within the business park, York has significant out of town retail development existing - Clifton Moor and Monks cross. In allowing retail on this site will be difficult to resist further retail development when an applicant argues that articular business needs are not best suited to the town centre.
- Inadequate parking provision for office units on Tudor Court, causing parking on Opus Avenue, further compounded as the other units become occupied. Would like additional parking provision. Request that some of the proposed site be allocated as car parking for the office units, may prevent future problems
- Will cause an increase in traffic, the junction is of Great North Way and the ring road is already very busy, request a box junction or traffic lights at this junction.

4.0 APPRAISAL

KEY ISSUES

4.1 These are considered to be:-

- Principle of development
- SINC and protected species
- Highways
- Design and impact on the streetscene
- Sustainability
- Impact to residential amenity

PLANNING POLICY

4.2 National planning policy contained within PPS1 'Delivering Sustainable Development', states that good design is indivisible from planning. Design which is inappropriate within its context, or which fails to take opportunities for improving the character and quality of an area or the way it functions should not be accepted. 'The

Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.3 PPS4 'Planning for Sustainable Growth' states that all planning applications for economic development should be assessed against the following impact considerations: whether the proposal has been planned over the lifetime of the development to a. limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change; the accessibility of the proposal by a choice of means of transport, the effect on local traffic levels and congestion after public transport and traffic management measures have been secured; whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions; the impact on economic and physical regeneration in the area; and the impact on local employment.

4.4 The site is designated a Site of Importance for Nature Conservation ('SINC'). Planning Policy Statement 9 'Biodiversity and Geological Conservation' states that planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests. Local Planning Authorities should ensure appropriate weight is attached to designated sites of local importance. The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, the LPA will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

4.5 PPS9 states that sites of local biodiversity and geological interest, which include Local Nature Reserves and Local Sites, have a fundamental role to play in meeting overall national biodiversity targets; contributing to the quality of life and the well-being of the community; and in supporting research and education. Criteria-based policies should be established in local development documents against which proposals for any development on, or affecting, such sites will be judged. Policy CS20 of the emerging core strategy states that proposed development should result in no net loss to, and helps to improve, biodiversity (any unavoidable impacts must be appropriately mitigated or compensated for, and secured through the planning process).

4.6 The relevant development plan is the City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets

of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH.

4.7 The Core Strategy Submission (Publication) went out for consultation between 26th September - 7th November 2011. The Submission stage of the Core Strategy follows on from the Issues and Options stage which was consulted on in June 2006 (Core Strategy: Issues and Options 1 (2006)) and again in August 2007 (Core Strategy: Issues and Options 2 (2007)) and the Preferred Options stage (Core Strategy: Preferred Options (2009)), which was consulted on from June until August 2009 (but with an extension to allow additional comments until October 2009). The emerging Core Strategy document draws from the responses that were received during the consultation events as well as feeding in the evidence base findings and higher level policy such as national planning policy. As such it is considered to be a material consideration.

4.8 Policy GP1 'Design' of the City of York Council Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.9 Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development.

4.10 Policy NE6 'Species Protected by Law' states that where a proposal may have a significant effect on protected species or habitats, applicants will be expected to undertake an appropriate assessment demonstrating their proposed mitigation measures. Planning permission will only be granted for development that would not cause demonstrable harm to animal or plant species protected by law, or their habitats. The translocation of species or habitats will be an approach of last resort.

4.11 Policy S12 'Garden Centres' states that Planning permission will be granted for garden centres within or adjacent to defined settlement limits, provided: (a) the site is sufficiently screened to minimise any adverse effect on the character of the area; and (b) the majority of the site is used for the cultivation or sale of plants; and (c) the

type of goods sold is restricted to those directly related, or ancillary, to horticultural purposes.

4.12 Policy T7c 'Access to Public Transport' states that all new built development on sites exceeding 5000sqm of gross floor space should be: a) within 400 metres of a bus service offering a day time frequency of 15 minutes or better; or b) within 1000 metres of an existing railway station.

4.13 The site is just outside the settlement limit specified in the Proposals Map and the Poppleton Village Design Statement (2003). The VDS contains a number of design guidelines which are considered to be relevant. The design guidelines state that the village's rural character /atmosphere should be maintained and that there should be open land between Poppleton and York, to prevent unsightly urban sprawl. Any new development on the village periphery should be in keeping with both the surrounding properties and the countryside and should give high priority to landscape design, to protect and enhance the external views of the village (3). Any further commercial and industrial development within or within direct influencing distance of Poppleton should be well screened and not exceed the existing height, and should protect the open views of the surrounding flat landscape (28). The effects on the villages of any planned expansion of industry around the ring road, especially concerning road traffic, should be carefully examined before any planning permission is given (43).

PRINCIPLE OF DEVELOPMENT

Retail

4.14 Dobbies had previously submitted applications on a Greenbelt site adjacent to the Designer Outlet, Fulford. That site was considered inappropriate for the type of development by virtue of its Greenbelt location. The site now proposed is large enough to accommodate the Dobbies layout requirements, and is within the settlement limits for the urban area of York. Policies SP7a, CS17, and PPS4 require a sequential test to be carried out to assess the suitability of sites within the urban area for retail development of the size proposed. The applicant has submitted a sequential test showing that other sites that were considered for the development include Castle-Piccadilly, George Hudson Street, land at Foss Islands, York Central, British Sugar site, Stonebow House, and the Telephone Exchange. The sites were found to be unsuitable because of land values, the sites were either occupied or not available, the sites are not in a position to be brought forward, or the sites were considered to be too small. In line with PPS4 the applicant should demonstrate that they have shown a level of flexibility in considering sites in or on the edge of existing centres, the applicant should demonstrate flexibility in terms of: scale, format, car parking provision, the scope for disaggregating specific parts of a retail development. The applicant maintains that by virtue of the type of retailing proposal i.e. a garden centre, with particular internal and external space requirements, it is

impractical to significantly modify the format and layout to reduce the space requirements whilst retaining viability. This is considered to be a reasonable position given the nature of the proposal which restricts the options for alternative sites in the urban area.

4.15 The site is within the settlement limits of the city, and whilst the proposed relatively generous landscaping would not screen the proposal (required by Policy S12a above) as such, the lack of screening is not considered to have a negative impact on the visual amenity of the area. The plants would not be grown on site but would be transported to the site for sale. To comply with this aspect of the policy (12b) the majority of the site would need to be used for the retail of plants and horticultural equipment.

4.16 There are concerns regarding the proposed list of 'primary goods' submitted by the applicant in that some of the goods are not considered to be directly related to horticulture. It is considered that these items could be classed as ancillary goods and as such restricted to 15% of the indoor retail floorspace along with other ancillary sales of items not directly related to horticulture. This approach has been adopted by Local Authorities elsewhere in relation to garden centre sales, including other Dobbies sites and in York most recently at the Poppleton Garden Centre. Appropriate restriction would contain the level of retail impact particularly in relation to comparison goods to an acceptable level. Whilst concerns have been raised on behalf of an existing garden centre operator in respect of the impact of comparison goods sales and also on goods sold at the rival outlets, the proposals would be subject to conditions restricting the type and extent of goods sold to an acceptable level. A condition to restrict the sales of comparison goods has been suggested should members be minded to approve the application.

4.17 The proposal would have a restaurant/café, and a food hall selling fresh garden and farm produce with emphasis on local products. Whilst such facilities are becoming a standard feature of larger garden centres, it is considered that it would be prudent to condition that the restaurant/cafe and outside seating area and the food hall do not increase in size, to guard against any impact upon the city and district centres, and to ensure they remain ancillary to the main garden centre use.

Loss of employment land

4.18 The relevant Local Plan policy in establishing the principle of developing this site for a non-employment use (typically only B1, B2, or B8 uses are considered to be employment uses) is E3b. The Local Plan identifies York Business Park as a Standard Employment Allocation. Policy E3b seeks to protect employment sites and states that planning permission for other uses will only be given where:

a) there is a sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in both quantitative and qualitative terms; and

- b) Unacceptable environmental problems exist; or
- c) The development of the site for other appropriate uses will lead to significant benefits to the local economy; or
- d) The use is ancillary to an employment use.

4.19 Policy CS15 of the emerging Core Strategy aims to ensure the provision of a range of employment sites to meet the needs of existing businesses and to maximise inward investment; and safeguarding existing employment, and commercial locations.

4.20 The emerging Core Strategy (Policy CS16) also identifies York Business Park for employment use. The policy states that "To ensure continued economic success and prosperity the LDF will provide sufficient land and protect existing employment sites to allow York's economy to realise its potential". Proposals for non-employment uses which involve the loss of land and/or buildings which are either identified, currently used or were last used for industrial, business, office or other employment uses, will only be permitted where it can be demonstrated that the proposal would not have a detrimental effect on the future supply of employment land in either quantitative or qualitative terms. The Core Strategy has come forward together with the supporting information on employment land in the Employment Land Review (ELR) Stage 1 and 2 (Entec 2007 and 2009), the Arup Employment Paper, October 2010 and the Core Strategy Supporting Paper 2: Economic Growth.

4.21 The proposed retail garden centre is an A1 use and therefore is a change of use of the site from its standard employment allocation. Part a) and one of parts b), c), and d) of Policy E3b would need to be satisfied in order to justify the loss of this employment site. The applicant states that the identified supply of land far exceeds the net land requirements and as such the loss of 3.3 hectares would be insignificant. The Core Strategy Submission document indicates the level of employment land needed until 2029 to meet the level of employment growth in York during the plan period. This equates to 35.29 hectares in total. The proposal is for a 3.34 hectare site within a site identified within the ELR and emerging Core Strategy for B1(a) and B1(c), B2, B8 uses. The supporting paper for the core strategy - Economic Growth - favours this land for office development. The impact to the overall supply of land should also be considered but also the quality of the remaining employment land. There are current applications on employment land: the stadium and retail development at Monks Cross (12.14 hectares of employment land) and the appeal for a care home on Plot 6 of York Business Park (on allocated employment land). Both of these proposals are undetermined but the cumulative loss of employment land would have potential significant implications for York's future employment land provision. Committee should be aware that the application for the care home on Plot 6 was refused on the grounds of loss of employment land (West and Centre Planning sub committee December 2011). It is considered that more appropriate sites could be found for a care home within residential areas; the proposed garden centre use does not have this flexibility.

4.22 The site has been marketed for 10 months with a limited amount of interest. The proposal would result in a 120 full and part time jobs, and bring economic benefits to the City in terms of for example use local suppliers. Whilst it is acknowledged that this proposal would lead to the loss of employment land, potentially at odds with policy e3b, it is recognised that there are different circumstances involved in that excluding the Green Belt; a business park would be the most suitable location for this type of development proposal. The sequential test of the urban area did not identify any other suitable sites in the short to medium term.

4.23 The Economic Development Unit makes the point that the proposed use would not create high value jobs at the site but would create new jobs on a site that has remained vacant for some time. On balance given the nature of the development proposed, the lack of alternative sites within the urban area, the time for which the site has remained undeveloped and the marketing period exceeding the 6 months normally expected, it is felt that the loss of employment land can be justified in this instance.

'SINC' SITE AND PROTECTED SPECIES

4.24 The site is designated as a Site of Importance for Nature Conservation for its calcareous grassland. As the site was allocated for business use before it was designated as a SINC site it has been the understanding that the site could still be developed as long as the application secured a mitigation strategy. The details of the applicant's Ecological Statement suggests there is a clear intent to carry out this work. This will involve compensation for the loss of the grassland habitat by carrying out a grassland recreation scheme on land on the other side of the railway to the development site. The proposed site and the adjacent open space with ponds have a medium level population of Great Crested Newts. Again given the extant planning approval for development on the site, allowing the translocation of the population to the appropriate alternative site is considered to be reasonable in this case. The transference of the population will require a license from Natural England. It is considered that a condition requesting additional information to the specifics of the grassland recreation scheme and the newt relocation would be prudent.

HIGHWAY ISSUES

4.25 As set out by Highway Network Management comments at 3.1, the A59 Roundabout is already running over capacity and whilst the increase from Dobbies development is minimal it will further impact on the situation. The proposed garden centre would benefit from the proposed improvements and as such the applicant has agreed to a contribution of £59K which has been calculated on an impact basis. These funds would be secured through a Section 106 Agreement if the application were to be approved. It is considered that this development would not have a significant adverse impact on the movement of traffic on the adjoining highway

network due to the off-peak nature of the peak customer demand and the proposed improvements to the A59 Roundabout.

4.26 The developer is also proposing to introduce 36 covered cycle parking spaces. A cycle shelter to the front of the building would provide customer parking for 16 cycles. There would be covered cycle parking within the kitchen service yard. The internal and external retail space would total 8,954 sq m and as such the total number of cycle spaces provides is significantly lower than the standards set out in Appendix E of the Local Plan. However given the nature of the retail offer (and the potential restriction on retail goods sold) it is considered unlikely that a significant number of customers wanting to buy garden plants etc would travel to the site by cycle.

4.27 The site is within 400 metres of a bus service that runs at a frequency of 30 mins: Service 20/20a (Acomb - Clifton Moor - Wigginton - Haxby - Monks Cross - University - Fulford) and Service 10 (Stamford Bridge - City Centre- Poppleton) and as such provide access to public transport for staff and customers. By virtue of the type of development proposed and the minimum level of public transport use expected in relation to the use it is considered that it would be unreasonable for the developers to fund the provision of further public transport. The targets for Policy CS18 of the emerging core strategy in this regard are less restrictive and refer to new developments being located within a five minute (400 metres) walkable route of a frequent public transport service and a range of local facilities and within 100 metres of an existing or proposed cycle route. It is recommended that if the application is approved, then a green travel plan be required by condition, to comply with Draft Local Plan Policy T13a.

DESIGN AND IMPACT ON STREETSCENE

4.28 The proposed building would be single storey; the external materials for the front/south west elevation would be timber boarding and feature sandstone rubble walls with a projecting feature entrance with three flag poles above. There would be large glazed horizontal emphasis windows. The external materials to the side elevations would be metal cladding in a grey finish. Both side elevations would be screened from view by a 3.5 metre high timber and steel fence. The rear elevation would be made up of timber cladding with full height glazing to the restaurant. Much of this elevation would be screened by the polytunnel canopies. The proposed roof is made up of light grey metal clad gently sloping roof with 5 groups of rooflights. The maximum height of the building (excluding the main entrance) would be 5.95 metres. The general appearance of the building would be low level with a strong horizontal emphasis, filling the width of the plot.

4.29 The 351 space car park would span almost the full width of the plot, however the proposed landscaping around the boundary (including hedging) together with the difference surface materials of the car park (tarmac, paviers, and gravel) and the

tree and shrub planting within the car park, would help to soften the appearance of the car park and development when viewed from Great North Way. A car wash is also proposed within the car park, include a metal structure to act as an office with a canopy above the area. When viewed within the context of the site including the adjacent tree planting, the utilitarian appearance of the car wash is not considered to cause significant visual harm. The landscaping to the boundary with Great North Way would be at its narrowest 8 metres although would gradually become deeper towards the roundabout. The depth of the landscaping is considered to be sufficient to create a visual break between the hardstanding of the road and the car park. The extent of new tree planting on this boundary is considered to more than sufficiently compensate for the loss of trees along Great North Way. The siting of the lighting and some of the trees are considered to clash however it is considered that this issue can be overcome by a suitably worded condition.

4.30 The Landscape Architect has requested that there be more width to the south east boundary to create an effective green link between the adjacent public open space and the land to the east. Revised plans have been submitted showing additional tree planting along the majority of this boundary.

4.31 The access to the service yard would be from Opus Avenue. The service yard would be enclosed by a 3.5 metre high fence to the boundary which would appear at odds with the landscaping and the attractive relatively open character of the office development of Tudor Court and Opus Avenue. There are two existing access points to the proposed site from Opus Avenue. Whilst one would be utilised for the service yard the other road will be blocked by the fence. The applicant has stated an intent to soften the appearance of the fence with climbers and to add three trees to the elevation. Whilst this elevation at the end of the Opus Way cul-de-sac spur will not enjoy the same extent of landscape setting as the main site frontages along Great North Way and White Rose Way, it is not considered there would be unacceptable visual harm within the business park.

SUSTAINABILITY

4.32 Policy GP4a states that proposals for all development should have regard to the principles of sustainable development. The applicants have confirmed their commitment to achieving BREEAM 'Very good', therefore complying with the Interim Planning Statement on Sustainable Design and Construction and Policy CS21 of the emerging Core Strategy. It is considered prudent to secure further details and compliance through the appropriate condition.

4.33 The targets of the CYC Interim Planning Statement on Sustainable Design and Construction differ with the emerging Core Strategy Policy CS21 'Sustainable Design and Construction'. The policy requires onsite renewable energy/low carbon energy generation equipment to reduce predicted carbon emissions by at least 10% rather than providing at least 10% of the expected energy demand for the development

through on site renewable generation as requested by the Interim Planning Statement. The applicant has confirmed the intention to provide 10% of the energy demand through low/zero carbon technologies in line with the Interim Planning Statement rather than Policy CS21. By virtue of the overlap in the policies this is considered to be acceptable and it is considered that further details of these methods can be conditioned to ensure they form part of the development and comply with the CYC Interim Planning Statement on Sustainable Design and Construction.

IMPACT ON AMENITY

4.34 Although requested by Environmental Protection Unit, the applicant has not submitted a noise assessment, pointing out the location of the site on a business park, distances from the nearest residential properties (around 100 m), and the adjacency to the east coast railway line. The nature of the operation, with on average only 3 HGV deliveries per week and the screening of the service yard by a 3.5 m fence mitigates against any potential for significant noise disturbance. The use would potentially generate much less noise than other types of industrial uses at the site. The ancillary car wash is located away from the nearest residential properties and would be screened by landscaping. It is felt that the noise impact would be relatively limited and that therefore any additional information required on noise output levels and mitigation measures could be adequately controlled by condition.

4.35 In addition EPU has requested information on lighting and light spill given that although residential properties may not be affected other businesses are closer and the proposal involves lighting the car park, service yard and signage. The applicant has responded that the information supplied shows the lighting will be low level and low diffusion, and switched off outside trading hours (9.00 to 18.00 weekdays except to 20.00 Thursdays; 9.00 to 18.00 Saturdays; 10.00 to 16.00 Sundays and Bank Holidays). The lighting would be not be significantly different or more intense that that on adjacent sites, it is not felt it would be reasonable to require further information at this stage. An appropriate condition requiring final details is suggested.

4.36 The level of detailing in the air quality assessment has caused concern for EPU, although the air quality assessment that was submitted showed that the development would not generate sufficient additional traffic to significantly affect air quality. Whilst the assessment submitted does not follow the methodology in the national guidance note on air quality , it is not considered that there is a firm basis (given the information that has been supplied and the conclusions that can be drawn from it) to reasonably ask for a further assessment prior to determination of the application.

4.37 Again whilst an assessment of impacts during the construction phase has not been submitted, in particular dust impacts, there are currently no buildings on the site. The development proposed is not unconventional and in accordance with normal practice a Construction Environmental Management Plan could be required as a condition of any approval.

5.0 CONCLUSION

5.1 The development for a garden centre follows a previous refusal of an application by the same applicant for a site in the green belt, and follows an extensive search for a site within the urban area of York. A sequential test carried out to ascertain suitability of other sites has shown that this site is the only potential option insofar as being able to accommodate a garden centre use. Whilst PPS4 requires a flexible approach in terms of floorspace and parking levels in carrying out a sequential test for retailing, a garden centre proposed is distinct in terms of the space requirements and the parking requirement to serve a particular customer base.

5.2 The proposal involves the loss of employment land. However the site has remained undeveloped for a considerable period since the land was allocated, and the site itself has been marketed for a period of 10 months prior to submission of the application, in excess of the 6 months normally required. Again the specific use would be difficult to accommodate elsewhere within the urban area, and such centres are historically located in edge of centre or rural locations.

5.3 The retail impact of this out of centre development is again limited by the specific type of retailing involved and can be further controlled by the imposition of conditions to restrict the sale of comparison goods.

5.4 The traffic impact of the development can be mitigated by the planned improvements to the A59/A1237 roundabout to which the applicant would be expected to contribute a sum of £59,000. The site is located close to good public transport links. The peak hours of traffic generated by the development would not coincide with the peak hours on the adjacent highway network again helping to ensure the impact of the network is not so significant as to warrant refusal of the scheme. A travel plan would be expected as part of any approval.

5.5 The distances from the nearest properties and the nature of the use help to limit the potential impact on amenity from factors such as noise and lighting. Such matters could if it is considered be adequately controlled by means of conditions.

5.6 The matters raised by third parties including those relating to loss of employment land; economic impact; retail impact and range of goods sold; traffic generation, parking and highway issues; and amenity issues have been given consideration in assessing the application.

5.7 The development involves creating retail floorspace of over 5,000sq.m in an out of centre location and therefore the application would need to be referred to the Secretary of State should members be minded to approve it.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved subject to Section 106 and Secretary of State.

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

Drawing Number 1858(PL)303 Revision C received 26 January 2012

Drawing Number 1858(PL)304 received 7 December 2011

Drawing Number 1858(PL)305 received 7 December 2011

Drawing Number 1858(PL)306 Revision A received 7 December 2011

Drawing Number 1858(PL)307 Revision A received 7 December 2011

Drawing Number 1858 (PL)308 received 7 December 2011

Drawing Number 1858(PL)309 Revision A received 27 January 2012

Drawing Number 1858(PL)310 received 7 December 2011

Drawing Number 1858(PL)311 Revision A received 7 December 2011

Drawing Number 1858(PL)312 received 7 December 2011

Drawing Number 1858(PL)313 received 7 December 2011

Document 5: Floodrisk Assessment and Drainage Statement submitted 7 December 2011

Document 8: Ecological Survey Report submitted 7 December 2011

Drawing Number SB/YK/P/01 Revision C received 30 January 2012

Drawing Number E14 received 6 December 2011;

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

2 TIME2 Development start within three years -

3 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority, to demonstrate how the development will provide from on-site renewable energy sources, 5 per cent of the development's predicted energy requirements. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before first occupation of the development. The site thereafter must be maintained to the required level of generation.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

4 The development shall be constructed 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. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. 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 the CYC Interim Planning Statement 'Sustainable Design and Construction' .

5 HWAY9 Vehicle areas surfaced -

6 HWAY19 Car and cycle parking laid out -

7 HWAY21 Internal turning areas to be provided -

8 HWAY40 Dilapidation survey -

9 Within six months of occupation of the site, a Green Travel Plan will be submitted and approved in writing by the Local Planning Authority. The Green Travel Plan for employees and guests, will set out measures to promote sustainable travel and reduce dependency on private car journeys, in accordance with current advice issued by the Department of Transport.

Reason: To promote sustainable modes of transport and reduce car travel, in accordance with the Authority's transport policies and comply with Policy T13a of the City of York Council Development Control Local Plan.

10 Prior to commencement of the development, an Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, precautions to be taken to ensure the safety of the general public, the method of securing the site, access to the site and the route to be taken by vehicles transporting the demolition and construction materials, and the hours during which this will be permitted site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason. To protect the amenity of local residents and to ensure that the works are carried out in a safe manner and with minimum disruption to users of the adjacent highway.

11 The landscaping scheme shall be in accordance with (Drawing Number). Prior to development a specification for ground preparation for all planting and seeding, and tree pit details shall be submitted to and approved in writing by the Local Planning Authority. 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 entire site, since the landscape scheme is integral to the amenity of the development.

12 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 local residents and businesses

13 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the cooking extraction plant or machinery and any filtration systems 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 thereafter.

Reason: To protect the amenity of future residents and local businesses.

14 Notwithstanding the submitted plans and prior to the commencement of the development full details of the method and design (including illumination levels) and siting of any external illumination shall be submitted to and approved in writing by the Local Planning Authority and shall be completed in accordance with the approved details. Any subsequent new or replacement illumination shall also be agreed in writing by the Local Planning Authority prior to its provision.

Reason: In order to protect the character and appearance of the area from excessive illumination. In the interests of the visual amenity of the greenbelt and the rural location and to protect the character of the area.

15 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and 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.

16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, 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 in accordance with the previous condition.

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.

17 The premises shall be used as a garden centre (incorporating a cafe/restaurant and food hall) and for no other purpose including any other purpose in Class A1 of the Schedule to the Town and County Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To define the nature of the approval hereby granted, to control the nature and extent of retail activities able to be conducted from the site and to ensure the protection of the vitality and viability of other existing retail centres in the York urban area in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

18 The cafe/restaurant shall not exceed in floor area (700 sqm) specified on drawing number 1858(PL)308.

Reason: To define the nature of the approval hereby granted, to control the nature and extent of retail activities to ensure the protection of the vitality and viability of York city and district centres and in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

19 The food hall hereby permitted shall not exceed in floor area (450 sqm) specified on drawing number 1858(PL) 308, and shall only be used for the sale of specialist foodstuffs and not general foodstuffs commonly sold from supermarkets and food superstores.

Reason: To define the nature of the approval hereby granted, to control the nature and extent of retail activities to ensure the protection of the vitality and viability of York city and district centres and in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

20 Sales from the garden centre shall be limited to the following goods, products and services:

- (a) goods and services related to gardens and gardening,
- (b) horticultural products, trees, plants, shrubs, house plants and flowers of any type including fresh and dried flowers,
- (c) garden and gardening equipment, tools and accessories,

- (d) machinery for garden use and servicing of it,
- (e) barbeques and their accessories,
- (f) conservatories,
- (g) outdoor and conservatory furniture, furnishings and accessories,
- (h) sheds, garden buildings, greenhouses, summerhouses, gazeboes, pergolas, garden offices,
- (i) ponds and materials and fittings for their servicing,
- (j) fencing, trellis and landscaping materials,
- (k) aquatics, water garden equipment, and their accessories, water recycling products,
- (l) garden ornaments and statuary, baskets and other containers for the growing and display of indoor and outdoor plants and flowers,
- (m) books, magazines, periodicals, videos and CD and DVDs; all relating to gardening,
- (n) pets, pet accessories, pet care and advice,
- (o) indoor and outdoor: hobbies, camping equipment, toys, games, crafts and garden play equipment,
- (p) baskets, wickerwork and country crafts,
- (q) Christmas trees (live and artificial) decorations,
- (r) china, glass, vases and pots,
- (s) soft furnishing associated with garden and conservatory furniture,
- (t) outdoor clothing and footwear, including wellington boots, garden aprons and smocks, gardening boots and clogs, gardening gloves, gardening hats, gardening rainproofs and gardening overalls,
- (u) restaurant/coffee shop
- (v) Gift lines and greetings cards

(w) eco living, solar and environmental products

(x) live poultry and bird care products

(y) wood /biomass burning products and wood burning stoves

The goods specified above as m, o, p, r, t ,v, and w shall collectively be limited to no more than 15% of the total internal floorspace of the garden centre building including cold house and polytunnels.

Reason: To define the nature of the approval hereby granted, to control the nature and extent of retail activities conducted from the site and to ensure the protection of the vitality and viability of the surrounding urban centres in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

21 Prior to the commencement of development a detailed mitigation plan, including method statements and details of the timing of works related to all the matters as set out in the Ecological Report (Document 8: Ecological Survey Report, prepared by Envirotech), has been submitted to and approved in writing by the Local Planning Authority. All works should be carried out in accordance with the approved details.

Reason: To ensure the appropriate compensatory measures for the loss of the SINC site are created and to comply with Policy NE5b. To ensure there is no harm to a species protected by law and to comply with Policy NE6 and PPS9.

22 All construction and demolition or refurbishment works and ancillary operations, including deliveries to the site and despatch from the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 to 13.00 on Saturdays and not at all on Sundays and Bank Holidays

Reason: To protect the amenities of the occupants of the neighbouring dwellings.

23 The proposed unit shall not be subdivided in to smaller retailing operations.

Reason: In the interests of the amenities of occupants of nearby residential properties and in compliance with Policy SP7a of the City of York Council Development Control Local Plan.

24 The hours of operation of this approved use shall be confined to:
Mondays to Fridays 08.00 hours to 20.00 hours; Saturdays 09.00 hours to 18.00 hours; Sundays and Bank Holidays 10.00 hours to 18.00 hours

Reason: To safeguard the amenities of occupants of the nearby dwellings and buildings.

25 There shall be no external sales on any part of the application site other than those areas annotated on the approved plans as 'plant sales' ; and 'external concessions' (for the sales of garden sheds, garden buildings, greenhouses, summerhouses, gazebos, pergolas, garden offices, and conservatories).

Reason: To define the nature of the approval hereby granted, to control the nature and extent of retail activities conducted from the site and to ensure the protection of the vitality and viability of the surrounding urban centres in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

26 The sale of other comparison goods not listed within condition 20 above shall be permitted and restricted to no more than 10% of the total internal floorspace of the garden centre building, including the coldhouse and polytunnels.

Reason: To control the nature and extent of retail activities conducted from the site and to ensure the protection of the vitality and viability of the surrounding urban centres in accordance with the objectives of PPS4 "Planning for Sustainable Economic Growth".

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 retail impact, safeguarding of employment land, residential amenity, visual amenity, highway impact, contamination, air quality, Flood risk, nature conservation. As such the proposal complies with Policies SP7A,SP8,GP1,GP3,GP4A,GP4B,GP9,GP11,GP15A,NE5,NE5B,NE6,T2,T7C,T13 A,T20,E3A,E3B,S2,S12 of the City of York Development Control Local Plan.

2. NETWORK RAIL INFORMATIVE

By virtue of the proximity of the site to the railway line Network Rail have the following requirements:

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway.

Fencing

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Engineer at the below address for approval prior to works commencing on site. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebрина"

Not Acceptable:

Alder (*Alnus Glutinosa*), Aspen – Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

A comprehensive list of permitted tree species is available upon request.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

Children's Play Areas/Open Spaces/Amenities

Children's play areas, open spaces and amenity areas must be protected by a secure fence along the boundary of one of the following kinds, concrete post and panel, iron railings, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 2 metres and the fence should not be able to be climbed.

3. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

Contact details:

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