

## COMMITTEE REPORT

**Date:** 22 January 2015      **Ward:** Osbaldwick  
**Team:** Major and      **Parish:** Osbaldwick Parish  
Commercial Team      Council

**Reference:** 14/00924/FULM

**Application at:** B & Q, Osbaldwick Link Road, Osbaldwick, York, YO10 3JA

**For:** Use of premises as retail food store with external alterations including reconfiguration of shop front, canopy, installation of new customer cafe and associated toilets, installation of ATM`s, removal of existing garden centre and builders yard and reconfiguration of site access and customer car park

**By:** B&Q And Sainsbury's Supermarkets Limited

**Application Type:** Major Full Application (13 weeks)

**Target Date:** 16 July 2014

**Recommendation:** Approve after referral to Sec. of State

### 1.0 PROPOSAL

1.1 Planning permission is sought for the use of the existing B&Q store at Hull Road as a retail food store (Sainsbury's) with associated works to allow the operation of the use.

1.2 The application site is located along the Hull Road approximately 1km from the A64 junction and 2 miles east of York. The B& Q store is sited on the junction of Hull Road and the Osbaldwick Link Road. To the west and south of the site is the existing residential development of Redbarn Drive and Tranby Avenue. Immediately adjacent to the southern corner of the site is an existing petrol filling station with associated convenience shop. The existing B&Q building is set back from the Hull Road with the car park area to the front of the building adjacent to the road. There is existing landscaping around the perimeter of the site. The building is, in the main, single storey although there are two small internal mezzanines accommodating office and staff spaces. The building is a typical warehouse clad structure which has been faced in accordance with B&Q's corporate identity. There is a main glazed public entrance to the front of the building; to the south of the site there are additions to the building to accommodate a garden centre. There is a separate entrance for trade to the north of the building. Vehicular access to the site is from Osbaldwick Link Road. There are two pedestrian entrances from the Hull Road frontage. Cycle lanes and pedestrian footpaths exist along the Hull Road frontage.

1.3 The proposal in its effect is seeking to allow the B&Q site to operate without complying with the restriction on the sale of goods that currently controls the operation of the site through planning permission 98/01828/REM and to allow the store to open for longer hours than is currently allowed under condition 20 of that

permission. In addition to this the permission seeks alterations to the building and its surroundings to allow the food store use to function in its own corporate way. The alterations include the following:-

- Removal of internal mezzanine floors
- Removal of existing builder's yard and garden centre to provide additional car parking
- New entrance lobby, customer toilets, ATM and shop front
- New unloading docks to delivery area and acoustic fencing
- New canopy to groceries on line area within service yard
- New external plant and machinery area adjacent to the car park
- New biomass boiler within the service yard
- Relocate recycling area with associated fencing
- Reconfiguration of the customer car parking including extension into area currently occupied by the garden centre associated relocation and provision of cycle parking
- Reconfiguration of the site access
- New pedestrian crossing on Hull Road

The alterations will result in a food store with a total floor space of 9,715 sq m, 5,591sq m of which will be net retail floor space with 505 car parking spaces. A cafe facility is to be provided.

1.4 The application is supported by a number of reports including: - Planning Statement, Retail Statement, Transport Assessment, Design and Access Statement, Air Quality Assessment, Flood Risk Assessment, Renewable Energy and Energy Efficiency Strategy and a Statement of Community Involvement.

## PLANNING HISTORY

1.5 The following planning history is considered relevant to the development:-

- Permission was granted for the erection of retail Warehouse Park and residential development in June 1998. (Planning reference 7/131/00126/OUT).
- Permission was granted for the erection of 8 retail warehouses with associated access, parking and landscaping in June 1997. (Planning reference 97/01395/REM).
- Erection of A1 retail warehouse granted permission in August 1998. (Planning reference 98/01828/REM)
- Change of use from dwelling to car parking and landscaping associated with adjacent retail use. (Planning reference 98/01834/FUL)
- Erection of single storey extension to the front of B&Q to form coffee shop was refused permission in May 2000. (Planning reference 99/02911/FUL).
- A further application for the erection of single storey extension to the front of B and Q to form coffee shop was refused permission in May 2001. (Planning reference 00/02754/FUL). The coffee shop extension was subsequently allowed on appeal in October 2001.

- Use of land for paving and conservatory display on site frontage was granted permission in April 2007 (Planning Reference 07/00480/FUL)
- Permission for the siting of a mobile catering unit was granted in September 2007. (Planning Reference 07/01921/FUL)

1.6 There have been a number of applications for the display of advertisements related to the B& Q use of the site.

## **2.0 POLICY CONTEXT**

### 2.1 Policies:

The policy context for this application is set out in section 4 of the report.

## **3.0 CONSULTATIONS**

### INTERNAL

3.1 HIGHWAY NETWORK MANAGEMENT - No objections subject to conditions ensuring the detail of the scheme is properly implemented. (Reasoning set out in the main assessment section of this report).

3.2 LANDSCAPE ARCHITECT - Raised a number of concerns about the loss of planting within the car park and the depth of planting at the Hull Road/Osbaldwick Link Road junction. Amendments have been submitted which are considered acceptable.

3.3 RETAIL POLICY ADVICE PROVIDED BY WHITEYOUNG GREEN (WYG) ON BEHALF OF INTEGRATED STRATEGY - WYG consider that the details of the scheme satisfy the sequential test for site selection. WYG consider there will be no significant adverse impacts associated with the retail development and therefore there is no basis to object to the application in relation to retail policy matters. (More detailed elements of WYG's response is incorporated into the assessment section of the report).

3.4 FLOOD RISK MANAGEMENT TEAM - No objections the slight increase in surface water run off is compensated for by the provision of additional storage and separate restricted discharge manholes. Drainage works should be conditioned to be in accordance with those set out in the flood risk assessment (FRA).

3.5 ENVIRONMENTAL PROTECTION - do not object to the planning application but do have concerns about the re-development as a result of noise, odour, lighting, land contamination and air quality. Conditions are proposed to limit the impact of the development on adjacent sites including condition of opening, restrictions on the car park use, noise levels, odour, land contamination, air quality and the submission of

details in relation to lighting. Conditions are also proposed to protect adjacent sites during the construction phase of the development.

3.6 SUSTAINABILITY OFFICER - The Renewable Energy & Energy Efficiency Assessment provides a really good strategy for reducing energy demand on site. BREEAM very good should be sought through a condition.

## EXTERNAL

3.7 OSBALDWICK PARISH COUNCIL - The Parish Council forwarded the minutes of their parish meeting following the presentation of the proposal by Sainsbury's to them prior to the application being submitted. The minutes are not summarised here but are available on the web site for members to read or a copy can be provided on request.

3.8 Osbaldwick Parish Council object to the application on the following grounds:-

- Concerned that pre-application meetings with Sainsbury's did not include the Parish Council and Community. Sainsbury's are not locating this store on the fringe of York in competition with the over abundance of the similar facilities without reason as the local plan proposals will provide an ever expanding customer base with grave traffic consequences for the existing residential communities.

- TRAFFIC GENERATION - With reference to the Vectos Transport Assessment page 60 paragraph 6.20.1 the statement 'the development of a food store in this location is unlikely to lead to any additional rat running through Osbaldwick, Murton and surrounding residential areas' is complete and utter nonsense. The Parish Council have no confidence in the traffic survey, figures and assessments, conclusions and proposals when a statement like that is included. Objections are raised to the additional toucan crossing on Hull Road; any further impediment to the free flow of traffic on Hull Road will inevitably lead to more traffic using the Murton-Osbaldwick Millfield Lane route as a surrogate main road. Similar objections are raised to the introduction of traffic lights at the store entrance which will inevitably lead to more industrial traffic avoiding the Link Road and using residential routes to the Outgang Industrial Estate. The very reason the Link Road was constructed was supposedly to take the traffic out of Osbaldwick Village and Tranby Avenue residents will now be back to square one with the introduction of another road block on the Link Road. Objection is raised to any consideration to improved traffic flow on the Grimston interchange as a result of recent changes to the roundabout. That is pure supposition on the part of Sainsbury's transport consultants and not matched by the reality.

- DEVELOPMENT LAYOUT - The Parish Council object to the re-location of the recycling facility near to the entrance road.

This facility was moved to its present location on the B&Q car park from just this very position some years ago due to rubbish being blown directly down the Link Road. The re-cycling facilities should remain in their current more sheltered position and the car park plans amended accordingly. Objection is raised to removal of trees within the car park which should be retained and the car parking layout which is impractical. Opportunity should be taken to utilise a herringbone pattern to make parking easier. Any removal of perimeter landscaping of trees should be resisted as should installation of garish advertising signs.

- NEIGHBOURING AMENITY - Strong objection is raised to allowing the store opening hours to extend to 11.00pm. This application is an opportunity to reduce the opening hours on site from the original B&Q permission. Suggest that hours are restricted to Mon-Sat 7.00am-9.00pm and Sunday 11.00am-5.00pm for trading to customers which are the same hours that Sainsbury's Fossbank trades under. Any additional lighting in the car park areas is objected to and a condition requiring all external lighting to be extinguished by 10.00pm is required, as is the case now with the B&Q car park, in the interests of neighbouring amenity and sustainability. Hours of operation of online delivery service to match trading hours and all deliveries to store to take place within trading hours.

- RENEWABLE ENERGY - Re-use of the existing B&Q store provides an ideal opportunity for use of photo-voltaic panels on the roof, completely out of sight to provide for energy generation by the store. Discounted by Sainsbury's on cost grounds the Parish Council therefore object to use of yet another wood pellet burning system in this area (in addition to University and Derwenthorpe Estate) on air quality grounds and the inherent madness of chopping trees down to burn when energy could be generated from sunlight off the extensive roof.

- Given that this facility will undoubtedly be well used by local people it is disappointing to have to object at all but sadly it looks like opportunities to improve the site significantly and restrict traffic flow through surrounding residential areas are not being taken. It is hoped that Sainsbury's take the maintenance of the site more seriously than they do at their store on Farndale Avenue.

3.9 MURTON PARISH COUNCIL - We ask the Council to:-

- (i) Have a reappraisal of the effects of traffic on the nearby villages, villages which contribute to the historic setting of the City, prior to and later when the development has been well established
- (ii) Monitor the effect of the noise and lighting on nearby housing after the development has been well established
- (iii) Encourage more landscaping, and subdued lighting given that this important site dominates the entrance to the city from the east.

3.10 HESLINGTON PARISH COUNCIL - The Parish Council feel strongly that for reasons of safety, there should be a proper crossing controlled by lights.

### 3.11 HIGHWAYS AGENCY - No objections

3.12 CRIME PREVENTION OFFICER -. On the whole the crime prevention officer is satisfied with the details of the scheme including the measures put in place to protect users of the ATM machines. A number of suggestions are made in terms of CCTV coverage with regard to cycle parking.

3.13 YORKSHIRE WATER AUTHORITY - No comments to make. It is noted that the existing foul and surface water drainage will remain.

3.14 FOSS INTERNAL DRAINAGE BOARD - The applicant should be asked to clarify the intended discharge rate and, if appropriate, amend the calculations in respect of the attenuation, to ensure the agreed and consented rate is maintained.

3.15 ENVIRONMENT AGENCY - No objections. Foul drainage should be checked for capacity and surface water drainage should be checked with the flood risk management team.

### 3.16 OBJECTIONS RAISED BY LOCAL RESIDENTS

3.17 93 letters of objection have been received from local residents and businesses as follows:-

- York is well provided for with supermarkets which are readily accessible to all areas.
- Detrimental effect on small retail businesses which serve the area and may result in their closure.
- York is famed for charming and unique independents their entrepreneurship should be retained.
- The highway is already at capacity the supermarket will only add to the level of unsustainable traffic.
- The road can be dangerous for pedestrians it is predicted that, new road crossing, coupled with the subsequent hike in vehicle numbers using this stretch of road, the risk of a collision will raise substantially.
- The city council should have a policy to limit Supermarket expansion.
- When the Hull Road is gridlocked people trying to use the back roads through Osbaldwick as an alternative.
- The site should be developed for housing.
- The Council should be promoting independent shops such as those on Bishopthorpe Road which are a pleasure to use and support the local economy.
- Do not accept Sainsbury's transport assessment that no new traffic would be generated from their store.
- New jobs will not be created.
- Will cause local shops at Dunnington, Heslington and Fulford to close.

- Suspect Sainsbury's will also try to put a service station in the future which will result in Hull road being totally inaccessible
- The objector signed the petition at the garage against supermarkets along with 1700 other people which is more people than voted for many councillors in the local elections.
- Supermarkets are ruining the city.
- There are too many supermarkets in York
- As the Chairman of a local Traders Association very keen to object to this development.
- There should be an increase in the quantity of shrubs and trees in the car park the opportunity is not being taken to create a welcoming environment for customers.
- Increase in the quantity of electric car charging bays
- Sainsbury's should demonstrate how re-purposing a building is not just about maintaining the status quo but demonstrating a fresh approach
- Road entrance should be levelled or gritted regularly

### 3.18 OBJECTIONS RAISED BY LOCAL BUSINESSES INCLUDING INNER SPACE STATION, COSTCUTTER, WAITROSE, MORRISONS AND CO-OP

3.19 A number of objections have been received from the Inner space station petrol filling station covering the following points:-

- The proposal will lead to a significant intensification of the use of the site in terms of footfall, traffic generation and delivery vehicles.
- Due weight should be attached to emerging local plan policies in the consideration of this planning application in accordance with the NPPF.
- Emerging policies places significant importance on the protection and enhancement of the lower tier local and neighbourhood centres within the local retail hierarchy.
- NPPF promotes town centres first and requires retail development to comply with sequential and impact tests
- The applicant claims there is qualitative need for the proposal due to the lack of a superstore in this part of the city, however, there are superstores and supermarkets within the primary catchment area (PCA) and two very large superstores as well as the city centre just outside.
- The applicant has hardly considered the role of these smaller centres in the immediate vicinity of the proposal or its impact upon them.
- The applicant has not demonstrated sufficient flexibility in main food shopping formats in the sequential test and some of the sites considered and discounted by

them need to be reconsidered. In addition, there may be sequentially superior out of centre sites in the PCA that need to be considered. Therefore the proposal fails to satisfy the NPPF sequential test for site selection and this is sufficient reason to refuse the planning application.

- The applicant considers the proposed superstore will compete predominantly with similar out of centre facilities therefore it is unlikely to lead to a significant adverse impact upon future investment in the city centre or local retail hierarchy. However, the proposal with its extensive area of non-food floor space will compete directly with the city centre and other centres and not just comparable superstores.
- This out of centre proposal with all its real and perceived trading advantages will also make alternative investment in the key, but stalled, Castle Piccadilly regeneration site less likely. It is also likely to impact adversely on investment in lower tier centres within the city.
- NPPF (para 26) advises impact assessments should also consider impact on 'trade in the town centre and wider area'. The applicant's Retail Statement does not demonstrate compliance with the impact test as it has not properly considered impact on trade in the 'wider area' most notably the impact upon local and neighbourhood centres in close proximity to the proposal with which it will compete directly for top-up shopping expenditure.
- The proposal will have a significant adverse impact on the vitality and viability of several of the nearby neighbourhood centres. In addition, the cumulative impact of the proposal on the overall vitality and viability of the city centre is considerably underestimated by the applicant. Therefore the applicant has not demonstrated compliance with the NPPF (para 26) policy tests on impact so there are sufficient policy grounds to refuse this planning application.
- The proposal is not a sustainable development as it will be reliant upon car-borne trade and the positive benefits (regeneration and employment) are limited and greatly outweighed by the adverse impacts. The proposal therefore fails the NPPF (para 14) 'planning balance' as the impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- Refute WYG's claim that out of centre superstores do not compete with small independent retailers and are only competing with other main food shopping trips; this simply is not true
- New superstores cause rapid change in local shopping patterns
- Small format retailers work on fine margins some will close even with small levels of trade diversion.



3.20 Concerned that the original Transport Assessment was inadequate in the following ways:-

- An assumption that it is reasonable to 'net off' traffic from the road network relating to the DIY store as if it were trading at over double the existing B&Q. This is despite the UK's most successful DIY retailer considering the site unviable for such an operation;
- A failure to consider the type of vehicle trips that a DIY store would attract and provide for these appropriately within the traffic flow calculations;
- Providing 20% more car parking spaces within the development proposals than the
- Applicant has assessed impact for on the road network; and
- Not taking account of the Local Plan when considering future year assessments.

3.21 The implications of these assumptions are:-

- Impact on the Osbaldwick Link Road/ Hull Road junction;
- Impact on the A64/ A1079 junction;
- Impact on junctions towards York city centre;
- Impact on rat running through local roads;
- Grimston Bar Park and Ride; and
- Impact on the Local Plan delivery.

3.22 Following the submission of an amended transport assessment the following comments have been made about the traffic impacts of the proposals:-

- The new traffic lights proposed for the Sainsbury's access have errors in the
- Analysis and cannot be relied upon;
- The applicant totally ignores the Toucan crossing that they themselves propose at the Sainsbury's site access. A crossing point which would require all traffic at the junction to stop and wait for pedestrians (increasing queues);
- Traffic flow forecast submitted by the applicant would be exceeded by half of all similar stores (as they only use average traffic rates);
- Queues from the Sainsbury's traffic lights would queue back to Hull Road and block one of the main routes in to York, causing gridlock at peak times;
- The Sainsbury's proposal would almost guarantee gridlock on Hull Road during the Christmas and Easter periods, as well as busier times;
- The traffic modelling undertaken by Sainsbury's shows that the new store would result in journey times by bus in to York (from the Park and Ride) increasing by up to 15% - yet no mention is made of this anywhere in the report;
- By ignoring the actual queuing that occurs on Hull Road the applicant has not provided appropriate consideration of the accident risks associated with the proposals;

- If the Sainsbury's analysis does under-forecast traffic then there is no way for the council to get them to pay to sort it out the taxpayer would need to pick up the bill;
- The queuing and delays caused by the Sainsbury's would lead to additional rat-running, based upon Sainsbury's own criteria; and
- The Sainsbury's proposals risk increasing traffic at the A64/ A1079 and potentially landing the University with a bill of £100,000's.

3.23 An objection on behalf of Waitrose supermarket concludes that the proposal fails the sequential assessment to site selection and some if not all of the NPPF (paragraph 26) impact tests in particular it is considered that impact on trade in the town centre and wider area has not been properly considered. The proposal is contrary to the emerging local plan policy R1, R2 and EMP2 as well as the sustainable transport principles of the plan. Furthermore the objection agrees with the concerns raised about the transport assessment.

3.24 An objection on behalf of Co-op supermarket says Co-op trade from four sites within 3 km of the application site. There are also stores at Stamford Bridge and Pocklington. The objection concludes that the site is on the edge of the urban area and relates poorly to defined centres and nearby residential areas, there is no robust evidence for the sites release. The application is contrary to all local plan policies existing and emerging. Material weight should be attached to these policies. Significant weight should be attached to the NPPF. The application is contradictory to paragraphs 14 and 26 and there are strong grounds for the refusal of the application.

3.25 An objection on behalf of Morrisons supermarket has not demonstrated compliance with the sequential test and the impacts of the proposal are significantly adverse. The application conflicts with the NPPF.

3.26 An objection on behalf of Costcutter believes that the development conflicts with planning policy, the retail statement is flawed, the transport assessment is unrealistic and they are concerned about WYG's role. It is considered that:-

- East York is well provided for by convenience stores and small format supermarkets, retail mix is finely balanced, a large format store would have a devastating impact on local communities.
- The proposal would significantly alter shopping patterns in York.
- Turleys assumptions about overtrading and turnover derived from beyond the study area are not credible. A third Sainsbury's would make it by far the most dominant fascia.
- Do not agree that there is a leakage of main food expenditure from east York

- There will be direct competition for top up trade between existing convenience stores and the new Sainsbury's
- Costcutters give two examples in Market Weighton and Pocklington where Costcutter have had to close because of new large format shops opening (Tesco and Sainsbury's)
- Turleys in not considering local stores have not demonstrated compliance with the impact test.
- Not sufficient flexibility shown in applying the sequential test, no assessment of potential of edge of centre site or local centres sites; no consideration of sites in the strategic allocations in the emerging local plan.
- Similar concerns raised about the transport assessment as those set out above by Inner space station.
- Support the view that WYG can not be impartial.

#### JULIAN STURDY MP

3.27 A letter of objection has been received from Julian Sturdy MP covering the following points:-

- In suitable locations supermarkets such as Sainsbury's can have a very beneficial effect on the local economy and job creation
- Concerned about the impact on the local road network and the local retailers. If these impacts can not be overcome then the proposal is objected to
- Disappointed that the Council did not ask the applicant and their representatives to survey the traffic on the local road network running along side Hull Road
- A comprehensive and thorough traffic survey should be undertaken before the application is put before Council members.
- Concerned that the submitted transport assessment makes unrealistic assumptions and underestimates to downplay the impact on the local road network.
- Despite the store not be considered viable the traffic survey is based on the full operational capacity of the site
- Account is not taken of Local Plan allocations and does not consider type of trips to a DIY store
- Development planning limited believe that the cumulative impact of the inaccurate assumptions in the transport assessment is that 400 development-generated vehicles in peak hours have not been assessed
- The transport assessment methodology used to support this application has been used for other sites
- Some stores, including local independent retailers, in the primary catchment area have been ignored the assumption is that the proposal will only impact on other supermarkets this is very unlikely to be the case.

- Disappointed that the Council do not already have an up to date retail study
- Concerned that the Council's consultant for the work on a new retail study and for the response on the current retail implications of this application also work for Sainsbury's and boast on their website a 25 year relationship with the supermarket chain - Despite assurances that White Young Green will act in an independent and impartial manner concerns remain about their impartiality and the application can not be supported until further independent investigations are undertaken.

## SUPPORT LETTERS

3.28 There have been 71 letters of support received covering the following points:-

- Currently drives 6 miles to Monks Cross to go to the Supermarket, a closer supermarket will be much more convenient.
- The supermarket will be a significant improvement of amenities for the increasing student population on Heslington East. A safe crossing should be provided.
- The store will be good for employment and the local economy.
- Living locally the supporter can walk to the store or do shopping on the commute home, avoiding a journey across town every week.
- Local businesses on the Osbaldwick Link road will have access to a supermarket increasing local value for the area.
- The local BP garage on Hull Road should not be unduly affected. Local residents who frequent the garage are not likely to walk further to make purchases when there is already a Sainsbury's local store nearby.
- Sainsbury's have been transparent, listening and are consulting local residents views.
- It would be an excellent use of the site, which is already used to catering for the heavy to & fro of traffic.
- As an older person who is unable to drive one of the big stores this side of town is welcomed.
- The supermarket would benefit people on the east side of York reducing the need to travel.
- A more convenient store would reduce traffic congestion.
- Sainsbury's has a good standing in the community and is preferable to other less scrupulous stores however ask that restrictions be put on the opening hours to protect people living immediately adjacent to the site, and that the small convenience store within Osbaldwick is not closed as this is ideal for very elderly individuals who cannot travel any distance at all.
- It would help both students and local residents to shop closer to home
- There is no major supermarket chain at this side of York
- Its close to the Park and Ride, so would be great for travel
- Having a huge empty building on that site would be another eye sore for York, so filling it is great
- It would bring more work to local people

- The roads around the land are good for delivery's etc (not taking Lorries through town)
- Its not competition for local shops as we will always choose friendly butcher/baker etc if he is good!
- Possible extra buses, which means extra jobs, people happy with a good, frequent service etc
- Co-op has high prices and little stock particularly when students arrive back from holidays
- Special buses were put on from the university campus to Morrison's
- As a city who are inviting in more students, especially to this side of York, we should try and offer more in the way of making life easy for all.
- There will be little disturbance in the area because of the existing store.
- Well placed to serve the new Derwenthorpe village
- The bus to the university campus from Heslington should be extended to go to the supermarket.
- The additional supermarket will encourage competition between the larger supermarkets
- The average length of journeys to a supermarket is likely to decrease
- It is understood that Sainsbury's do not intend to open a service station so this should relieve concerns from the BP garage.
- Do not consider there will be any effect on city centre shops or local shops. The biggest impact will be on the existing Sainsbury's store in Osbaldwick.
- Hope the committee will consider that 70% of consultation responses to Sainsbury's own consultation were in support of the application.
- The BP garage should see an increase in custom as people tend to fill up when they go to do their main shop
- The proposals would relieve traffic at Monks Cross
- Attracting more families to live in the area
- A wide range of goods that will be available
- The store impression looks more attractive than B&Q
- The shops on Badger Hill are mostly specialist's shops and the bakery and newsagents tend to be used mostly by the pupils at Archbishop Holgate School which would continue to be the case.
- If a service station in the Sainsbury's site would cause gridlock would that not be the case for the existing shop
- Sainsbury's stores shut for the night time period so 24/7 is not a problem
- The car park will be big enough people will not park away from the shop with heavy bags to carry.
- Rat running is not seen as a problem

### Statement of Community Involvement

3.29 The application is supported by a Statement of Community Involvement which began on week commencing 13th January 2014 with letters to residents and a press

advert raising awareness of a series of public exhibitions. The summary to the report says that 74% of respondents were in favour of the development.

## **4.0 APPRAISAL**

### **BACKGROUND**

4.1 Outline planning permission 7/131/00126/OUT which was subject to conditions established the principle of the retail use of the site (as well as establishing the principle for the adjacent residential development). Conditional planning permission reference 98/01828/REM is the permission within which B&Q currently operate. A number of the conditions restrict the operation of the site including condition 14 which prevents deliveries along the rear access road to the garden centre between 8pm and 8 am; Condition 15 prevents the subdivision of the unit into units less than 929 sq m, and sets a maximum sales area for the units to 9,300 sq m; Condition 16 restricts the goods that can be sold from the unit. The condition says 'No unit shall be used for the retailing of any of the following goods (except where ancillary to the main range of goods sold): Food and drink, men's, women's and children's clothing and footwear, fashion accessories, watches and jewellery, music and video recordings and video or CD-ROM games, cameras (including cam recorders) and other photographic equipment, domestic TV, video and hi-fi equipment, toys, pharmaceutical goods, books, magazines and stationery and any use failing within Class A2 of Use Classes Order. The reason for this condition is to enable the Local Planning Authority to retain control over the extent and amount of this edge of town retail shopping space in the interests of maintaining the viability and vitality of existing shopping centres. Condition 20 restricts the opening hours for the unit to 7.00am to 10.00pm Monday to Saturday and 10.00am to 6.00pm on Sundays.

4.2 In effect the application is seeking a variation of conditions 16 and 20 to allow the site to operate as a supermarket.

4.3 The key issues in determining the application are considered to be:-

- Retail impact considering sequential test and impact tests
- Highways Access and parking
- Sustainable Development
- Design, layout and landscaping
- Residential amenity
- Flooding and drainage

4.4 The National Planning Policy Framework (NPPF), The National Planning Policy Guidance (NPPG), the Development Control Local Plan April 2005 (DCLP) and the emerging local plan documentation provides the planning policy context for the determination of this application.

## OVERARCHING NPPF STATEMENTS

4.5 NPPF 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 (Paragraph 14).

4.6 The NPPF says that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. 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 (paragraphs 186 and 187).

4.7 Planning law requires that applications for planning permission must be determined in accordance with the development plan (local plans and neighbourhood plans that have been formally adopted under Planning and Compulsory Purchase Act 2004 legislation) unless material considerations indicate otherwise.

4.8 In relation to emerging local plans the NPPF says that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the Framework policies, the greater the weight that may be given). Weight may also be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections (the less significant, the greater the weight) and the degree of consistency of the relevant emerging plan policies to the Framework policies (the closer they are, the greater the weight) (Paragraph 216).

4.9 The detailed policy considerations are within each section of the report.

## RETAIL IMPACT CONSIDERING SEQUENTIAL AND IMPACT TESTS

### NPPF and NPPG

4.10 The NPPF states that LPA's should draw up policies which ensure the vitality of town centres. Town centres should be recognised as the heart of their communities and policies which support their viability and vitality should be pursued.

4.11 Paragraph 23 of the NPPF says that it is important that the needs for retail uses are met in full and not compromised by limited site availability.

4.12 The definition of a town centre is set out in Annex 2 of the NPPF. Annex 2 says town centres are an area defined on the local authority's proposal map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in Local Plans, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.

4.13 The NPPG says a positive vision or strategy for town centres, articulated through the Local Plan, is key to ensuring successful town centres which enable sustainable economic growth and provide a wide range of social and environmental benefits. Once adopted a Local plan, including any town centre policy that it contains, will be the starting point for any decisions on individual developments. Strategy should be based on evidence of the current state of town centres.

#### Local Plan

4.14 The Development Control Local Plan (DCLP) 2005 contains policies relating to the sequential test and city centre first principles. Whilst the DCLP has not reached Development Plan status it has been adopted by the Council for development control purposes since 2005 and it is considered that its retail policies are a material consideration given that they are broadly consistent with the aims of the NPPF. It is considered that some weight can be attached to the policies within it in accordance with annex 1 of the NPPF.

#### Emerging Local Plan

4.15 The City of York Local Plan Preferred Options (June 2013) has a number of policies in relation to retailing. EMP2 says that York City Centre will remain the main focus for main town centre uses. Policy R1 sets out a retail hierarchy, starting with the city centre then the district centres of Acomb and Haxby then local centres which are identified on the proposals map. Policy R2 seeks to support district and local centres by ensuring development within or on the edge enhance their function, vitality and viability and that main town centre uses outside defined centres that would result in significant adverse impacts are refused. Policy R3 confirms that the City Centre should be the primary focus for new retail floor space and policy R4 seeks to control the type of retailing and additional floor space in out of town locations. The June 2013 document has undergone a round of consultation.

4.16 The emerging Publication draft Local Plan (2014) has presently been halted for a reconsideration of the housing provision within it and has not progressed to consultation stage. The general thrust of policies R1 to R4 in this document are the



same as the policies in the preferred options document however the wording of the policies has changed.

4.17 In accordance with the NPPF only very limited weight can be attached to the policies in the emerging Local Plan as these have not been consulted upon (or have had limited consultation) or tested through examination.

#### Background Retail Documentation

4.18 The 2008 Retail Study for the Council by consultants, GVA Grimley, was updated in part in 2010 to reflect revised capacity forecasts which in turn reflect the impact of the recession. (This was the main document available when the applicant compiled their retail statement. As the document is somewhat dated the applicants chose to undertake their own household survey work.)

4.19 The City of York Economic and Retail Growth and Vision Study (2013) included a baseline audit/health check of the city centre.

4.20 In conjunction with the publication of the Publication Draft Local Plan October 2014 a retail study update for the city was published. This document was produced by WYG. The document forms part of the published documents for the emerging Local Plan and assesses current and emerging retail trends, policy context, York household survey results, consideration of district and local centres and parades, population and expenditure, capacity in York City (Baseline), local plan capacity in York City (Growth Strategy) and future retail planning policy recommendations. An addendum to the retail assessment (yet to be published) will seek to recommend a hierarchy of centres for the City of York. The addendum will highlight those centres beyond the City, Haxby and Acomb that will be given policy protection through emerging policies. In relation to convenience retailing the published retail update identifies that there is a need for a food store of between 2,000sq m and 2,500 sq m convenience floor space in zone 1 (the area to the east of the city including the application site) in order to claw back the loss of convenience spend to other parts of the city and to reduce the need to travel.

4.21 Attached plans show the Study Area and Primary Catchment Areas used by the Applicant for the assessment of the application.

4.22 The Study Area is the extent of the area where household surveys to inform shopping patterns have been derived and the Primary Catchment Area is the area where it is determined that the majority of turnover from the shopping development will be derived.

4.23 There are two key considerations when assessing retail impact. These are the sequential test and the impact test.

## Sequential test

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

4.25 Paragraph 24 of the NPPF requires a sequential test for main town centre uses that are not proposed to be 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. 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.

4.26 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 the sequential test if there are suitable and available alternative sites for retail development either in an 'edge-of centre' location or within existing centres. The NPPF defines edge of centre for retail purposes as 'a location that is well connected and up to 300 metres from the primary shopping area'

4.27 The NPPG says it is for the applicant to demonstrate compliance with the sequential test. The guidance sets out a checklist of considerations to take into account in determining whether a proposal complies with the sequential test i.e.:-

- o Has the suitability of a more central site to accommodate the proposal been considered?
- o Is there scope for flexibility in the format and/or scale of the proposal?
- o If there are no suitable sequentially preferable locations the sequential test is passed.

4.28 Furthermore the NPPG says use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case. The NPPG also acknowledges that promoting town centre first can be more expensive and complicated and therefore LPA's should be realistic and flexible in their expectations.

4.29 There are a number of court cases which have clarified application of the sequential test. Key to those decisions is that the test of suitability should consider whether alternative sites are capable of accommodating the development proposed, rather than whether the development proposed could be redressed or altered to be accommodated on sequentially preferable sites.

4.30 The DCLP through policies SP7a and SP7b seek to ensure that development outside the city is highly accessible by non-car modes and that the city centre remains the main focus of retail development. Such an approach is consistent with the NPPF. The DCLP proposal map shows the extent of the primary shopping area for York.

4.31 As discussed above the emerging Local Plan is not sufficiently far advanced to be considered as part of the sequential test assessment.

#### Applicant's case - sequential test

4.32 The applicant's say that they have taken a flexible approach to applying the sequential test by considering sites of two hectares that are capable of accommodating a store with a net sales floor area of 4,500 sq m (the application site is 3.94ha and is to accommodate net sales floor space of 5,528 sq m of floor space). They have identified, in consultation with the Council, five sequentially preferable sites that could potentially accommodate the development. The five sites are Castle Piccadilly, York Central, Stonebow House, The Telephone Exchange and Hungate. In their view none of these sites are available or capable of taking the proposed development even when being flexible about the format of the site.

4.33 The applicant has also considered the potential to expand and redevelop the existing Sainsbury's store on Foss Bank. The applicant says that they continue to invest in this store but the site constraints mean that investment in redevelopment of the site is not viable and redevelopment or expansion is now no longer possible due to the occupation of the adjacent building by Go Outdoors.

#### Assessment of Sequential Test

4.34 A sequential test can be approached in two ways. The first is to take the development proposed as a whole and determine whether it could in its entirety be accommodated on a central site. So in this case one would look at whether the entire floor space, car parking on 3.9 Ha could be accommodated on any of the identified sequentially preferable sites. This basic level of assessment can create problems in that a developer could propose a development which is so large that it would be impossible to ever fit it within a city centre or edge or centre site. The second way is where parts of the development are disaggregated from the whole and assessed in terms of site availability, or where flexibility is shown about the size of the development required and smaller sites are considered. To accord with the NPPG requirement to take a more flexible approach Sainsbury's have looked at sites of 2 Ha as this would still provide a level of floor space that would provide for their target market of the east and south east of York. Court judgements and appeal decisions suggest that in accepting that a 2Ha site is being considered, this is showing flexibility in the application of the sequential test.

4.35 The Council's Forward Planning have employed WYG to provide the policy response to this application. WYG consider that the extent of the applicant's sequential search to be acceptable. They have considered each site having regard to suitability, viability and availability. In terms of flexibility of format they have considered objectors' views that Sainsbury's should be considering smaller minimum sized sites with a threshold of one hectare, since competing stores within the primary catchment area are able to operate from a smaller sales area and Sainsbury's have smaller formats which are able to operate from smaller footprints. WYG conclude that Sainsbury's have demonstrated sufficient flexibility in accordance with the NPPG and conclude that none of the sites identified as sequentially preferable are suitable for the development. WYG accept Sainsbury's position that their site at Foss Bank is unavailable because Go Outdoors occupies the adjacent property and are content to dismiss the prospect of an extension to this store on this sequentially preferable site. WYG conclude that there are no sequentially preferable sites for the proposed development.

4.36 Members should note that (although carrying very limited weight), Policy R1 of the emerging local plan proposes a much more detailed application of the sequential test by identifying a hierarchy which includes York city centre, district centres, local centres and neighbourhood centres. The published retail study 2014 carried out by WYG and the associated addendum refers to those centres that have been surveyed to assess their suitability as neighbourhood centres. The document that shows which are to be designated as centres has not yet been published, and therefore in Officers view no weight can be given to the hierarchy set out in policy R1 in the emerging local plan.

4.37 The NPPG says that the sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).

## Impact Test

## NPPF and NPPG

4.38 Planning applications for retail development located outside defined town centres should include an assessment of impact. The criteria for the assessment are set out at Paragraph 26 of the NPPF. These are as follows:

- o 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
- o 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.

4.39 The NPPG confirms that it is for the applicant to demonstrate compliance with the impact test, and that failure to undertake an impact test could in itself constitute a reason for refusing planning permission. The Guidance also emphasises the like-affects-like principle when assessing impact, and draws on the specific example that it would not be appropriate to compare the impact a large out-of centre DIY store with small-scale town centre stores. The NPPG explains that retail uses tend to compete with their most comparable competitive facilities

4.40 The NPPG sets out a seven step approach to assessing impact. These are:- establish the state of existing centres and the nature of current shopping patterns (Health check); determine the appropriate time frame for assessing impact, focusing on the first five years; examine the no development scenario; assess the proposals turnover and trade draw; consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities; set out the likely impact of that proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues; any conclusions should be proportionate. The NPPG says that a judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development

4.41 The DCLP identifies on the proposals map the centres against which the impact test should be considered. These are the city centre and Acomb and Haxby. The text to policy SP7a says these centres provide a suitable focus for new commercial activity, particularly retail development.

4.42 As discussed elsewhere in this report the policies in the emerging Publication Draft Local Plan are not sufficiently far advanced to have any material weight attached to them.

#### Health Check

4.43 In terms of setting the context for impact assessments, The NPPG says that the state of existing centres and the nature of current shopping patterns should be established

4.44 The City of York Local Plan Preferred options 2013 makes reference to a baseline audit/ health check undertaken as part of the city of York Economic and retail growth visioning study (2013).

The preferred option document says with regard to the health of the city centre that 'the diversity of the city centre is strong; the last major development was 25 years ago; the market share of the city centre has declined since 2004 from 31% to circa 21% in 2010 whilst the market share of out of town shopping has increased; there is still demand for space in the city centre; the footfall in the city centre has declined from 2011 to 2012; vacant units are re-occupied quickly and vacancy rates remain below the national average; there are higher shop vacancy rates on secondary streets'. The preferred option document says that the new out of centre retail floor space at Monks Cross will significantly enhance the competition to the city centre.

4.45 The York retail study update 2014 concludes that in terms of comparison goods retailing, York City centre remains the principal shopping destination for such goods and also remains an extremely attractive destination for tourist and external spend. However whilst its comparison goods market share may have stabilised, it is clear that facilities at Monks Cross and York Designer Outlet have both advanced their market share since 2007.

4.46 The applicant's assessment is broadly comparable with the retail study update conclusions, summarising in their health check that the city centre continues to perform well. There is a good mix of convenience / comparison retailers and other occupiers, low vacancy rates and good quality public spaces; there is good pedestrian footfall; access to and across the city centre is considered to be very good; perception of safety is considered to be good. The Applicant considers overall that the city is in good health. The applicant also considers the health of Acomb and Haxby both of which are considered to be vibrant centres and in good health. The health check also considers some smaller neighbourhood areas.

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.

4.47 The applicant says that the main committed or planned investment within the local area is the Castle Piccadilly site. It is concluded that the site has not progressed for comprehensive retail-led development due to planning permission being granted for significant new comparison retail floor space at Monks Cross. When assessed against the criteria in both the NPPF and the NPPG the Sainsbury's proposal would not undermine the delivery of the Castle Piccadilly site and there is no demonstrable evidence that the proposal will undermine future private investment in any defined centre within the study area.

4.48 WYG confirm that the owners of the Piccadilly site consider it is unviable for a retail led scheme following the approval of the Scheme at Monks Cross and they are considering a mixed use scheme. This could include more convenience retailing but not necessarily to the scale proposed. At the moment there are no applications or pre-application discussions on the site and no objections to this scheme from the Piccadilly site owners.

WYG conclude that the impact on investment in the city centre site was clearly made by the approval of the Monks Cross scheme. It would be difficult to argue that the proposed development would hinder a mixed use scheme on the city centre site.

4.49 WYG also confirm that the new local centres proposed in the large housing allocations will not be affected by the scheme because of the amount of new development that will be generated by these allocated sites. In any event the halting of the progress of the Local plan to review the housing provision means that the detail of the allocations can not be relied on as a policy context.

4.50 It is considered that the proposal will not impact on any proposed investment in the city centre. No sites have been identified in Acomb or Haxby.

### The Impact of the Proposal on Town Centre Vitality and Viability

4.51 Appendix 3 of the applicant's retail assessment sets out their methodology for assessing the quantitative impact of the development on existing centres. There has also been an update in July 2014 to the assessment to take into account issues raised by objectors. Their assessment has followed a standard and recognised step by step methodology. The methodology makes a number of assumptions about population and expenditure, established patterns of trade and market share, household survey results, sales density. These baseline assumptions are then used to quantify impact. A methodology for quantifying impact is adopted that uses a baseline year of 2014 and looks at impact to 2019 (a five year period as required by the NPPG). To quantify impact the methodology assesses turnover and trade draw and assesses the anticipated effects of the proposal on shopping patterns considering the consequences of impacts on existing centres and facilities. The applicants have updated elements of the assessment in their July update to take into account concerns raised and comments by WYG.

4.52 Sainsbury's shopping format is similar to other large supermarkets. Their proposed floor space is split 60% convenience goods and 40% comparison goods. That is 3,380 sq m of convenience goods and 2,211 sq m of comparison goods. Definitions for convenience and comparison goods are not provided in extant policy documents, however convenience retailing was defined in the former Planning Policy Statement 4 as the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery. A Comparison was also defined as the provision of items not obtained on a frequent basis. These include clothing, footwear, household and recreational goods.

### Convenience Goods Trade Diversion

4.53 When considering the impact of the new foodstore on city centre and defined centres it is relevant to consider where the expenditure to support it is likely to come from.

The evidence suggests and the NPPG confirms that foodstores mainly compete on a like for like basis and so expenditure would to a large degree be drawn from similar stores elsewhere. The applicant says within the defined Study Area the greatest trade diversion is anticipated to be from the Asda at Monks Cross, which is identified to be the most popular food store for residents within the Study Area (and the second most popular destination for residents within the primary catchment). A quarter (or £10.01 million) of the convenience goods turnover of the proposal is identified to be diverted from this out of centre facility. Notable proportions of turnover are anticipated to be derived from the out of centre Morrisons on Foss Islands Road (15.1% or £6.08 million), the out of centre Sainsbury's at Monks Cross (13.8% or £5.55 million), the out of centre Tesco Extra at Askham Bar (7.9% or £3.17 million), the out of centre Waitrose at Foss Islands Road (5.7% or £2.30 million) and the out of centre Tesco Extra at Clifton Moor (5.1% or £2.05 million). A combined 72.6% of the proposal's convenience goods turnover will be diverted from these stores. Such an assumption is appropriate given their role as the principal 'main food' shopping destinations in the area. Critically, these larger stores are not located within defined centres and are afforded no protection in retail planning policy terms. The remaining trade diversion is identified to be derived from a number of facilities both within and outside the Study Area. This includes approximately 3.9% (or £1.56 million) of the proposal's convenience goods turnover being directed from convenience facilities in York city centre. The trade predicted to be diverted from the city centre is proportionate to its relatively limited role as a convenience goods shopping destination. The scale of existing provision and the findings of the household survey identify the city centre to be principally a 'top-up' food shopping destination. This role will continue alongside the application proposal. Elsewhere within the study area it is anticipated that approximately 4.2% (or £1.70 million) will be diverted from the edge of centre Sainsbury's at Foss Bank and 3.8% (£1.53 million) from the out of centre Aldi on Fulford Road. The residual turnover (£6.23 million) will be diverted from a number of facilities elsewhere (both within and outside the study area), with no notable diversion anticipated on any individual retailer or centre.

4.54 The applicant and objectors both accept the principle that the majority of trade diversion will be drawn from comparable, large format supermarket facilities. Objectors question why the proposal will divert more trade from the Asda at Monks Cross than the Sainsbury's and less from Tesco at Askham Bar and Clifton Moor than from comparable stores at Foss Island. They are also concerned that more trade will be diverted from other smaller local stores- specifically Hull Road Co-op and neighbourhood centres allocated in the emerging Local Plan.

4.55 The applicant responds by saying the level of trade diversion reflects shopping patterns identified by the household survey. The greater trade diversion in proportion to turnover from Sainsbury's reflects brand loyalty. The greater trade diversion from the two Tesco's reflect their greater market share than the Foss Islands stores.



The applicant concludes that even if it is assumed that a greater proportion of the proposals turnover will be derived from Morrisons or Waitrose at Foss Islands, any impact on these stores is not a material planning consideration given their locational status. Any loss of trade from these stores will not undermine the long-term vitality and viability of York City Centre.

4.56 Objectors contend that trade diversion underestimates the impact upon the closest convenience offering, the Co-op store at Hull Road. However the applicant says that the store is trading alongside large supermarkets (Morrisons and Waitrose) which are located closer than the proposed development. No analysis or data as evidence is provided by the objectors of their own estimates. WYG do not consider that objectors have provided sufficient data to support claims that smaller convenience stores would be forced to close.

4.57 The retail study update 2014 (section 7) by WYG considers the need for new convenience (and comparison) goods floor space. Paragraph 7.13 says that it is estimated that by 2018 there will be an expenditure surplus of £62.5 m to support additional convenience goods floor space. Paragraph 7.17 says that there is a number of ways in which such identified need could be met but that it is evident that there is an immediate need for convenience goods floorspace. Furthermore the update says, at paragraph 9.05, that there is a need for a further 2,000 to 2,500 sq m (net) of convenience goods retail floor space in the zone of the city which includes the application site. The need for the additional floor space is stated as being to reduce the dominance of existing supermarkets elsewhere in the city (most notably Monks Cross), reduce the need to travel which would help reduce localised congestion as well as encourage the retention of trade in the zone of the city (which includes the application site). The applicant's assessment supports the view in the retail study update; their analysis shows that main food shopping retail expenditure generated in the primary catchment area is at 54% which they say suggests that there is scope to retain a greater proportion of locally generated expenditure by improving the existing retail offer.

#### Comparison Goods Trade Diversion

4.58 In terms of the comparison goods element of the supermarket the applicant says that this will be secondary to the principal convenience goods function of the store. Importantly, much of this floor space will comprise comparison goods associated with a main food shop. Other comparison goods sold will largely be bought as an 'impulse purchase' linked to a main food shopping trip. The store will not function as a comparison goods destination in its own right.

4.59 The applicant says that the majority of comparison trade diversion (55%) will come from large scale retail stores at Monks Cross and to a lesser extent from Tesco Extra store at Askham Bar (7.5%) and Clifton Moor (6.5%).13% of the proposals comparison goods turnover will be derived from York City Centre.

Furthermore the applicants say that by 2019 other commitments in the city centre may have come forward which could reduce the level of trade diversion to 6%.

4.60 Objectors question the ancillary nature of the proposed comparison floor space, suggesting that the comparison offering would become a comparison retail destination in its own right and as such the proposal would result in a greater trade diversion than the 13% currently estimated from the comparison offering within the city centre. Objectors consider a scenario where 50% of comparison retail trade is diverted from the city centre and as a result the impacts of the development would be greater.

4.61 The retail study update paragraph 7.20 says that there will be a comparison goods expenditure surplus to support additional comparison goods floorspace by 2018. WYG in their assessment of the application do not raise any concerns about the diversion of comparison goods expenditure from existing centres.

#### Local/Neighbourhood Centres

4.62 One of the main contentions of the objectors is that there will be significant adverse effects on local shops as a result of the development. In particular, but not exclusively, the shopping parade at Badger Hill, the retail offer at Inner Space Station, the Co-op on Hull Road and other small convenience stores that anchor neighbourhood parades along Hull Road.

4.63 There is no statutory development plan for York and therefore the approach in the NPPF and NPPG takes precedent over the policies in the emerging local plan. Weight can be attached to the policies in the existing and emerging local plans according to their degree of consistency with the NPPF as set out in Annex 1. The general 'city centre first' policy in national policy is also a policy principle in the DCLP and the emerging local plan, and due weight may be attached to both documents in this respect. The DCLP as the policy basis upon which decision making has taken place for some time, its definition of primary shopping areas and identification of Haxby and Acomb as district centres, can have some weight attached to them. The emerging plan however proposes a significant number of small centres which are not yet clearly identified because the background documentation that identifies the centres has not been published. The identification of potential sites on the proposals map can not be relied on at this time. Therefore very little weight can be attached to the proposed policies R1 to R4 in the emerging plan where they seek to protect centres. The definition of a centre in the NPPF excludes small parades of shops of purely neighbourhood significance. The applicant's view is that the existing retail offer on Badger Hill and on Hull Road will continue to operate alongside a new Sainsbury's store as the facilities serve a very localised role. The Co-op store on Hull Road already trades alongside Morrisons and Waitrose. The Co-op is a comparable distance from the proposed store.

The applicants also question whether a standalone store such as the Co-op would in fact be sufficient to represent a neighbourhood centre in any case. The NPPG says that generally the principle of 'like effects like' should be applied to retail development (stores of comparable size and target market). The applicant refers to the findings of the household survey, the resulting shopping patterns and the role and function of the neighbouring centres which are considered to have a limited retail offering and primarily serve a more localised role than the proposal. It is concluded that the proposal is likely to have little impact on such centres. The applicant has however carried out health checks in some emerging centres. Each of the centres has vacancy rates below the national average, appearing healthy, vital and vibrant. WYG do not consider that any weight can be given to the emerging Local Plan policies and therefore do not consider the impact of the proposals on local centres at this time. Officers consider for the above reasons there is no basis to resist the proposal based on adverse impact on local/neighbourhood shopping facilities.

#### Impact on Town Centre Vitality and Viability

4.64 The key issue in NPPF and NPPG policy terms is whether the identified impacts are significantly adverse and thus warrant refusal of planning permission.

4.65 The analysis of the retail appraisal by WYG identifies an impact on existing Sainsbury's Foss bank of 15.5 %, Morrisons Foss Islands Road of 15.3% Waitrose, Foss Islands Road of 24.5% and Monks Cross of 16.9%. The analysis of the retail appraisal also concludes that the identified levels of impact either solus (city centre less than 1.3% by 2019, Acomb 3.3% by 2019, Haxby 0.2% by 2019) or cumulative (city centre 13.5% by 2019) are not at a level that would undermine the current and future role of existing centres or adversely impact on future investment. It should be noted that cumulative impacts include retail commitments includes the Vanguard development.

4.66 WYG confirm that it is their view that the proposed development is unlikely to have a significant adverse impact on York city centre, or Acomb or Haxby district centres. WYG indicate that the majority of the impact will be borne on freestanding food stores that are not protected in planning policy terms. Furthermore they confirm that at this time there is no protection assigned to local or neighbourhood centres as these are not defined or identified in an adopted development plan and therefore there is no policy requirement that the impact on such centres can form a planning reason for refusal.

#### Conclusions - Retail Impact

4.67 In summary the following is concluded on the retail impact of the scheme:-

- The site occupies an out of centre location and there are no suitable, available and deliverable sites within or on the edge of identified centres (York Haxby, Acomb). The sequential test is passed.
- The Sainsbury's does not pose any risk of harm to the planned investment at the Castle/ Piccadilly site as the comprehensive redevelopment of this site has been halted as a result of the approval at the Vanguard site.
- Most of the trading impact will fall on out of centre superstores and the edge of centre Sainsbury's. Any impact on those stores is not a material planning consideration
- A need for further convenience floor space (2000 to 2500 sq m) in this part of the city to retain spend within the area and reduce the need to travel is identified in the Retail Update 2014 published as part of the emerging Local Plan 2014.
- The allocation of local centres in the emerging Local Plan are not sufficiently far advanced to be a material planning consideration
- The level of trade diversion from York City Centre, Acomb and Haxby would not represent a significant adverse impact on the vitality and viability of the city centre/centres.

4.68 Accordingly, the proposed development would not have a significantly adverse impact on existing centres and is considered acceptable in respect of NPPF retail policy. A condition is proposed which will restrict the use of the site to a supermarket, will restrict the level of comparison goods in line with the submitted details and will prevent the subdivision of the building into smaller retail units.

4.69 It is considered that the application will need to be referred to the Secretary of State under terms of The Town and Country Planning (Consultation) (England) Direction 2009. (Circular 02/2009)

4.70 The NPPG says that where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development. The following paragraphs address the other material considerations Officers consider relevant to this application.

## HIGHWAYS PARKING AND ACCESS ARRANGEMENT

### Default/Fall Back Position

4.71 When considering the transport implications of any planning application for a change of use, it is appropriate to net off (subtract) the traffic that could be generated without the need for further planning consents. This approach is consistent with national guidance, recognised procedure and has been taken into account on many occasions by the Planning Committee.

4.72 The site currently has lawful planning consent to operate as a non food/bulky goods retailer. This lawful use could continue with any other retailer without the need for further planning consents. The original Transport Assessment (TA) therefore took a lawful approach in assessing the continued operation of the site with another retailer, potentially generating higher levels of traffic than that currently seen by an underperforming store.

4.73 Notwithstanding this, Officers had some concerns with the likelihood of this occurring and through negotiation asked the applicants' consultants to undertake a sensitivity test based upon the current underperforming trading patterns of B&Q as a worst case scenario. An updated assessment has been provided on this basis and as such the TA is considered to be representative and robust. In highway terms therefore we are considering the difference in traffic volume between non-food bulky goods retail use and food retail uses.

## Highway Impact

### Access

4.74 Access to the proposed store will utilise the existing B&Q customer car park entrance. This junction is proposed to be signalised and linked to the existing traffic signals at the junction of Osbaldwick Link Road/Hull Road and the proposed Toucan crossing. The linking of these signals will enable the signals to effectively operate as one junction to optimise performance. In order to ensure that the operational efficiency of the junction is maximised the new signal arrangements include the provision of a CCTV camera, as per council specifications, to enable the junction to be monitored and signal times amended as may be necessary. The ability to monitor traffic patterns on Hull Road in this location and take mitigating action is a genuine benefit.

### Traffic Generation

4.75 The scoping of the TA supporting the application was discussed and agreed with officers. The applicants' highway consultants worked with the Authority in order to ensure that future year scenario's included committed development which include traffic generated by sites such as the Heslington East University Campus. The future year traffic figures used within the TA are based upon figures taken from the Authorities strategic SATURN model.

4.76 Objectors have made reference that the TA does not include traffic generated by sites contained within the Local Plan. The LP is still an emerging document and at this stage it is neither reasonable nor possible to include the traffic that could be generated by future housing/employment allocations. The approach that has been taken is robust in that the authority has considered and taken into account traffic that will be generated by committed development, particularly those development sites in the vicinity of the proposed Sainsbury's site.

4.77 Trip generation rates have been supplied by Sainsbury's based on the operation of other stores. This is an accepted approach and has previously been used and accepted within applications approved by the planning committee for Sainsbury's stores at Monks Cross and Foss Bank.

4.78 It is important to remember that hardly any traffic, if any at all, is newly generated traffic when considering food retail uses. Nationally recognised studies demonstrate that the erection of food stores does not generate wholly new trips, that is to say that these trips already exist and are currently visiting alternate destinations. However these trips can be considered to be new to the local highway network, having diverted from elsewhere or are pass-by trips.

#### Junction Impact

4.79 The impact on adjacent junctions has been assessed using nationally recognised junction assessment software. Some of the links and junctions that will be used by development traffic are already operating at or close to their theoretical capacity during periods within the AM and PM peak hours. In many cases it is not possible to improve capacity due to the built environment or land restraints.

4.80 It is acknowledged that in some locations the development proposals will have some localised impact; however the junctions will continue to accommodate the additional demands for the majority of the time. It should be borne in mind that the impact of the development proposals are assessed, for robustness, during the peak periods of operation of the highway network as this is when the network is at its most sensitive (i.e. 08:00-09:00 and 17:00-18:00) and motorists will generally experience the greatest level of queuing and longest journey times. Outside of these AM, PM and Saturday peak periods there is sufficient capacity on the network and traffic will flow much more freely.

4.81 The greatest impact of the development is seen at the following junctions where increases in queue length during the peak periods will be seen as: -  
Osbalwick Link Road/Hull Road - 9-10 vehicles increase; Hull Road/Tang Hall Lane -7 vehicles increase on Hull Road (East) Arm. The impact is a modest number of extra vehicles joining the end of an existing queue. The increase in queue length will not be material nor will it impact on adjacent junction operation and, as discussed above, is the maximum queue length that could occur during the peak period of demand. Outside of this period queue lengths will be significantly shorter.

4.82 It is worth noting that some junctions may see a slight improvement in conditions as traffic redistributes on the highway network. This will predominantly arise as traffic associated with food shopping from the east of the city which currently has to travel to Monks Cross will no longer need to do so.

4.83 The impact of development traffic on the A64 Grimston Bar junction has been assessed by the Highways Agency (HA) as this junction is under their jurisdiction.

Following further sensitivity testing the HA have now confirmed that they are satisfied that the development proposals will not have a detrimental impact on the operation of the junction and have not sought any further mitigation works nor financial contributions.

#### Traffic through Murton

4.84 A number of objections have been raised with regards to the potential for increases in traffic travelling through Osbaldwick and Murton in order to avoid congestion on Hull Road. The authority has an Automatic Traffic Counter (ATC) on Murton Way close to the junction of Osbaldwick Link Road. This counter has been in place since 1997. Officers have studied the data supplied by this counter and it has indicated that traffic volumes along Murton Way have been broadly static in real terms. Small year on year increases have been seen in traffic volumes along Murton Way but the increases are of such a low level they are what is considered as representative of year on year background traffic growth.

4.85 A sudden and sharp increase in traffic flows during the AM/PM peak network periods can be seen from December 2013 into early 2014. This spike in traffic is not representative with the established patterns seen and coincided with major highway works undertaken by the Highways Agency at the A64 Grimston Bar interchange to which numerous complaints were raised regarding delay and queuing.

4.86 Officers are therefore satisfied that these highway works were the reason for such a sharp change in traffic volumes on Murton Way and cannot be considered to be representative of typical operation of the local highway network.

4.87 As stated previously the application utilises data taken from the authority's strategic SATURN model to derive future year traffic flows on links. The SATURN model takes into account congestion and reassigns traffic across the network. As such the future year flows will take into account a proportion of traffic, not all development related, redistributing onto Murton Way.

4.88 The assignment of development traffic onto the highway network is based upon assessment work undertaken for the retail impact and trade draw. Such work has identified that the significant proportion of trade will be drawn from the East of the city in an area roughly bounded by Stockton Lane, Foss Islands Road and Fulford Road. Given the lack of such retail offer in this part of the city residents in this area will currently be travelling out of the area to food stores at Monks Cross, Foss Islands Road, Clifton Moor and Tadcaster Road. The provision of a new food store in this part of the city will cater for local need and as such will reduce the level of traffic travelling out of the area to other facilities.

## Parking

4.89 The proposed store would have 505 spaces, this is less than the 531 car spaces which are currently available on site (bearing in mind the potential fall back position). The submitted car parking accumulation exercise demonstrates that the car park reaches a peak capacity of 80% and 79% during the weekday and Saturday peak periods respectively. Such spare capacity is in place to accommodate the limited peak periods of trading that are occasionally seen throughout the year such as Christmas and Easter. A sensitivity test of traffic generation based upon the car park operating to capacity has not been undertaken as it is not representative of normal day to day customer levels/traffic generation.

4.90 The peak accumulation versus level of parking provision is also consistent with that which has been considered and approved by members at the Monks Cross store through recent applications.

## Sustainability

4.91 The site is located within a residential area and within close proximity of the Heslington East university campus. The location of the store is therefore highly sustainable and ideal to promote sustainable travel.

4.92 Footways and cycle facilities to the store meet the necessary standards in terms of width and lighting and are proposed to be enhanced further by the provision of a new Toucan crossing on Hull Road with associated extensions to the existing pedestrian /cycle footways to connect into existing routes. This will greatly improve the quality/attractiveness of non car accessibility to the store and improve safety for pedestrians/cyclists using the route.

4.93 Accident records have indicated that there is a potential existing issue surrounding the area where the adjacent Petrol Filling Station egress meets the shared pedestrian/cycle route. As such it is proposed through the development proposals to improve this situation by handing the pedestrian/cycle route and existing grass verge in order to improve intervisibility between pedestrians/cyclists and vehicles existing the PFS.

4.94 The existing pedestrian /cycle access into the site from Hull Road is to be widened and vegetation cut back. The internal layout provides a traffic free route with highlighted crossing points within the site between this access and the main store entrance.

4.95 Bus stops are located to the store frontage on Hull Road and adjacent to the site on Osbaldwick Link Road. These stops have Kassel kerbs and shelters and are served by high frequency services. The adjacent Grimston Bar Park & Ride site is also located within recognised walking distance of the site. It is not unreasonable to assume that a proportion of Park & Ride customers will use the proposed food store on their way home as part of a linked trip.



4.96 Cycle Parking is proposed within the site for both staff and customers. Staff provision is within secure and enclosed lockers. Customer provision includes spaces which can accommodate cycles with trailers. In order to take a pragmatic approach the level of cycle parking proposed is based upon modal split targets. Scope for further expansion of the cycle facilities should demand dictate has been catered for.

4.97 The site includes the provision of on-line shopping deliveries to further minimise car borne travel and the application has been supported by a Travel Plan (TP).

4.98 The application has further been supported by a TP which will be secured through the appropriate mechanism. The applicants have indicated within the TP that they will seek to work with the authority in implementing the TP and that this may include the use of the authority's ionTRAVEL program. This level of collaborative working with the authority is considered to significantly increase the likelihood of the TP being successful and is effective in minimising car borne travel and associated requirements for car parking, whilst promoting sustainable travel.

#### Objectors critique of submitted Transport Assessment

4.99 Transport Assessments produced to support or object to planning applications should be impartial, independent critiques of the highway implications of development proposals. Highway Consultants are appointed by developers seeking to gain or object to the granting of planning consent. Assessing the impact of new developments is not an exact science and the highway modelling techniques used together with local and national technical guidance has many areas of detail which are open to differing interpretation. To this end it is not unusual for TA's to be potentially overly conservative or overly robust in presenting the potential impact of development depending on the case trying to be made.

4.100 Through negotiation the Local Highway Authority must find a compromise between the position taken by the differing parties and what the Local Highway Authority consider to be a reasonable/robust approach which protects the operation of the highway network and the travelling public. All of this process is carried out within a legislative framework and supported by various technical notes and guidance produced at local and national levels.

4.101 Despite the concerns raised by objectors with the submitted TA, Officers are satisfied that the document takes a reasonable approach and is sufficiently robust that the application can be supported.

#### SUMMARY

4.102 The impact on the highway network is the net change from non food retail to food retail.

4.103 The main document against which the development is assessed is the National Planning Policy Framework which states that;

- 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 limits the significant impacts of the development.

4.104 Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

4.105 The development proposals are located sustainably and prioritise access to the proposed store in accordance with the Authorities hierarchy of road users. The scale of improvement/mitigation works as proposed are reasonable, necessary and proportionate to the scale and impact of development. The impact of development proposals cannot be considered nor demonstrated to be classed as severe. As such it is considered that there are no grounds to raise an objection to the application from a highway perspective.

## DESIGN, LAYOUT AND LANDSCAPING

4.106 Section 7, paragraph 56 of the NPPF says that 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.

4.107 The existing B&Q building is predominantly single storey, but has two small internal mezzanine areas, one at the front of the store and one at the rear accommodating office space and employee facilities. The south (shop front), east and west elevations comprise light grey cladding panels with red brick work beneath. The brick work is about 2metres high on the shop front elevation and 1metre on the other two elevations. The entrance to the shop is marked by a large glazed feature. The exit is a smaller glazed lobby. The B&Q garden centre is located on the west of the store and is largely external apart from a small glazed greenhouse area and small free standing canopy. The external builder's yard is located to the east of the main building and sits partly between a large metal pitched roof. The yard is enclosed by walling with fence infill panels.

4.108 The proposal will reduce the gross floor area of the building from just over 13000 square metres to 9715 sq m by removing the internal mezzanine floors and removing the garden centre and builder's yard. The general layout of the site will not be significantly different to the present arrangement; the access and servicing principles remain the same with customer vehicular access from Osbaldwick Link Road and pedestrian and cycle entrances from the Hull Road Frontage. Service access will also remain from Osbaldwick Link Road to the rear of the building via a secure service yard. A new section of timber acoustic fencing is to be incorporated to the service yard perimeter and the existing roof over the builder's yard is removed and replaced by an enlarged service yard. The service access road that currently serves the garden centre is to be downgraded and will only provide access to the new external plant area located to the west of the site. The car park layout is amended to meet Sainsbury's own standards and additional parking is provided to the west in the area where the garden centre is being removed and on part of the area currently occupied by the builder's yard. A new recycling centre is being provided near the entrance to the site between the building and the Link Road; the vehicular access will become a signalised junction. The position of the internal access moves over to accommodate the recycling centre. The southern shop front elevation of the building will be altered to provide elevational treatment that matches the internal layout and shop front requirements of Sainsbury's. The shop front alterations will allow for the inclusion of ATM machines and the internal layout includes a cafe.

4.109 The site contains an existing substantial building and is surrounded by hard surfacing which is softened by a good quality landscaping scheme to the site's perimeter and is somewhat masqued by the change in levels (the site sits below the level of Hull Road). The modifications to the building and changed car parking layout will not significantly alter the visual impact of the site in fact the removal of the garden centre and builder's yard will reduce the mass of the building. The scheme proposes some modest alterations to the landscaping which include some loss of trees within the site. The scheme proposes compensation for the loss of trees through new planting within the car park and additional planting adjacent to the entrance to the site. The Landscape Architect is satisfied with the landscape details proposed. The Parish Council are concerned about the new position for the recycling centre which is proposed to be on the entrance to the site between the car park and the Osbaldwick Link Road. Their concern is that rubbish will blow out of the site because of this more exposed location. With all such recycling facilities it is necessary to ensure that they are maintained by the site operator and there is a balance between making the recycling convenient so that it is adequately used and ensuring that it is not too visually prominent. In this case Officers are satisfied that the design and siting will not be detrimental to visual amenity given the surrounding vegetation and that the enclosure of the area will allow rubbish to be contained. It is accepted that Sainsbury's will still need to ensure that the recycle area is adequately maintained.

4.110 The scheme is considered to be compatible with the design advice within section 7 NPPF.

## RESIDENTIAL AMENITY

4.111 One of the core principles at Paragraph 17 of the NPPF says that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 123 says planning policies and decision should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new developments; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise and recognise that development will often create some noise. The NPPG says noise needs to be considered when new developments may create additional noise, when new developments would be sensitive to the prevailing acoustic environment. There may also be opportunities to consider improvements to the acoustic environment.

4.112 The area to the north and west of the site is predominantly residential with two and two and a half storey houses and three storey flats surrounding the site on Redbarn Drive and Tranby Avenue. The existing residential development is between 20 and 30 metres from the site boundary. The existing planning permission under which B \_ Q operate was subject to conditions which sought to protect the amenity of surrounding residential properties. Principally the existing permission achieved this by restricting the use of the rear access to the garden centre on the north side of the building between the hours of 8pm and 8 am, ensured that the details of external lighting was agreed before the development was brought into use and restricting trading hours to customers to between 7am to 10pm Monday to Saturday and on a Sunday to between 10am and 6pm.

4.113 The application proposes a number of changes to the site that will create a different environment for the adjacent properties. The proposal is to:-

- extend the opening hours of the site to 11 pm Monday to Saturday.
- remove the garden centre and associated forklift truck movements along the northern boundary access road. The garden centre will be replaced by additional car parking.
- remove external unloading activity

4.114 Measure to be put in place to protect the amenity of adjacent residents include:-

- provide an internal docking station for two HGV vehicles to provide unloading facilities within the building
- provide a 5 metre high acoustic fence around the northern and eastern boundaries of the service yard

- provide an acoustic fence along the western and north western boundaries adjacent to the new car parking area.
- provide acoustic measures around the new plant compound adjacent to the car park in the north western corner of the site
- Removal of the mezzanine on the northern side of the store.

4.115 The application is supported by a noise impact assessment which concludes that there will be no significant adverse effects from the development provided vehicle mounted refrigeration units are not used in the service yard.

4.116 Environmental Protection has considered the submitted noise assessment and has sought clarification on the operation of deliveries and the use of the new car park area on the west side of the site. The Environmental Protection Officer is satisfied that the development can be accommodated without detriment to the adjacent residents provided that there is control over the time of the delivery proposed during the night. A condition is proposed to require the submission of a service yard management plan which will allow the night time delivery to be controlled. Conditions will also be sought which will ensure that the acoustic measures proposed within the scheme are satisfactorily implemented.

4.117 The proposal will require a new lighting scheme for the building and car park. An appropriate condition is proposed to require the submission of a lighting scheme. Environmental Protection is satisfied with this approach.

#### Drainage

4.118 The site is located within flood zone 1. The application is supported by a flood risk assessment required because the site is greater than 1 Ha. The Flood Risk Management Officer is satisfied that with the drainage works proposed within the Flood Risk Assessment which includes additional storage for surface water run off the proposed development is acceptable. A condition to ensure that the drainage works are implemented is proposed.

#### SUSTAINABLE DEVELOPMENT

4.119 The site is currently in use as a B&Q and has been operating as an A1 retail destination since 1998 albeit with a restriction to bulky goods sales. Paragraph 17 and 111 of the NPPF encourages the effective use of land by re-using land that has been previously developed. The DCLP does not allocate the site for any purpose although the site is shown as being within the built up limits of the city. The preferred options document to the emerging local plan showed the site as an out of town retail destination. The emerging Local Plan 2014 does not allocate the site although the site is still within the built up area of the city.

4.120 The previous paragraphs have considered the retail impacts of the development and concluded that the proposal does not represent a significant adverse impact on the vitality and viability of the city centre/centres

4.121 Paragraph 18 of the NPPF says that the Government is committed to securing economic growth in order to create jobs and prosperity and to ensuring that the planning system does everything that it can to support sustainable economic growth.

4.122 The application details say that the supermarket will provide about 400 jobs part and full time. The applicant advises that one third of jobs are usually full time posts. The site presently provides about 100 jobs. The details also show that Sainsbury's have employment strategies that seek to ensure diversity and inclusion as well as training and development.

4.123 As discussed in the retail section of the report this area of the city does not have a main food shopping destination and it is anticipated by the applicant, and identified in the updated retail study 2014, that the proposal will reduce travel to other parts of the city by retaining spend for main food shopping in this area of the city.

4.124 The NPPF says at paragraph 7 that there are three dimensions to sustainable development; economic, social and environmental. The planning system has a number of roles to perform. In its economic role it should contribute to building a strong responsive and competitive economy by ensuring land is available to support growth and innovation. The proposed supermarket will provide jobs above those already provided by the B & Q operation and it will secure the continued use of an existing built commercial site within the urban area of York which may otherwise become vacant. In its social role, planning should support strong vibrant and healthy communities by creating high quality built environment with accessible local services that reflects the community needs and support its health, social and cultural well being. There is some concern that the development will result in the loss of local shopping facilities; however the applicant argues that the supermarket given its scale will not compete with these local top up facilities and Government guidance supports this view. There would be benefits to the area from the improvements to the appearance of the building and the reduction in its overall size. The site has good accessibility by various modes of transport so that priority can be given to the pedestrian and cycle movements including the provision of a toucan crossing that will further enhance pedestrian and cycling accessibility to the site. The applicants propose to provide job opportunities that are inclusive and provide training and development. In its environmental role planning should contribute to, protecting and enhancing the natural, built and historic environment helping improve biodiversity, use of natural resources minimising pollution and waste and mitigate and adapt to climate change.

The scheme proposes a biomass boiler, air source heat pumps, electric charging points increased cycle parking provision for customer and employees, new control of the environment around the building by inclusion of acoustic fencing and change in delivery patterns and provision of internal loading bay. Furthermore the intention of B & Q to vacate the site leaves the possibility that the site will become a vacant derelict site. There will be additional traffic movements to the site but many of these traffic movements will be diverted from other large format shopping destinations. There is no indication that the distances travelled by vehicles will be extended by the introduction of the use.

4.125 It is considered that the economic, environmental and social gains proposed within the development represent sustainable development as set out in paragraph 7 of the NPPF.

4.126 Paragraph 14 of the NPPF says that there is a presumption in favour of sustainable development and that where development plans are absent such development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.127 It is concluded that there will be no significant adverse impacts to the city centre or centres of Acomb and Haxby as a result of the development. In addressing the other material considerations it is concluded that the site is already developed, is within the built up area of the city, can be accessed by sustainable means, will not create residual cumulative impacts on the highway network that are severe, includes appropriate design and landscaping for the building, will not impact on the residential amenity of adjacent properties and is a sustainable form of development in the context of paragraph 7 of the NPPF. In the absence of any harm being identified that significantly and demonstrably outweighs the benefits the application for a new supermarket at the B &Q site is supported.

## **5.0 CONCLUSION**

5.1 The site is identified as a being within the built up part of York in the DCLP proposals map. The site is a developed site which has a long term retail use and although this is restricted to bulky goods the existing development is a material planning consideration.

5.2 The NPPF requires that a sequential and impact test be applied to town centre uses that are not in a centre. The DCLP is becoming dated in some respects nevertheless the general thrust of policies within it support the NPPF position of town centre first. The emerging plan is not sufficiently far advanced to be a material planning consideration. The retail background documentation which was published in October 2014 does not yet have its addendum available which will identify the extent and number of neighbourhood centres that are to be protected through emerging policies.

Therefore no weight can be attached to the policies in the emerging plan in so far as they relate to the identification of local centres and neighbourhood centres (in accordance with Annex 1 of the NPPF).

5.3 The Council's retail planning consultants WYG on behalf of Integrated Strategy say that the proposal will not have significant adverse impacts on the city centre or the defined centres of Acomb or Haxby.

5.4 Highway Network Management have reviewed the submitted transport assessment and have concluded that the proposal will not create residual cumulative impacts on the highway network that are severe in accordance with relevant paragraphs in the NPPF.

5.5 It is considered that the economic, environmental and social gains proposed within the development represent sustainable development as set out in paragraph 7 of the NPPF.

5.6 Therefore in addressing the other material considerations it is concluded that the site is already developed, is within the built up area of the city, can be accessed by sustainable means, will not create residual cumulative impacts on the highway network that are severe. It is also concluded that the proposal includes appropriate design and landscaping for the building, will not impact on the residential amenity of adjacent properties and is a sustainable form of development in the context of paragraph 7 of the NPPF.

5.7 In the absence of any harm being identified that significantly and demonstrably outweighs the benefits the application for a new supermarket at the B & Q site is supported. The proposal is considered as a whole to accord with the NPPF subject to appropriate conditions.

5.8 The application will need to be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009. (Circular 02/2009)

## **6.0 RECOMMENDATION**

- (i) Defer pending referral to Secretary of State
- (ii) Delegate to officers to approve if Secretary of State's does not call in the application for his own determination, subject to the following conditions:-

1      TIME2      Development start within three years -

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

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2011-357 A PL- 001 Site Local Plan

2011-357 A PL- 002 Rev A Existing Site Plan

2011-357 A PL- 003 Rev B Proposed Site Plan

2011-357 A PL- 004 Existing Elevations

2011-357 A PL- 005 Rev A Proposed Elevations

2011-357 A PL- 006 Existing Roof

2011-357 A PL- 007 Proposed Roof

2011-357 A PL- 008 Rev A Proposed boundary treatments

2011 -357 A PL- 009 Proposed recycling area

Flood Risk Assessment - March 2014

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

3 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

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. The building 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 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the

public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

6 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, 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 in accordance with paragraph 17 of the National Planning Policy Framework

7 The opening hours of the retail food store shall be:

Monday to Saturday 07:00 to 23:00

Sundays and Bank Holidays 10:00 to 18:00

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

8 Prior to the commencement of the development or within such longer period as may be agreed with the local planning Authority, the following details shall be submitted to and approved in writing by the Local Planning Authority.

- Details of acoustic fencing to the service yard
- A Service Yard Management Plan including details of delivery times
- Air source heat pumps
- New Plant
- Customer electric vehicle recharging points
- A full lighting impact assessment undertaken by an independent assessor

The development shall be carried out in accordance with the approved details prior to the occupation of the building

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

9 The cumulative noise emissions from all fixed plant installations shall not exceed a rating level of  $L_{Ar,5mins} - 25$  dB outside any noise sensitive property, based on 24 hour operation. Details of all fixed machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any noise sensitive location, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and average sound levels ( $L_{Aeq}$ ), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

NOTE:  $L_{Ar}$  is the equivalent continuous A-weighted sound pressure level during a specified time interval of 5 minutes plus specified adjustments for tonal character and impulsiveness of the sound in accordance with BS4142.

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

10 All demolition and construction works and ancillary operations which are audible beyond the site boundary, including deliveries to and dispatch from the site, shall be confined to the following hours:

- Monday to Friday 07:00 to 20.00
- Saturday 09.00 to 18:00
- Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

11 Adequate facilities shall be provided for the treatment and extraction of odours, fumes and gases created by cooking, such that there is no adverse impact on the amenities of local residents by reason of fumes, odour or noise. Details of the extraction plant and/or machinery, any filtration system required and maintenance plan for the equipment shall be submitted to the Local Planning Authority for approval; once approved it shall be installed and fully operational before the proposed use first opens and maintained at all times in accordance with the approved scheme.

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

12 In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken, and where remediation (clean-up) is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 The biomass boiler shall be operated in accordance with the Biomass boiler screening assessment dated unless otherwise agreed in writing by the Local Planning Authority.

Reason: The site falls within City of York Council's smoke control area and thus the biomass boiler must be suitable for use in such areas in the interest of residential amenity and air quality management.

14 All vehicles delivering to and from the site shall turn off their refrigeration plant prior to entering the site and shall not turn back on until the vehicle has left the development site.

Reason: To protect the amenity of local residents in accordance with paragraph 17 of the National Planning Policy Framework

15 The drainage works proposed in the Hadfield Cawkwell Davidson Flood Risk Assessment dated March 2014 shall be implemented to the satisfaction of the Local Planning Authority before the development is first occupied or brought into use and the scheme shall be retained throughout the life of the development.

Reason: To ensure the proper drainage of the area in accordance with the requirements of the National Planning Policy Framework.

16 Off-Site Highway Works

The site shall not be used for the purpose of food retail until the following highway

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works (as shown indicatively on drwg no: A-PL-003 Rev B) have been implemented in accordance with the aforementioned approved plan or arrangements entered into which ensure the same;

- 1) signalisation of the site access including Toucan facilities,
- 2) creation of a Toucan crossing on Hull Road together with associated footway/cycle linkages,
- 3) provision of a CCTV camera in a location to be agreed at the junction of Osbaldwick Link Road/Hull Road
- 4) provision of ducts and fibre links to ensure communication is available between;
  - the proposed signals at the site access,
  - the proposed Toucan on Hull Road,
  - the existing signals at the junction of Osbaldwick Link Road/Hull Road
  - the proposed CCTV camera
- 5) the proposed cycle safety scheme at the egress to the adjacent Petrol Filling Station

Reason: In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic.

17 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

18 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

19 Travel Plan

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The site shall not be occupied for the purposes of food retail until a Full Travel Plan has been submitted and approved in writing by the LPA. The Full Travel Plan should be developed and implemented in line with local and national guidelines and the submitted Travel Plan Framework dated November 2014. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site for the purposes of food retail 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.

20 Notwithstanding the provisions of Class A1 to the schedule of Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment), the premises shall only be used for a retail food store (Supermarket) and for no other purposes (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 or any other provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that order).

The net sales area of the retail food store hereby approved shall not exceed 5,591 sq m of which not less than 60% shall be used exclusively for the sale and display of convenience goods. The sale and display of comparison goods will be restricted to not more than 40% of the net sales area.

Any comparison retail floor space provided shall not be accessed separately to convenience floor space nor operated by a different retailer and notwithstanding the provisions of Class A1 to the schedule of Town and Country Planning (Use Classes Order) 1987 (or any subsequent re-enactment) there shall be no sub-division of the supermarket retail food store to form separate retail stores.

Reason: In the interest of protecting the vitality and viability of York City Centre and to ensure future retail proposal do not have an adverse effect on the vitality and viability of defined centres to accord with advice within the National Planning Policy Framework and the National Planning Policy Guidance.

21 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 paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. INFORMATIVE:**

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 278 - Michael Kitchen (direct dial 551336)

### **2. INFORMATIVE:**

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

### **3. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Negotiated amendments to the site layout
- Discussed highway issues resulting in the receipt of an amended Transport Assessment

- Discussion of retail issues and request for response to concerns raised by objectors

**Contact details:**

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