

COMMITTEE REPORT

Date: 22 August 2013 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 13/01559/FULM

Application at: Monks Cross Shopping Park Trust Monks Cross Drive Huntington York YO32 9GX

For: External alterations to amalgamate five existing units (nos 3, 4, 5/6, 11 and 12) and create additional mezzanine floorspace to create two non food retail units; external alterations and variation of condition 3 of permission ref 3/66/650AK/OA - 3/61/207G/OA to subdivide Unit 16 (resubmission)

By: The Monks Cross Shopping Park Trust

Application Type: Major Full Application (13 weeks)

Target Date: 27 August 2013

Recommendation:

1.0 PROPOSAL

1.1 This is a full planning application which seeks to reconfigure existing units within Monks Cross Shopping Park (referred to hereafter as MCSP) to form 2 large stores, subdivide one existing unit into 2 smaller units and provide mezzanine floorspace..

1.2 The planning application seeks to create two large 'anchor' units alongside the subdivision of an existing retail unit to create two units of the same size. The first unit (Unit 1) will be created by amalgamating Laura Ashley (who are relocating to Julia Avenue), Sports Direct (who will be relocated within MCSP) and Marks and Spencer's (who are to occupy the neighbouring Oakgate scheme). This will result in an increased ground floor internal area by 24 sqm, which is presumably due to floorspace gained through the loss of partition walling and additional first floor floorspace of 2,111 sq.m The information within the submitted documentation indicates that Unit 1 is to be occupied by Primark.

1.3 The second unit (Unit 2) will be created by amalgamating WHSmiths (who will be relocated within MCSP) and Arcadia (who are leaving MSCP). This will result in an increased ground floor area of 10 sq.m and an additional first floor space of 2,299 sq.m. The information within the submitted documentation indicates that Unit 2 is to be occupied by Debenhams.

1.4 Unit 16 (948 sq.m) which is currently occupied by Clarks will be divided into two units of 469 sq.m, thereby losing 10sqm of floorspace. The unit will be occupied by Clarks and either WHSmiths or Sports Direct.

1.5 The proposal seeks to create floorspace through the creation of full cover mezzanines within Unit 1 and 2 and does not propose to extend the envelope of the units. In order for Debenhams and Primark to occupy the new units 1 and 2, unrestricted A1 retail permission is sought. Corresponding alterations are sought to the external appearance of the units to accommodate the new internal layout.

1.6 For clarity and information the existing retail space is currently controlled via a condition attached to the original outline planning permission to develop the park this says:-

'No retail unit shall be less than 10,000 square feet and units greater than 15,000 square feet net retail sales area shall not be used for the retailing of any of the following goods, save where ancillary to the main range of goods sold, without the prior consent in writing of the Local Planning Authority.

- (a) men's, women's and children's clothing and footwear
- (b) fashion accessories
- (c) watches and jewellery
- (d) music and video recordings and video or CD-ROM games
- (e) cameras (including camcorders) and other photographic equipment
- (f) domestic TV, video and hifi equipment
- (g) toys'

1.7 The reason for the condition was to ensure compliance with the Greater York Shopping policy which seeks to safeguard the retail vitality of York City Centre by ensuring that the development does not compete directly with retail outlets in the City.

1.8 The submitted application is supported by the following documents:-

- Planning and retail report and supplementary documents and appendices
- Transport statement
- Travel plan
- Design and Access statement
- Sustainability Statement
- Flood Risk and Drainage Statement

1.9 The applicant undertook a public consultation exercise as part of the previous scheme on this site considered in 2012. The consultation was carried out by Lexington Communications and concluded that the majority of people were happy to see improvements to the MCSP. It was found that an improved transport hub would make respondents more likely to combine a MCSP and city centre trip. This report has not been updated in relation to this scheme; however the applicant has attended a Huntington Parish Council meeting and the local ward meeting where

plans were available and members of the public were able to ask questions about the scheme.

Relevant Planning History

1.10 The application site area consists of an area which cover the main MCSP. The following site history can be attributed to and can be considered relevant to the application site:

- In September 1994 outline planning permission was granted for 'shopping centre comprising 360,000sq.ft. A1 retail floorspace (gross leasable area) plus management space, fast food provision, circulation space and ancillary facilities' planning reference 3/66/650AK/OA 3/61/207G/OA. The application was subject to 13 conditions; condition 3 of the permission is as set out in paragraph 1.6 above. The remaining conditions on this permission relate to the way in which the physical details of the scheme are to be implemented.

NOTE: the above permission and the subsequent reserved matters also related to the Asda supermarket. The Asda Supermarket building and car park are not either within the site area or within the ownership of the applicants.

- In August 1997 Reserved Matters approval was granted for the erection of retail units with associated parking/servicing/ management facilities and restaurant (Planning reference 7/066/9080). The reserved matters was subject to a section 106 unilateral undertaking which included financial contributions towards art work and bus routes and highway requirements outside the application site.

- In February 1998 planning permission was granted for a first floor mezzanine to unit 12 to be used for A3 food and drink use. The planning permission restricted the use of the mezzanine to A3 use only and ancillary to the main retail use

- In July 1998 Approval of reserved matters in relation to landscaping and boundary treatment of the retail development was approved (planning reference 98/00187/REM)

- Prior to the introduction of legislation relating to the insertion of mezzanine floors within retail units in 2006 a number of certificates of lawful development applications were submitted in 2005 for the insertion of mezzanine floors (units 7, 13 and 18).

- In September 2007 planning permission was granted for external alterations to and construction of first floor within units 18 and 19 (Planning reference 07/01498/FULM)

- Certificate of Lawful proposed use was issued in relation to former BB's cafe to allow the unit to be used for class A1 retail. The certificate confirmed that the change would constitute permitted development and thus could take place without the need for planning permission.

- In November 2008 planning permission was granted for a variation of condition 3 (referred to above) of the original outline planning permission in relation to unit 18 (planning reference 08/01515/FUL) allowing the upper limit of 15000square foot to be increased to 15,210 square foot.
- Permission was submitted in March 2009 for external alterations and construction of first floor within unit 16, the Clarke's unit. No decision has been issued on this application.(planning reference 09/00580/FUL)
- In July 2010 planning permission was refuse for the erection of 3no retail buildings (total floor space 1440 sq m) for Class A1 (retail), and/or Class A3 (restaurants and cafes) and/or Class A5 (hot food takeaway) with modifications to existing car park, introduction of new servicing, landscaping and highway works (this was the resubmission of an earlier withdrawn application). The application was refused by planning committee because of loss of car parking and the loss of trees, including trees covered by a Tree Preservation Order (Planning reference 10/1012/FULM).
- In September 2010 permission was granted for the erection of 2 storey infill unit to create sandwich shop (use class A1), cafe (A3) Drinking Establishment (A4) or Hot Food Take-Away (A5) (planning reference 10/2058/FUL). This permission was subject to a restriction to the specified uses and no other use within class A.
- In May 2012 planning permission was refused for 8,693 sq.m. of new retail floor space and alterations to the planning controls within the park (planning reference 11/02199/FULM). Permission was refused for the development on three grounds :- The impact of the development on planned investment to the city and the vitality and viability of the city centre, the development represented a sequentially unjustified expansion of out of town shopping contrary to the advice within the National Planning Policy Framework and thirdly the development would result in increase in car borne journeys to and from the site without available and realistic sustainable travel alternatives, the loss of the insulated bus route and the failure to provide adequate cycle storage facilities would discourage rather than encourage alternative travel modes contrary to NPPF advice.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (2) 0005

2.2 Policies:

CYSP7A - The sequential approach to development

CYSP9 - Action Areas

CYSP10 - Strategic Windfalls

CYS1 - Land allocated for shopping sites

CYS2 - Out of centre retail warehouse criteria

CYGP1 - Design

CYGP4A - Sustainability

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - no objections subject to conditions and a unilateral undertaking/ section 106 to provide a contribution towards travel plan monitoring system.

3.2 DCDS - Sustainability Officer - A commitment to BREEAM very good and 10% renewable should be sought and secured by condition for individual proposals over 1000 sq. m.

3.3 Since the original comments, can now confirm that the BREEAM pre-assessment from the applicant gives some commitment that the applicant will adhere (where feasible) to the BREEAM 'very good' requirements of the Interim Planning Statement (IPS) (2007).

3.4 However as a minimum standard of the IPS to achieve a sustainable development and the requirements of Policy GP4a, it is recommended that achieving BREEAM 'very good' requirement is subject to a condition. As the applicant has already demonstrated how they may achieve this through a BREEAM Pre-Assessment, the condition should only relate to the applicant needing to demonstrate at the Post Construction phase that at least a 'Very Good' rating has been achieved (where this is not feasible this needs to be demonstrated to and agreed by the LPA in advance of occupation).

3.5 In terms of the renewable energy requirements, it is understood that the tenants would undertake the remaining fit out as per their requirements. However, and in order to apply the IPS fairly, an overview of renewable / low carbon technologies

that have been considered for the refurbishment should be provided . A condition is suggested to require the 10% on site generation , but with amended wording to state that should 10% be demonstrated as unfeasible, a lower minimum figure shall be agreed.

3.6 Integrated Strategy Unit - Based on the Deloitte review of the proposal there is no policy objection to the proposal.

3.7 Economic Development - No objection provided sufficient efforts are undertaken to secure the presence of occupying retailers in the city centre to ensure the retail offer of the city centre is not compromised.

3.8 Environmental Protection - . Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Additionally October 2012 City of York Council formally adopted a Low Emission Strategy to transform York into a nationally acclaimed low emission city. A condition is proposed requiring 6 electrical recharging points within the car park area and a plan for their maintenance. No objections are raised to the scheme.

EXTERNAL

3.9 Police Architectural Liaison Officer - No objections or concerns

3.10 York Civic Trust - Object to the application as the Local Authority do not have an adopted local plan then guidance in the NPPF 'ensuring the vitality of town centres' should prevail. All the evidence from GVA report (June 2012) and DJD (March 2012) conclude that there will be further adverse impact on the vitality of city centre retailing. The application should be refused.

3.11 Harrogate Borough Council - No objections

3.12 Environment Agency - No Objections

3.13 Highways Agency - No objections

3.14 Eight Letters of objection have been received covering the following points:-

- More than enough retail outlets in the area
- Monks Cross is a blot on the landscape, plenty of empty shops in the middle of York, use them
- More should be encouraged in the centre of York
- Wonderful city centre that will close because coaches will go to out of town centre sites. Locals will no longer have a reason to come into York City centre at all.

- York will soon be the very same as all other towns across the country
- City does not need more out of town shopping; does not need out of town stadium
- reality is city will be damaged and citizens do not want an unattractive stadium
- Tourism will be affected by empty shops- don't want to come to shopping malls exactly the same as their own dreary towns
- Stadium should be built at York Central - decent architects should be employed
- People without transport are neglected
- Supermarkets have already killed much of local use of city centre shops.
- Town and city centres are already greatly disadvantaged by car parking restrictions compared to out of town development
- The addition of extra retail floor space here is unnecessary and will further damage retailers in York and surrounding towns such as Selby, Malton, Tadcaster & Pocklington

3.15 One letter of support:-

- no objections to this application but against future out of town shopping.

4.0 APPRAISAL

4.1 Key Issues:-

- Policy background
- Principle of the development considering the sequential test and retail impact assessment
- Economic Development -Employment
- Design and Landscaping
- Highways, parking and access arrangements
- Sustainability - Building Design
- Flood risk and drainage
- Conditions and obligations

Policy Background

4.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied and confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a development plan is not up to date Local Planning Authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.3 The Ministerial Forward to the NPPF highlights that sustainable development is about positive growth, making economic, environmental and social progress for this and future generations. The policy framework sets a clear presumption in favour of sustainable development within every decision.

4.4 The NPPF retains and defines the 'presumption in favour of sustainable development' as the "golden thread which runs through both plan-making and decision. It is defined in the NPPF by five principles as set out in the UK Sustainable Development Strategy:

- "living within the planet's environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly."

4.5 The NPPF says the Government believes that sustainable development can play three critical roles in England:

- an economic role, contributing to a strong, responsive, competitive economy;
- a social role, supporting vibrant and healthy communities; and
- an environmental role, protecting and enhancing our natural, built and historic environment

4.6 The NPPF states Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. It also states that Local Planning Authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

4.7 The document states that Planning should promote the vitality of main urban areas and encourage the effective use of previously developed land providing that it is not of high environmental value. It should promote mixed use developments, support the transition to a low carbon future, actively manage patterns of growth and focus significant development in locations which are or can be made sustainable (Para. 17).

4.8 Specifically, Para 23 states that it is important that the needs for retail uses are met in full and not compromised by limited site availability. Well connected appropriate edge of centre sites for main town centre uses (which include retailing) should be allocated where suitable and viable town centre sites are not available. If these cannot be identified, policies for meeting the identified needs in other accessible locations that are well connected to the town centre should be set as well as policies for the consideration of proposals which cannot be accommodated in or adjacent to town centres. The quantitative and qualitative need for land / floorspace for retail development should be assessed through the evidence base for making Local Plans, as should the role and function of town centres, the relationship

between them and the capacity of existing centres to accommodate new town centre development (Para. 161).

4.9 In promoting healthy communities, paragraph 70 seeks to ensure that planning policies and decisions should ensure that established shops are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

4.10 Specific aspects of the NPPF relevant to this application are; paragraph 19 says that significant weight should be placed on the need to support economic growth. Paragraph 24 requires a Sequential test for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered (note: there is no specific test of viability). When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Flexibility should be demonstrated on issues such as format and scale.

4.11 Paragraph 26 requires an Impact assessment for retail (and leisure and office) development outside of town centres which are not in accordance with an up-to-date Local Plan. An impact assessment is required if the development is over a proportionate, locally set floorspace threshold (if no such threshold, then 2,500 sq.m is the default). The assessment should cover the impact of the proposal on:

- Existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.
- Town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

4.12 Paragraph 27 says where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

4.13 Section 4 of the NPPF promoting sustainable transport says 'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be

prevented or refused on transport grounds where the residual cumulative impacts of development are severe (para.32).

4.14 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas. (para.34)

4.15 Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport (Para 35).

4.16 A key tool to facilitate this will be a Travel Plan. All developments which generate significant amounts of movement should be required to provide a Travel Plan (Para.36).

4.17 Paragraph 56 says the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

4.18 The NPPF in section 10 sets out guidance on meeting the challenge of climate change, flooding and coastal change. It says Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations (para.94).

4.19 Section 10, paragraph 96 says in determining planning applications, local planning authorities should expect new development to comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

4.20 Paragraph 203 relates to the use of planning conditions and says Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

4.21 The following policies within the Development Control Local Plan (2005) relate to retail development:-

- Through policy SP7A, the Plan seeks to ensure that development outside York City Centre is highly accessible by non-car modes of transport, taking a sequential approach for new retail development; the hierarchy for retailing starting with the defined Central Shopping Area, then edge-of-city centre sites or Acomb or Haxby District Centres, than in other out-of-centre locations that are genuinely accessible. The policy does not permit individual retail units in out-of-centre locations of less than 1,000 sq.m net sales area. For major shopping developments outside the Central Shopping Area, evidence of retail impact will be required to show that the proposal would not, together with other recent and proposed developments, undermine the vitality and viability of York City Centre's predominant use as a sub regional shopping centre, the defined Central Shopping Area, or the Acomb or Haxby District Centres. Policy SP7B states that York City Centre will remain the main focus for retail development and that the Central Shopping Area, as shown on the proposals map, will be the City Centre for retail purposes in terms of the sequential test and will be the focus for retailing activity.

- A number of sites are identified for mixed use developments that include retail use, including at Hungate, Heworth Green and Castle Piccadilly (Policy SP9).

- Strategic windfall sites, where consistent with other policies, will be appropriate for retailing where located in the most sustainable areas, defined as within 400m of a transport mode or park-and-ride, under Policy SP10.

- Policy S1 allocates Castle Piccadilly for comparison goods retailing to meet the need for new retail development to 2011 and sites are allocated at George Hudson Street for comparison / convenience goods retail and at Foss Island for convenience / bulky goods retail.

- Under Policy S2, planning permission will be granted for out-of-centre retail warehouses or retail warehouse parks provided that no development has a net sales floorspace of less than 1,000 sq.m and shall be not subsequently subdivided, with restrictions on the primary retail use.

- Policy YC1 designates York Central as an Action Area to provide a modern central business district and new residential community. The accompanying text relates to local retail uses being of appropriate scale to meet the new resident and workforce population and any locally deficient surrounding communities.

- Policy GP1 'Design' 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.

- GP4a 'sustainability' supports the aims and objectives of the NPPF as well as providing policy on the location and design elements of sustainability.

4.22 The Interim Planning Statement (IPS) on sustainable design and construction supports and supplements policy GP4a. This IPS requires all commercial development over 1000 sq.m to achieve BREEAM 'very good' and 10% of expected energy demand to be provided through on site renewable generation.

4.23 The Core Strategy has been withdrawn and the policies within it are not relevant to the consideration of the proposals.

4.24 The emerging new local plan through policy R4 seeks to restrict further out of centre retail unless small in nature (less than 200 sq.m) and evidence is submitted to show that proposals will not impact on the city centre vitality and viability.

4.25 The Local Planning Authority commissioned a report from Drivers Jonas Deloitte (DJD) to inform the policy response to the original retail application on this site and the Oakgate application approved on Monks Cross south relating to new retail development and community stadium (March 2012). DJD have been employed by the policy team to assess the submitted retail information in relation to this amended proposal. Their response has been incorporated into the assessment below.

PRINCIPLE OF THE DEVELOPMENT CONSIDERING SEQUENTIAL TEST AND IMPACT ASSESSMENT

4.26 The proposal relates to 4,410 sq.m of additional retail floor space created by the introduction of mezzanines within the existing buildings, the creation of two large anchor units one with a floor area of 2,792 sq.m (30,052 sq.ft) and one with a floor area of 3,264 sq.m (35,133 sq.ft) and the sub-division of unit 16 to create two smaller units of 469 sq.m each. The proposed occupants operate class A1 retail operations, none of the proposed units could be defined as bulky good operators. The two larger units could not operate from the site under the current planning restrictions because of the planning conditions attached to the outline planning permission under condition 3 referred to in paragraph 1.6 above restrict the goods to

be sold in units over 1,393 sq.m (15,000 sq.ft) and the smaller units could not be created because the same condition restricts the minimum unit size to 929 sq.m (10,000sq.ft.).

4.27 The application is supported by a planning and retail report addressing the sequential test and impact assessment and also sets out the business case for the change in the unit size and occupancy and the, retail and planning benefits of the development.

4.28 Business Case- The planning and retail report says:-

- There is a need for retailers to review their operations to respond to changing economic times and retail needs
- A number of units at Monks Cross Shopping Park (MCSP) are relocating to the Oakgate site (Marks and Spencers and Next vacating 4 units)
- Debenhams need to respond to the Oakgate scheme by increasing their offer at Monks Cross. It is their most successful out of centre store. Their city centre store will not be affected nor will their ability to consider new development if Coppergate 2 comes forward.
- Clarks' current unit size is inefficient (929 sq.m) furthermore the existing fit of the shop is outdated. Clarks wish to down size and carry out a full refit. The current unit is too large. Clarks have been operating from Monks Cross for 14 years and have maintained a city centre shop. There has been no discernible impact on the city centre shop. Clarks employ 47 people and the downsize will allow jobs to be maintained.
- Relocation of WH Smith and Sports Direct elsewhere into the park will maintain their presence at Monks Cross. Both stores also operate from the city centre.
- The unit operated by Arcadia includes Topman, Topshop, Miss Selfridge and Evans. Arcadia wish to reduce their floorspace, these fascias will be moving off the park.

4.29 In addition to the above business case there has been correspondence submitted by Primark which indicates that they are to take unit 1 within the development. The correspondence says that Primark have had a strong requirement for a presence in York for a considerable period of time. York is one of the largest major cities in the UK without a Primark; traditionally an investor in town and city centres, they are currently in negotiations for a site in the city centre; however this unit is smaller than they would normally occupy. It is considered that a York city centre store and one at MCSP will compliment each other as each site serves a slightly different catchment area; a dual store strategy is considered appropriate for York.

4.30 The planning benefits set out in the Applicant's planning and retail report can be summarised as follows:-

- The proposals will sustain existing employment at MCSP

- York New City Beautiful report notes that MCSP is an appropriate location to accommodate development that can not take place in the city centre.
- MCSP employs in the order of 1000 people a large proportion of these are drawn from the local area
- The proposal will create additional jobs
- The construction value of the project will be £5 m and will employ in the order 175 people
- The proposed scheme has the propensity to generate a turnover of circa £35m which if not retained by MCSP is likely to leak to other towns and cities.
- From a social perspective retail employment offers part time and flexible working hours which is ideal for those who find it difficult to get onto the employment ladder, the site is well located and highly accessible, the proposals will provide a good quality built environment with access to facilities that reflect community needs; improved consumer choice
- From an environmental perspective the proposals are within an existing retail destination, the proposal will be constructed to limit carbon emissions; the transport assessment demonstrates the high access credentials of the site; flood risk is low; the proposal will be an efficient and appropriate use of land

4.31 The applicant considers the retail issues that have a material bearing in considering both sequential test and impact assessment are that MCSP is an existing retail destination enhanced further by the Oakgate scheme; A large proportion of retailers have dual representation with the city centre; a number of operators are relocating to Oakgate from MCSP; MCSP provides a location for users that are inappropriate or too large for the city centre; The proposals will meet operator specific requirements; MCSP permissions are largely unfettered, there are no restrictions on first floors therefore each unit could install 200sq.m. without planning permission and then on an incremental basis; the scale and nature of the development could therefore be achieved over time; the proposal is complementary to existing uses at the park and the city centre; York city centre is physically constrained; previous larger schemes have been considered to have modest levels of retail impact on the city centre; previous application concluded that Castle Piccadilly was the only potential sequentially preferable site, this site has now stalled.

4.32 As set out in the NPPF there are two key policy tests relevant to the consideration of the retail impacts of the development. These are the sequential test and the impact assessment.

Sequential Test

4.33 A sequential test is a planning principle that seeks to identify, allocate or develop certain types or locations of land before others.

4.34 Under the NPPF, the sequential test is applied to main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The NPPF says that main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available, should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. No specific floorspace threshold is cited for the use of the sequential test. The twin facets of the test in the NPPF are suitability and availability. The previous consideration of viability referred to in former Government advice (Planning Policy Statement 4) is no longer referenced in dealing with planning applications.

4.35 The NPPF says that when undertaking the sequential test flexibility should be demonstrated on issues such as format and scale, both by applicants and by local authorities. There is no reference to car parking provision or the scope for disaggregation nor is there any direct reference that local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating their proposed business model. However, it is considered that such issues can be considered through the requirement for applicants to undertake an assessment of format and scale.

4.36 Essentially this means that a proposal for an out-of-centre development that is not in accordance with an up-to-date development plan will fail this test if there are suitable and available alternative sites for retail development either in an 'edge-of-centre' location or within existing centres.

4.37 The applicant has assessed 15 sites within York and provided a detailed assessment of five sites these are Castle Piccadilly; Hungate; Stonebow House; The Telephone Exchange and York Central. The March 2012 DJD report provided a summary of each of these sites. Of these sites the only site considered available within a reasonable period of time was Castle/Piccadilly. DJD concluded in the consideration of the previous application at MCSP there was evidence that there was a reasonable prospect of Castle/Piccadilly coming forward and that this site would be sequentially preferable to MCSP. In the period since the assessment was undertaken, planning permission has been granted for the Oakgate scheme, prompting the owners of the Castle/Piccadilly site to contend that a large scale retail led regeneration scheme is no longer viable here.

4.38 DJD conclude on this proposal that in light of the change in circumstances at the Castle/Piccadilly site, it is no longer considered available and suitable for development. Debenhams have a current commitment within the city centre and also an outstanding requirement, in addition to their proposed expansion at MCSP. Therefore their expansion at Monks Cross does not preclude their future investment in the city centre should a commercially viable opportunity arise. The confirmation from Primark that they will occupy unit 1 but also take a city centre unit helps to

confirm that there are two distinct markets and they will be locating in both locations to achieve their required overall floor space and serve both markets in due course.

4.39 In relation to the larger units, there is no sequentially preferable site for Debenhams as they are already represented within the city centre; their outstanding requirement is for MCSP. Primark propose to occupy both a city centre store and a store out at MCSP and on the basis of this dual representation, a store at MCSP is considered to satisfy the sequential test. However, conditions/agreements will need to be sought in order to have assurance that the city centre site will be occupied as well as MCSP (the city centre being sequentially preferable to the MCSP location). In relation to the two smaller units, the proposed occupiers have dual representation (city centre and MCSP) and have a specific business requirement for MCSP, therefore there are no sequentially preferable options for these units in the city centre or edge of centre locations. In principle therefore it is considered that subject to the formal agreement for occupation of the city centre site, there will be no sequentially preferable sites for the development.

Health Check Assessment

4.40 A Health Check assessment is as a tool used for assessing and monitoring vitality and viability of town and city centres. The NPPF is silent on their role, although DJD consider that 'they remain important in considering and judging the extent and significance of impacts'. The DJD report in relation to the previous application on this site included a health check assessment. The conclusions of that report are considered to be sufficiently recent to apply to this scheme. The March 2012 DJD report conclude that based on their assessment of the City Centre as a whole it is a 'vital and viable City Centre but with some particular issues of concern. The performance of the centre over recent years can be expected to have declined due to the general economic conditions, albeit that the evidence of decline is less pronounced than arguably is the case for other main centres. Larger units which have been brought to the market have tended to be reoccupied and vacancy levels overall are significantly lower than in many other centres. However there is concern about the vacancies arising particularly in peripheral 'secondary' streets. There is also concern that the levels of footfall are not growing and ongoing concerns regarding the cost of car parking'

4.41 There is an extensive array of out of centre facilities within York and the city centre has been able to maintain a competitive advantage in the face of that competition, in certain sectors. DJD state that some of the developments that have occurred at Clifton Moor, York Designer Outlet and MCSP are some of the larger, more significant shopping centre and factory outlet centres that have been built in the region. York city centre has around 138,600sq.m (1.49m sq ft) of city centre retail floorspace compared to around 148,600 sq.m (1.6m sq ft) in out of centre locations. Yet despite this, DJD conclude that the city centre has been able to withstand competition in certain sectors and provide a different, distinctive and

unique offer. However they conclude that maintaining that offer remains a significant challenge and the lack of available large floor plates has arguably held the city centre back from increasing its market share.

Impact Assessment

4.42 The purpose of the impact assessment is to consider the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. The NPPF says proposals that are likely to have significant adverse impact on one or more of the above factors should be refused.

Impact on Existing, Committed and Planned Investment

4.43 The applicant says that the city centre is healthy and is performing well, vacancy levels are substantially lower than the rest of the country and there is quick occupancy of vacant buildings, there are no committed investments in the city centre although there are commitments at Monks Cross South, Arabesque House and JJB and former Wickes stores at Clifton Moor; in terms of planned investment the redevelopment of Castle Piccadilly is only in its infancy and there are no detailed comprehensive development proposals.

4.44 At the time of the last application on this site the investment in the Castle/ Piccadilly site was underway with discussion taking place around a proposed scheme. The Castle/Piccadilly scheme is still part of the Local Plan commitment but there appears to be no short to medium term prospect of a comprehensive redevelopment being realised. All other retail commitments are in out of town locations and the city centre is considered to be performing well.

4.45 In considering the cumulative impact (derived now from committed developments) the greatest impact on the City Centre will clearly stem from the Monks Cross South development, originally assessed as having a trading impact of approximately 9% on the City Centre. However in considering the impact (including cumulative impact) of the current MCSP proposal this is influenced by the particular business need of the proposed occupiers for operating at MCSP which would not jeopardise any existing, committed or planned investment in the City Centre (subject to appropriate Section 106 / conditions), by the delivery of in-centre investment via the obligations, and the increased offer within the city centre which will enhance the vitality and viability of the City Centre.

Impact on City Centre Vitality and Viability

4.46 The second impact outlined in paragraph 26 of NPPF is the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

4.47 The methodology adopted by the applicant to assess the impact on vitality and viability is considered to be robust by DJD. DJD say that the impact assessment carried out by the applicants demonstrates that there would be uplift in trade across MCSP of about £2.5 m as a result of the proposal, this would equate to an impact of less than 0.5%. DJD conclude that by applying the more robust Household Survey data (undertaken in association with the Oakgate scheme in 2010) the uplift in trade would be about £11m but based on the trade diversions identified by the applicant the impact would still remain below 1%. Balancing the specifics of the proposal as set out in paragraph 4.45 alongside the low level solus impact of the proposed development and based on guidance within Paragraph 14 (presumption in favour of sustainable development) of the NPPF, DJD conclude that the proposals will not have a significant adverse retail impact.

ECONOMIC DEVELOPMENT - EMPLOYMENT

4.48 Paragraph 18, 19 and 20 of the NPPF headed 'building a strong, competitive economy' says 'the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

4.49 In terms of employment generation MCSP presently employs in the order of 1,000 people (directly and indirectly). A large proportion (82%) of those employed are drawn from the local area. There is a risk that a number of the retailers at MCSP may close their operation at the park if the landlord can not meet their requirements to modernise their units; this could result in the loss of 190 jobs. The proposals will create additional jobs in the order of 120 to 175 additional full time equivalent jobs; indirect jobs will also be created. The construction project will employ 175 people.

4.50 When considering the previous applications on this site and the Monks Cross South stadium-led scheme, it was concluded that some of the employment generation from the development would be diverted from the city centre and that retail development at MCSP would decrease retail use and increase leisure uses in the city centre. With the approval of the retailing at Monks Cross South the trade

diversion is a likely consequence, and there are already several city centre initiatives under way which recognise the need to support the likely change in the overall make-up of the city centre economy.

4.51 Given the conclusions above about the Castle/Piccadilly proposals, this application is no longer being considered on the basis of new retail employment opportunities in the city centre being lost to out of centre investment. Therefore in terms of the current emphasis on the need to support sustainable economic growth set out within the NPPF, the provision of additional jobs is a positive benefit to the scheme.

4.52 According to the Economic Development Unit, the scheme offers some direct benefits in the form of increased jobs, although any increase in retail jobs tends to result in a high rate of displacement, which mitigates the overall increase in jobs. The scheme offers an opportunity for a refresh of retail units in order to fit the expectations of modern retailers, contributing to the city's ability to maintain its position in the regional retail hierarchy and to continue to attract consumers from outside the city. However, the Economic Development Unit stresses the importance of making every effort to maintain the Debenhams presence in the city centre and to secure a city centre presence for Primark as well as a presence at MCSP as proposed in this application.

Conclusions on the Principle of the Development

4.53 It is Government's current policy position that new retail development should be provided within and adjacent to town centres and to pursue sustainable development. The NPPF requires new retail floor space to be considered against the sequential test and the impact assessment. Advice is clear that retail development should be located in towns/cities first. At the local level policies in the DCLP and the emerging new local plan both direct new development to the city centre first, although no weight can be attached to the new local plan at this time. The GVA retail report 2008 says that the Council should seek to resist any further out of town shopping. In a planning context this needs to be balanced against other relevant material planning considerations.

4.54 The proposed new floor space, and the requirement for larger and smaller units, are considered to be acceptable in relation to the sequential test given the acceptance that the Castle/Piccadilly site will not be brought forward in the foreseeable future and there are no other sequentially preferable sites that are suitable and available. Furthermore the development is not considered to have significantly adverse impacts on the city centre. These conclusions are based on the dual representation of specific retailers as proposed within the business case and subject to the imposition of appropriate conditions and legal agreements ensuring, dual representation of businesses at MCSP and city centre locations.

4.55 In terms of the current emphasis on the need to support sustainable economic growth set out within the NPPF the provision of additional jobs overall is a positive benefit to the scheme.

4.56 For the reasons set out above and in the context of NPPF advice the principle of the development can be supported subject to conditions that ensure the development is undertaken in line with the submitted business case.

DESIGN AND LANDSCAPING

4.57 The physical impacts of the scheme are limited. The development consists of the insertion of mezzanine floor space and the reconfiguration of external doors and window to accommodate the change in unit sizes. There will also be a corresponding change in the position of signage. Overall the design of the scheme will respond to the existing design detail on the MCSP. There are no concerns about the details of the scheme. The design of the scheme is considered to comply with advice in section 7 of the NPPF 'requiring good design' and GP1 of the DCLP.

4.58 The development will have no impact on the existing trees within the Centre, the majority of which are covered by a Tree Preservation Order.

HIGHWAYS, ACCESS AND PARKING

4.59 The application is supported by a Transport Statement (TS) and Framework Travel Plan (FTP), the scoping of which was agreed with officers. The trip rates used within the application have been derived by assessing the existing total floor area against surveyed traffic flows to establish a trip rate per 100m² gross floor area (GFA). Retail evidence demonstrates that mezzanine floors can generally trade at lower levels than the equivalent ground floor space. For the purposes of the TS the increase in floor area (4410m² GFA) has been assumed to trade at 50% of the existing ground floor.

4.60 Traffic surveys were undertaken during typical periods of operation of the retail park. The traffic surveys were supplemented by ANPR cameras which identified the numbers of vehicles carrying out cross visitation trips to other parts of the Monks Cross Retail Park (Argos/TK Maxx and Julia Avenue Units).

4.61 Trip rates and parking accumulation figures have been based upon surveys undertaken in 2011. In order to ensure that the figures are robust they were validated against data captured during the same period in 2013. This has identified that there has been a slight decrease in traffic flows at the retail park. As such it is considered that the use of the 2011 higher figures provides a robust assessment and are still valid for use.

4.62 As the development proposals seek to reconfigure an existing retail park, the increase in traffic generated by the additional floorspace will not be proportionate to the increase in floorspace. A significant number of vehicular trips associated with the development will either be; Linked Trips - customers already visiting the retail park who will visit multiple units, Pass-By - customers already on the adjacent highway network who call in to the site as part of a journey to somewhere else, Diverted - customers already on the highway network who deviate from their planned route to call in to the retail park. The actual numbers of vehicular trips considered to be new to this part of the highway network arising from the proposed development is anticipated to be in the region of 82 vehicles during the Saturday peak hour period. Given the existing background traffic flows on the adjacent highway, it is not considered that the potential increase will be detrimental to the free flow of traffic nor warrant junction/highway mitigation works. And this can be considered to represent a worst case scenario, as the application has been supported by a Travel Plan (TP) which outlines a number of measures which are to be implemented which seek to promote sustainable travel and reduce dependence on the private car. The TP has been audited by the Authority's TP officer who considers that the document is viable and has set challenging but achievable targets.

4.63 The main car park at MCSP offers 960 spaces. Car parking accumulation surveys were also undertaken during typical periods of operation. These surveys indicate that the car park occupancy, during a typical Saturday peaks at approximately 94% of its available capacity (906 occupied out of 960 spaces). This peak represents the single worst 15 minute period throughout the survey. Outside of this peak much greater capacity is available.

4.64 As stated above the application has been supported by a Framework Travel Plan which will cover both the development proposals and the existing retail units on the park. As part of the development proposals the applicant is also proposing to provide the following initiatives/measures to promote sustainable travel and support the TP:-

- a) Improving the cycle parking facilities on the retail park in terms of numbers and quality of provision
- b) Improvements to the existing bus stop within the retail park including Kassel kerbs, BLISS real time bus displays, shelter and seating.

4.65 Travel Plans are often secured through planning permissions for speculative development where the specific travel needs of an end user have not been identified. Also there may be limited time available to the end user's appointed TP Co-ordinator. As such the Authority has invested in a software program (ionTRAVEL) which is an effective tool for monitoring and auditing the implementation of travel plans, helping to ensure that TP initiatives are implemented. Following negotiations the applicants have confirmed that they are willing to make a one-off contribution of £5000 to be secured through a S106 Agreement towards the use of the program. The contribution will provide for the TP

process to be managed by the Council's TP coordinator i.e. entry of all key data from the travel plan, targets and monitoring. There will be close liaison between the Council's TP coordinator and the business TP coordinator but it will be much less labour intensive on the part of the site management, increasing the likelihood of the secured TP being successful.

4.66 For the above reasons it is considered that the scheme will not have a detrimental impact on the adjacent public highway and as such officers raise no objections to the development from a highway perspective.

SUSTAINABILITY

4.67 There are clear objectives within the NPPF and within Local plan policies that see to secure sustainable development.

4.68 In accordance with the Interim Planning Statement on Sustainable Design and Construction the Sustainability Officer is seeking 10% renewables and a BREEAM very good assessment for all areas of development above 1000sq.m. The applicant has not committed to this within their energy and sustainability statement. In part this is due to the fact that they are working with existing buildings and may not be able to achieve the requirements proposed. The applicant advises that all units are independently serviced and fitted out by tenants to suit their own requirements. It is likely however for the scheme that they will use air source heat pumps as part of their fit outs, as the only really viable option for them to use. However it is considered that for consistency, conditions requiring both the very good BREEMM rating and the 10% on site renewable should be imposed upon any approval, albeit (given the particular circumstances) with the provision for a lower rating and percentage to be agreed if it can be demonstrated that and justified why the requirements cannot reasonably be met.

4.69 The Energy and Sustainability Statement does provide commitments on many of the items set out in GP4a including zero to landfill, water consumption, sustainable transport modes, responsible sourcing of materials commitment to improve the energy performance certificate rating of buildings.

4.70 In addition to accord with the Council's adopted Low Emission Strategy (October 2012) a condition is sought to secure 6 Electric Vehicle Recharging Point. Such a requirement is considered to accord with the requirements of paragraph 35 of the NPPF the aim of which is to seek to protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.

FLOOD RISK AND DRAINAGE

4.71 The development is in low risk flood zone 1 and should not suffer from river flooding. The Environment Agency have responded to the applicant regarding flood

risk, indicating that as the works are internal only with no increase in impermeable area, there will be no increase in flood risk to others and no flood risk mitigation measures are required.

CONDITIONS AND OBLIGATIONS

4.72 The conclusion to the DJD policy response on the application stresses the need to attach conditions that do not allow open A1 retail or more relaxed trading conditions than the Local Planning Authority intend.

4.73 The current planning conditions on MCSP control two main areas of development. Firstly that no units will be less than 929sq.m, and that those units above 1393 sq.m can only sell a restricted range of goods. Unit sizes between 929sq.m and 1393 sq.m have no restrictions on the goods that can be sold. The purpose of these conditions is to ensure that the offer within MCSP does not provide the full range of retail offer, thus reducing the overall impact of the development on the city centre. This application's proposals are justified in terms of specific operator need and the dual representation of the operators within (or proposed to be within) the city centre and within the MCSP. Therefore in order for the development to be supported, there needs to be a mechanism to ensure that the duality is realised and the level of impact from MCSP is limited to the levels identified.

4.74 A legal agreement is proposed that would include a requirement that unit 1 (Primark) is not opened for trade at MCSP until a lease agreement has been signed for occupation by a retailer of the available city centre store. In addition, in order to ensure that the impact on the centre is controlled, a condition specifying no subdivision without further consent would be proposed. A condition allowing ancillary food sales only would be imposed to mitigate the traffic impact.

4.76 For Unit 2, a similar condition as relevant to the existing Debenhams store would be imposed which restricts the amount of floor space for the sale of comparison goods. Again no subdivision would be permitted without further reference to the Council.

5.0 CONCLUSION

5.1 The development proposals for the creation of larger units at Monks Cross would subject to the conditions and the obligation as described above have an acceptable level of impact upon the existing planned and future investment in the city centre and upon the vitality and viability of the city centre. As such the development which would involve two operators having stores in the city centre as well as at MCSP, would be acceptable.

5.2 For unit 16 the existing Clarks store, the reduction in size to accommodate one of the displaced units from the development of the larger stores would be acceptable

as it would not to be reflected across MCSP and stems from a bespoke requirement of Clarks to reduce the extent of floorspace.

5.3 The impact of the development on the local highway network has been assessed taking into account the specific nature of the scheme which involves limited additional overall floor space, and the proposed travel plan mitigation measures. Subject to the contribution towards the 'ionTRAVEL' Travel Plan software program and the implementation of the travel plan, the development would it is concluded have an acceptable impact on the local highway network.

5.4 Because of the nature of the application and the existing buildings the applicant has sought to demonstrate that it would be difficult achieve the on site renewable requirement of 10%. However it is suggested that conditions still be imposed requiring a Very Good BREAMM rating and 10% on site renewable energy generation, unless it is can be fully justified why a lower rating and percentage should be accepted.

5.5 Subject to conditions as set out below and to a section 106 agreement to secure:-

- i) evidence that an agreement for lease has been entered into for the City Centre Site to a retail operator
- ii) A contribution of £5000 towards the 'ionTRAVEL' Travel Plan program,

the application is considered to be acceptable in planning terms.

6.0 RECOMMENDATION: Approve subject to S106 Agreement

Conditions:-

1 TIME2 Development start within three years -

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

to be confirmed

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

3 VISQ8 Samples of exterior materials to be app -

4 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall not be occupied until the

cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

5 No new floorspace hereby approved shall be occupied until a Full Travel Plan has been submitted to and approved in writing by the LPA. The travel plan shall be developed and implemented in line with local and national guidelines and the submitted Travel Plan dated May 2013. The Monks Cross Retail Park shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of any of the new floorspace hereby approved a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

6 Prior to the commencement of development hereby approved details of improvements to the Bus Stop on the Eastern arm of the main retail park as indicatively shown on Mountford Piggot Development Principles drawing 1041-X01-DP-03-J shall be submitted to and agreed in writing with the Local Planning Authority. Prior to first occupation of any of the new units or floorspace created through the granting of this planning consent the aforementioned improvements shall have been implemented and be available for use.

Reason; In the interests of promoting sustainable travel

7 Before the occupation of the retail accommodation six (6) Electric Vehicle Recharging Point shall be provided in a position to be first agreed in writing by the Council. Within 3 months of the first occupation of the accommodation, the Owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 25 years

Note : Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to

provide for an additional Electrical Vehicle Recharging Point. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Also, to prepare for increased demand in future years, appropriate cable provision should be included in the scheme design and development in agreement with the Local Planning Authority. This ties in with a key theme of the NPPF, in that developments should enable future occupiers to make green vehicle choices and it explicitly states that 'developments should be located and designed where practical to incorporate facilities for charging plug in and other ultra low emission vehicles'.

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

8 Units 1 & 2: The premises shall only be used for non-food retail purposes and for no other purpose in Class A1 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that class in any statutory instrument revoking and re-enacting that order, other than where ancillary to the principal use of the premises for the sale of authorised goods. For the purposes of this condition, 'ancillary' is defined as not exceeding 15% of net retail floor space in any one unit.

Reason: In the interest of the vitality and viability of York City Centre in accordance with the provisions of the National Planning Policy Framework, and policies SP6, SP7a, SP7b and S2 of the City of York Draft Local Plan 2005.

9 Notwithstanding the provisions of Class A1 to the schedule of Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment), no more than 2780 sq.m net floorspace within Unit 2 shall be used for the sale of clothing, footwear, handbags, fashion accessories, watches, jewellery, silverware, music and video equipment including videos, DVDs, CDs, audio cassettes and records, mobile phones and other household / personal telecommunications equipment, cameras and other photographic equipment, domestic TV, video and hi-fi equipment, and toys.

Reason: In the interest of the vitality and viability of York City Centre in accordance with the provisions of the National Planning Policy Framework, and policies SP6, SP7a, SP7b and S2 of the City of York Draft Local Plan 2005.

10 Neither Unit 1 or 2 shall be subdivided following implementation of this permission and no further internal floorspace shall be created.

Reason: In the interest of the vitality and viability of York City Centre in accordance with the provisions of the National Planning Policy Framework, and policies SP6,

SP7a, SP7b and S2 of the City of York Draft Local Plan 2005.

11 The development shall be carried out to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Where it can reasonably be demonstrated that a very good rating not feasible, full justification for the lower rating shall be submitted to and agreed by the LPA prior to occupation. Should the development fail to achieve a BREEAM standard of 'very good' or the agreed alternative rating, a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve the agreed standard. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

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

12 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority to demonstrate that no less than 10% of the development's predicted energy requirements will be provided from low or zero carbon technology. Where it can reasonably be demonstrated that 10% requirement is not feasible, full justification for the lower minimum percentage shall be submitted to and agreed by the LPA prior to occupation. 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: In the interests of achieving a sustainable development in accordance with the requirement of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

7.0 INFORMATIVES:

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