

Reference: 06/15/0390/F

Parish: Great Yarmouth

Officer: Mr D.Minns

Expiry Date: 11-09-2015

Applicant: EOPII Prop Cop.I S.a.r l

Proposal: Variation of Planning Condition No.4 of planning permission 06/98/0969/O to allow the sale of bulky goods use of builders yard for 4 retail units

Site: Thamesfield Way(B&Q site)
Great Yarmouth.

REPORT

1. The Proposal

1.1 This application is seeks to form four retail units within the area of the existing builders yard. It also includes external alterations to form separate entrances and display windows and roof over the existing garden centre which would form part of the retained retail area for B&Q. In addition, it proposes to vary the condition that currently controls the sales of goods from the building to enable a wider range of goods to be sold from the proposed units. The proposals seek to utilise the existing retail floorspace within a rationalised B&Q unit, to allow the sale of a wider range of bulky goods from a DIY baseline.

1.2 The application site comprises part of the B&Q Warehouse, rear service yard and builder's yard at the Pasteur Retail Park in Great Yarmouth. The wider retail park comprises five retail units arranged in a single terrace, with a dedicated customer car park. The retail park includes the B&Q Warehouse, Tapi, Pets at Home, Home Bargains and Argos. The site is located in an out of centre location in retail planning terms, being located approximately 1.4 kilometres west of Great Yarmouth town centre.

1.3 The existing B&Q DIY warehouse has a total gross floor area of 11,763sqm of which 1,894sqm comprises the builders merchant element, 2,158sqm comprises the garden centre area, and 7,711sqm the internal sales area. The proposal is for the subdivision of the premises to form 4 new retail units consisting:-

- Unit A - 1765sqm
- Unit B – 802sqms
- Unit C – 700sqm
- Unit D – 470sqm
- = Total 3737 sqm

The remaining floor area is proposed as a smaller B&Q unit but subject to the existing DIY sales condition.

1.4 Planning Permission (06/98/0969/O) was granted in May 2002 for the A1 retail store, garden centre assoc. car parking & community facilities and subject to 15 conditions. Condition 4 of Planning Permission 06/98/0969/O attached to the permission restricts the range of goods to be sold to the following:-

“ The premises shall not be used otherwise than for the sale of goods consisting of DIY products, DIY home improvements ,building products, garden products including garden furniture and accessories and plants ,together with a coffee shop as ancillary to the main use unless the prior approval of the Local Planning Authority”.

1.5 The reason for the condition is that ‘ the site is outside any area zoned for shopping development in the Great Yarmouth Borough Wide Local Plan’

1.6 The permission did not preclude sub-division of the unit nor did it restrict any permitted development rights.

1.7 As submitted the application proposes to utilise the operative goods restriction that controls the southern retail terrace (ref. 06/14/0153/F see planning history below),this was granted in May 2014 to modify condition 4 of the operative permission to read as follows:-

“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products, garden products and plants, pets and pet supplies, carpets and floor coverings, furniture, home furnishings, electrical and gas products, vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and related to the main goods permitted.”

1.8 In the planning and retail statement submitted with the application states that the application will protect existing local jobs and create up to 46 full time equivalent new jobs and that significant weight should be placed on the need to secure sustainable economic growth and employment.

The statement also states that:

1.9 “Specifically this application is being pursued to ‘right size’ the B&Q unit, following a nationwide programme of store optimisation. This follows confirmation from B&Q that their unit at Pasteur Retail Park is significantly ‘oversized’ which brings its future viability into question. Officers will be aware of the recent closure of the B&Q in Lowestoft and the resultant job losses. This only seeks to highlight the importance of providing flexibility to ensure both the protection of jobs and commercial longevity of the store.

1.10 Given the very limited number of retailers able to trade under a DIY goods restriction, it is necessary to widen the appeal of the retail floorspace and vary the goods restriction to allow the sale of bulky comparison goods. This is not only in keeping with the wider Retail Park, but will also attract retailers suited to out of centre locations who trade from large floorplates with the need for adjacent car parking. The proposed will therefore create units that will complement, not compete, with Great Yarmouth Town Centre. Indeed, the end goal is to attract new bulky goods retailers that cannot be readily accommodated in traditional town centre units.

1.11 It should be highlighted from the outset that the proposals give rise to relatively few issues given their scale and nature. The application also benefits from a strong precedent with an almost identical application granted in 2008 (ref. 06/03/1112/F). That application proposed the creation of 3no. retail units from within the B&Q unit and builders' yard, including the wider sale of bulky goods. As such, this application follows on from a previously accepted proposal for a very similar development which was not implemented."

1.12 The main purpose of the applicant's this current Planning and Retail Assessment (PRA) is to address the planning and retail considerations arising from the proposals. The PRA makes the following points:

- ☐ No new floorspace is being created;
- ☐ Subdivision is not precluded by condition and a minimum unit size of 465 square metres is proposed;
- ☐ the existing retail unit is an established and accepted destination for bulky goods retailing;
- ☐ a very similar application was approved in 2008 which was never implemented – precedent is clearly established;
- ☐ the Council has recently accepted there are no sequentially preferable sites following the grant of consent to allow Home Bargains to trade from Unit 3, Pasteur Retail Park (ref. 06/14/0153/F);
- ☐ the external alterations proposed are consistent with the design of the existing building;
- ☐ the retail park benefits from a large car park (345 spaces) which is significantly underutilised; and
- ☐ The additional range of bulky goods proposed will allow new national multiple retailers to enter the Great Yarmouth market that will improve choice and competition, and provide floorspace to meet any outstanding requirements for this sector.'

1.13 The application is also accompanied by a Flood Risk Assessment, Noise Assessment and Transport Statement. This covered later in this report.

2.0 Relevant Planning History

2.1 Planning permission for the B&Q unit was granted on 27 March 2002 (ref. 06/98/0969/O) subject to the condition 4 set out in para 1.4 above.

2.2 Application - ref. 06/06/0704/F - was submitted on 4 August 2006 to vary condition 4 of permission ref. 06/98/0969 to enable the subdivision of the B&Q unit and to allow the sale of bulky comparison goods.

2.3. Planning Permission was granted for the subdivision of the B&Q unit (app ref 06/06/0704/F-) Permission was granted on the 23 April 2008 subject to the condition referred to below amongst others . The consent was never implemented and the permission lapsed in 23 April 2011

Condition 2- The elevations shall be carried out in accordance with the revised elevations Drawings no.5069/104C and letter dated 15th April 2008 and the detail thereon; The floor plan in accordance with Drawing no.5069/102E with the application site according with the red line around units 2,3 and 4. The reason for the condition is :- For the avoidance of doubt and in accordance with the submitted plans.

Condition 3 Units 2 and 3 shown yellow on the approved plan shall only be used for sale of bulky comparison goods consisting of building and DIY products; garden products and plants, pets and pets, supplies, furniture, carpets, floor coverings, electrical and gas; vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and relate to the main use permitted. Unit 4 shown as green on the approved plans shall not be used otherwise than for the sale of goods consisting of DIY products, DIY home improvements, building products, garden products including garden furniture and accessories and plants. The reason for this condition:- For the Local Planning Authority to retain control over the goods sold in order to minimise the impact of the development on the vitality of the town centre.

Condition 5 - No mezzanine floors shall be inserted in the buildings/units hereby approved without the prior written approval of the Local Planning Authority. The reason for the condition is:- For the Local Planning Authority to retain control over the development and to protect the vitality of the town centre.

Condition 6 -The units hereby approved shall not be sub-divided in anyway without the prior written approval of the local planning authority. The reason for the condition is :- In accordance with the approved plans and for the local planning authority to assess the implications of any such proposal in the context of its retail strategy.

2.4 Application 06/12/0740/EU Application for a certificate of lawfulness validity of Condition 4 of PP: 06/98/0969/O to allow unit 1 to be used for unrestricted use within use class A1. This application was refused and dismissed on appeal.

2.5 There are a number of applications relevant to this application within the retail park. Planning permission for the retail terrace south of B&Q was granted on 15 August 2003 (ref. 06/03/0538/F) and the applications referred to below are applicable to the southern terrace. The description of development as it appears on the decision notice reads as follows:

"A1 non-food retail warehouse units with access and service roads, car park, landscaping and associated services"

The permission was subject to 13 conditions. Condition 3 of the permission restricts the use of the unit as follows:

"The premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products; garden products and plants, pets and pet supplies, furniture, carpets, floor coverings and household furnishings, electrical and gas; vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and related to the main goods permitted."

2.6 Planning application ref. 06/03/1112/F was submitted on 2 December 2003 to vary condition 3 of permission 06/03/0538/F to enable Unit 5 to be occupied by the national catalogue retailer, Argos. Permission was granted on 15 March 2004 and condition 1 sought to control the sale of goods from the unit:

"The premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products; garden products and plants, pets and pet supplies, furniture, carpets, floor coverings and household furnishings, electrical and gas; vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and related to the main goods permitted; all other non-food goods, with the exception of fashion clothing and footwear, may also be sold by a catalogue retailer only."

2.7 Finally, planning permission was granted on 2 May 2014 (ref. 06/14/0153/F) to modify condition 1 of planning permission 06/03/1112/F to allow unit 3 to be occupied by the national discount retailer, Home Bargains. The permission allowed the sale of a softer range of comparison goods.

Condition 1 of the permission provided the modified goods restriction, stating: *"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products, garden products and plants, pets and pet supplies, furniture, carpets, floor coverings and household furnishings, electrical and gas products, vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and related to the main goods permitted; all other non-food goods, with the exception of fashion clothing and footwear, may also be sold by a catalogue retailer only. The exception shall be Unit 3 (as identified on drawing Q40357/Q01) which shall also be used for the sale of household products (from an area of no more than 142 square metres); health and beauty products and medicines (from an area of no more than 142 square metres); games and toys (from an area of no more than 142 square metres); and food and drink (from an area of no more than 426 square metres)."*

2.8 06/12/0741/EU Application for a certificate of lawfulness validity of condition 3 of PP: 06/03/0538/F to allow units 2 - 4 to be used for unrestricted use within use class

2.9 06/12/0742/EU Application for a certificate of lawfulness validity of condition 1 of P.P: 06/03/1112/F to allow unit 5 to be used for unrestricted use within use class A1
Both applications were refused and dismissed on appeal.

3.0 CONSULTATIONS :-

3.1 Neighbours/Article 8 Advert – 1 response from Town centre Partnership.
(Copy attached) In summary it is concerned that any additional out of town retail will have a negative impact upon an already fragile town centre, that has seen footfall decline annually as a result of existing out of town developments on Gapton Hall and Thamesfield Way.

3.2 Since the last approval in 2008 and not implemented Great Yarmouth Town Centre and Great Yarmouth Town centre, not unlike many other town centres nationally, is in a much more distressed state that it was 7 years ago with footfall down some 25% and vacant retail units at an all-time high of 15%.

3.3 The application should be restricted strictly to bulky goods and not goods sold in the town centre which would impact upon the viability of the town centre that is the trading area for local independent and national traders.

3.4 Representation from Savills on behalf of Ellandi owners of Market Gates

3.5 The Ellandi submission addresses this application and the recent Pasteur Retail application making a distinction between the two applications. In as far as this application is concerned it relates to an existing retail unit within an established retail park and as such already has a call on local expenditure. Moreover they envisage the EOP proposal has the scope to deliver the space that is required to accommodate both Dunelm and AHF – the two occupiers envisaged to take occupation on the land previously applied for on the recently refused Pasteur Road application.

3.6 They state that this proposal is not however fully acceptable because it fails on a number of counts to appropriately restrict the types of goods and / or users that could take occupation of space within the rationalised B&Q unit. It is, in effect, an entirely speculative application with no named operators. In order to arrive at a position whereby Ellandi would not object to the EOP proposal, further consideration of the controls to be applied to the space should be undertaken.

3.7 This includes the strengthening / refinement of the current proposed goods restriction condition and the removal of permitted development rights to safeguard against the insertion of mezzanines and future sub-division (dependent on end users if these can be confirmed). Further information is also required as to the anticipated tenant line up for the scheme and there is a need to expand upon the Applicant's proposed minimum unit size threshold (465 sq m). This is because as the proposal currently stands, more than four retail units could be created within the space - all of

which will have the ability to sell a range of goods which will be in direct competition with Great Yarmouth Town Centre as we demonstrate below.

3.8 In addition to the above, they note that this application seeks to vary Condition 4 attached to an extant Planning Permission Ref: 06/98/0969 for the development of the B&Q unit and builders yard. They state

“However, the red line site location plan (Drawing No. PL-10) submitted by EOP in support of this application appears to cover only part of the existing B&Q retail unit – i.e. the area to be carved up into separate units. Whilst we understand the rationale for submitting the plan in this form, the correct approach in our view would be for the red line to echo that of the original red line plan which was Approved under Planning Permission Ref: 06/98/0969.

3.9 Condition 4 would then be varied to permit the sale of a broader range of goods from the carved up space (as appropriate) and also to restate the existing DIY goods restriction that would remain applicable to the downsized B&Q unit. The decision notice would also repeat the relevant conditions from the original planning permission (alongside any new conditions), unless they have previously been discharged. This would ensure there is no ambiguity associated with the Permission for the site.

3.10 If in the event EOP is able to overcome our concerns regarding the restrictions to be imposed on the rationalised B&Q unit and indeed the format of the application, we find there to be a clear and distinct rationale for GYBC to approve this application. Namely:

- the EOP proposal relates to an existing retail unit within an established retail park which already has a command over local expenditure;
- the EOP scheme could be regarded as more sustainable than that of the PRP scheme insofar as it offers the opportunity for linked trips within an existing retail park;
- the EOP scheme would have a lesser impact on the Borough's network of centres owing to its smaller size – furthermore it does not include additional A3 uses which would act as a further draw on trade, to the detriment of Great Yarmouth Town Centre;
- the EOP proposal will ensure the retention of B&Q thus preserving existing local jobs. “

3.11 Highways England – The development will not adversely affect the A12 trunk road at this location and the Highways Agency does not intend to issue a direction and would not wish to comment further on the application.

3.12 County Highways – No objection subject to conditions - regarding car parking, construction management and wheel cleaning facilities

3.13 Environment Agency – No objections

3.14 Chamber of Commerce - No objections to the application

3.15 Norfolk Constabulary – There is a lack of detail regarding security measures – I would recommend a number of recommendations designed to prevent forced entry, vehicle mitigation measures barriers to new entrances, dusk to dawn lighting and to 2015 Secured by Design standards lighting cycle stands should be to Secured By Design Commercial development Standards

3.16 Environment Health – No comment received

3.17 Norfolk Fire and Rescue – do not propose to raise any objection providing the proposal meets the current necessary requirements of the Building Regulations.

3.18 Building Control – No adverse comments

4.0 Planning Policy Context

4.1 National Planning Policy

4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.3 The NPPF recognises the need to ensure the vitality of town centres. In paragraph 23 it states: 'Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- Promote competitive town centres that provide customer choice and a diverse retail offer which reflect the individuality of town centres; and
- Allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre.'

4.4 Para 24 states: 'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to 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 proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and

local planning authorities should demonstrate flexibility on issues such as format and scale.'

4.5 Para 26 states: 'When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.6 This should include assessment of:

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

4.7 Para 27: Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

4.8 Local Planning Policy Context

4.9 The Great Yarmouth Borough Wide Local Plan 2001 includes saved policies which were given full weight for a protected period for 12 months following publication of NPPF in March 2012. However from March 2013 existing policies and the amount of weight that can be given to the saved policies is dependent on their degree of consistency with the NPPF the main policy SHP1 applicable to retailing was not saved and removed..

4.10 The most up to date and relevant local plan policies to be considered here and are contained in the Great Yarmouth Borough Wide Local Plan 2001 and the emerging Core Strategy (May 2015)

4.11 Of the saved policies set the most relevant to this application are set out below
Saved Great Yarmouth Borough-Wide Local Plan Policies (2001):
the town.

4.12 Core Policy CS7 – Strengthening our centres

b) Seek to allocate in accordance with the retail hierarchy and the sequential approach between 2,152,sqm (net) and 4,305sqm (net) of new 'food' shopping floorspace, and up to 8,865 sqm (net) of new 'non-food' shopping floorspace, in identified opportunity sites in the borough, up to 2031 in accordance with the retail hierarchy and sequential approach

c) Promote the extension of Great Yarmouth's centre to include The Conge and

parts of North Quay as a mixed-use development scheme through Policy CS17 and the Great Yarmouth Waterfront Area Supplementary Planning Document

f) Ensure that all proposals for town centre uses outside of defined centres demonstrate that there are no sequentially preferable sites available and that the proposal can be accessed by sustainable transport. Proposals over 200sqm (net) will also be required to submit a Retail Impact Assessment demonstrating that there will be no significant adverse impact on existing designated centres, including those beyond the borough boundary such as Lowestoft.

4.13 Core Policy CS17 – Regenerating Great Yarmouth’s Waterfront

The Waterfront area in the heart of Great Yarmouth has the potential to become a vibrant urban quarter that utilises its rich heritage and prime urban riverside location to create a unique and high quality environment for housing, shopping and offices which is attractive to investors and visitors as well as new and existing residents. To help realise this vision, the Council is preparing the Great Yarmouth Waterfront Area Supplementary Planning Guidance which seeks to [inter alia]:

b) Identify appropriate development sites within the Waterfront area for approximately:

- 14,200m² of retail and leisure floorspace, promoting the mixed-use regeneration of disused and other under-used sites (of which at least 5,050m² is anticipated to be delivered within the plan period)

5.0 Other supporting studies

5.1 Great Yarmouth Retail Study (2011, Strategic Perspectives)

5.2 The Great Yarmouth Retail Study was undertaken in 2011 as an update to the Great Yarmouth Borough Council and Waveney District Council Retail and Leisure Study (2006). The update specifically focussed on the Great Yarmouth Borough area. The Study provided advice on the appropriate scale and type of new retail (convenience and comparison goods) that can be reasonably accommodated in the Borough and its main centres over the development plan period to 2031.

5.3 In terms of comparison goods (which form the bulk of this planning application) the Study identified the potential capacity for new comparison goods floorspace in 2016 as 4,459 sqm. This capacity increases to 19,110 sqm by 2026 and 27,672 sqm by 2031.

5.4 In detail, the Study highlights the need to improve and consolidate comparison (and convenience) goods floor space in Great Yarmouth in line with its role as an important Town Centre, furthermore the Study recommends that the Council should carefully consider future planning applications in accordance with national, regional and local planning policy, balancing the potential for town centre and edge of centre sites to accommodate all or some of the forecast capacity in compliance with the sequential approach as well as the likely cumulative impact of new development on the overall vitality and viability of the town centre.

5.5 In the short to medium term the Study considers that in Great Yarmouth, The

Conge and North Quay present the most appropriate location for new mixed uses including retail and commercial leisure uses.

5.6 Retail Planning Refresh Great Yarmouth

5.7. A 'capacity refresh' of the 2011 Retail Study to take in to account productivity growth rates and the rise in internet shopping was undertaken in 2014 by Strategic Perspectives. As a result, the refresh significantly altered the expected capacity for new comparison goods floorspace from negative 660 sqm in 2019, 4,663 sqm in 2026 and 8,865 sqm in 2031.

5.8 A further capacity refresh was undertaken by Carter Jonas (27 July 2015) shows and concluded that there was no forecast capacity for new comparison goods retail floorspace until 2021 and that the forecast capacity up to 2031 has risen to 10,814 sqm net. For convenience goods, after taking in known commitments, there is a fall in capacity compared with the findings of the 2014 refresh.

5.9 Carter Jonas were commissioned to carry out an independent review and appraisal of this application along with the Pasteur Road application (refused at the last committee meeting) The author behind the reports is consistent in both cases. Carter Jones is also involved in the master planning of the town centre.

6.0 Appraisal

6.1 In terms of the physical alterations to the building there are no design issues of note. The alterations are in keeping with the original design of the retail unit and indeed can be seen as adding to the original design by introducing new elements that break up the large areas of brick work and adding relief to the building. The roofing over of the garden centre area continues the same themes and roof line of the building.

6.2 Norfolk Constabulary have put forward useful guidance and recommendations in terms of designing out crime.

6.3 In reviewing the consultation responses there are no concerns from Highways England and the County Council in terms of additional traffic movements or impact upon the Highway network . The conditions put forward by the county relate to regarding car parking, construction management and wheel cleaning facilities.

6.4 As mentioned above the application is accompanied by a Noise assessment and its purpose of this is to identify and address any additional noise that may result from the proposal use of the service yard at the rear of the building and impact on the residential properties to the rear of the service yard. The conclusion reached is that there should no significant adverse impacts.

7.0 Retail Impact

7.1 Carter Jonas were commissioned to undertake an independent review of this application both for its individual and cumulative impact along with Pasteur Road

application considered at the September development control meeting. Carter Jonas have considered the application in terms of Planning Policy, Sequential Site Appraisal, Impact upon the Great Yarmouth and Gorleston town centres in terms of expected trade draw, health of the centres and trade before reaching a conclusion..

7.2 Highlighted in the review is the following:

7.3 'On this basis of both the quantitative and qualitative analysis outlined above, we consider that Great Yarmouth town centre is vulnerable to competition from other competing centres and out-of-centre locations, the growth in internet shopping, and the long term effects of the economic recession on investor, business and consumer confidence. Vacancies in the town centre remain high; it has lost a number of key retailers over recent years (most recently, and most significantly, Marks & Spencer); there are a number of retailers on short term leases; and a number of retailers will be vulnerable to further loss of trade.

7.4 It is against this background that we have considered the likely trade draw to the application proposals from the Borough's main town centres, and the likely impact of the forecast trade diversion and impact on their overall vitality and viability and investor confidence.

7.5 Having considered the impact of both the proposals on Great Yarmouth town centre and Gorleston it is clear that both proposals will impact on Great Yarmouth and, to a lesser extent, Gorleston town centres, with some trade diversion inevitable and an impact on town centre vitality and viability and investor confidence.

7.6 In our judgement the B&Q application has the potential for a greater impact on the town centre given the lack of named occupiers and the smaller size and number of units proposed. The trade division set out in the Quod (B&Q)PRA is similar to that expected from the Pasteur Road proposal but, as has been shown, this could be a significant under-estimate. Further there is an increased risk that the scheme could attract existing town centre retailers to relocate, or occupiers who would otherwise consider a town centre location.

7.7 Whilst it is considered unlikely in practice that all four units would be taken by such occupiers, the loss of any further key retailers from the town centre would be a concern both in terms of the vitality and viability of the centre and investor confidence.

7.8 Some of these risks could be reduced by the application of conditions controlling the end users more restrictively than Quod(B&Q) propose, and by changing the proposed mix and number of units to include fewer, but larger units. There is also the potential for a legal agreement to ensure occupiers are new to the area. However this would not fully address the risks in our view.

7.9 On this basis we would advise that the B&Q application as currently submitted should not be approved. Instead we would suggest the Council engage with the applicants to see if any further information can be obtained on the likely occupiers and uses, to allow a better understanding of the extent to which the proposed

development would complement, rather than compete with Great Yarmouth town centre

7.10 On this basis further dialogue has been entered into with the applicants. The applicants have responded.

8.0 Applicants Response

8.1 The applicants have responded stating:-

'From the outset we should highlight that there is no acknowledgement by Carter Jonas that the Council has previously granted consent for an almost identical proposal in 2008 (LPA ref. 06/06/0704/F). This application was not supported by named retailers and sought to create a similar number of units selling bulky goods. Officers will appreciate that it is not uncommon for retail development to be speculative with no retailers committed. This is reflected by the planning history of the application site. Whilst a speculative scheme does leave some question over the precise level of impact, Carter Jonas agree with the average sales density we have applied, which is consistent with a range of retailers selling the bulky goods that have been sought. Having agreed this, the level of trade draw is then questioned, despite controls proposed to limit the development to the submitted retail assessment.

8.2 Critically, it is the range of goods that are permitted to be sold that should form the basis to assessing whether an application is acceptable in retail planning terms. Indeed, whilst the proposal by Pasteur Retail Park Limited referred to two named operators, there is no certainty that these retailers will occupy the floorspace, and even if they do, whether they will trade from this location for any prolonged period of time. This is not within the Council's control and neither retailer had legally committed to the site.

8.3 Given this, conditions attached to any permission will be a very relevant factor as it links the permission to the impact and sequential assessment undertaken. The range of goods proposed to be sold will predominantly 'bulky goods' and the development will not compete with the town centre retail offer.

8.4 It is important to note that it is not proposed that the floorspace will be able to sell homewares, hobbies/crafts and sports goods. Notably, comments made on our application by Savills (letter dated 4 September 2015) on behalf of Ellandi LLP (the owners of Market Gates Shopping Centre) highlighted that the sale of such goods will compete directly with Great Yarmouth Town Centre on a like for like basis. The fact that such goods are not proposed to be sold provides an important distinction between the town centre offer and that being proposed.

It is also important to reiterate that:

☐ *Our proposal is for the re-occupation of existing floorspace rather than seeking to create new floorspace as is the case with the Pasta Foods proposal by Pasteur Retail Park Limited;*

☐ *Unlike the proposal by Pasteur Retail Park Limited, our proposal does not include A3 uses that could compete with the town centre (as acknowledged by Savills);*

□ The level of floorspace this application relates to (3,738 square metres) is significantly less than that of the Pasteur Retail Park Limited proposal (6,528 square metres); and

□ Savills on behalf of Ellandi LLP recognised that our proposal is likely to have a lesser impact than the Pasteur Retail Park Limited proposal; and

□ The Town Centre Partnership has not objected to our application, again, unlike the Pasteur Retail Park Limited application – this stakeholder's views cannot be ignored.

8.5 For these reasons, we strongly believe that our proposal will not lead to a significant adverse impact on either Great Yarmouth or Gorleston town centre (the policy test), and any impact would be less than that identified for the application being promoted by Pasteur Retail Park Limited.

8.6 Notwithstanding our fundamental concerns with the assessment undertaken by Carter Jonas in appraising the two applications, in response to the issues raised together with the comments made by both Ellandi LLP and the Town Centre Partnership (two key local stakeholders), we can confirm that the applicant is agreeable to amend the wording of Condition 4 to prevent the sale of 'home furnishings' from the existing floorspace.

8.7 Accordingly, we propose that Condition 4 of the operative permission set out in the Planning and Retail Assessment (para. 3.15) be amended as follows:

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any Order revoking or re-enacting that Order, the premises shall only be used for the sale of bulky comparison goods consisting of building and DIY products, garden products and plants, pets and pet supplies, carpets and floor coverings, furniture, electrical and gas products, vehicle accessories and parts, bicycles and cycle accessories, office supplies, computers and accessories and boating equipment (excluding boats) and any other goods which are ancillary and related to the main goods permitted."

This condition is not dissimilar to the condition proposed on the recently refused application on the Pasta Foods site, which was proposed by Carter Jonas.

8.9 We can also confirm that the applicant is willing to accept a condition restricting the minimum unit size that can be provided. In this respect, we suggest the following condition:

"No retail unit shall have a ground floor gross internal area of less than 465 square metres and a maximum of 2no. retail units shall have a ground floor gross internal floor area of less than 650 square metres."

The condition effectively allows only 2no. units of between 465 and 650 square metres.

8.10 The minimum unit size was considered to be acceptable then, but now different advice is being provided, which does concern us. Controls on mezzanine floorspace could be imposed, but we would request that this does not prevent the installation of 200 square metres non-trading mezzanines. Finally, in response to the issue raised by Savills on behalf of Ellandi LLP, we can also confirm that the downsized B&Q store will continue to be subject to the same existing restriction on the range of goods permitted to be sold (i.e. restricted to the sale of DIY goods and related products only). This can be controlled by condition.

7.21 Such conditions will provide further comfort to the Council that the application proposal will not lead to a significant adverse impact and will provide a retail destination that complements the existing town centre.'

9. Further Assessment by Carter Jonas

9.1 In response Carter Jonas have been instructed to consider whether the applicants response addressed the key retail planning issues by the Carter Jonas in their Retail Planning Appraisal of the application. The findings are attached to the report.

9.2 First, Quod draw the Council's attention to the previous application for B&Q which was granted permission by the Council in 2008 (reference: 06/06/0704/F). We are fully aware of this permission, but have placed no weight on it for the purpose of our assessment of the current application for a number of reasons; it was not implemented, the permission has expired and, in any case, the permission was granted some seven years ago before the full impact of the recession on the UK's town centres, including Great Yarmouth, and before the significant growth in internet retailing on shopping behaviour and retail sales.

9.3 Second, we strongly disagree with Quod's assertion that the proposed floorspace will not compete with the town centre's retail offer, even with the suggested 'bulky goods' conditions proposed in Quod's PRA. As we set out in Section 5 of our RPA, there are a number of key retailers currently trading in the town centre selling similar goods that will overlap with the application proposal. These retailers represent a significant proportion of the floorspace and occupied units in the town centre. Third, although we note that Quod has addressed some of our concerns with regard to the wide range of goods that could be sold from the existing B&Q floorspace by amending the wording of Condition 4 to prevent the sale of 'home furnishings' from the existing floorspace, the revised condition would still allow for the sale of a wide range of goods currently sold by retailers in the town centre, including:

- ☐ Building and DIY products
- ☐ Garden products and plants
- ☐ Pets and pet supplies
- ☐ Carpets and floor coverings
- ☐ Furniture
- ☐ Electrical and gas products
- ☐ Bicycles and cycle accessories
- ☐ Office supplies
- ☐ Computers and accessories

9.4 In addition, the revised condition would also still allow for an unspecified quantum of “any other goods which are ancillary and related to the main goods permitted”.

9.5 The Council will be aware that the agreed conditions put forward to Committee for the retail floorspace at Pasteur Road were specific to the range of goods to be sold by Dunelm Mill in Unit 1, and for Units 2 and 3 the range of goods to be sold was restricted to:

- ☐ Building and DIY products
- ☐ Garden products and plants
- ☐ Kitchens and bathrooms
- ☐ Furniture, carpets and floor coverings
- ☐ Motor vehicle accessories and parts
- ☐ Bulky electrical goods and
- ☐ Boating equipment (excluding boats).

9.6 We do not therefore consider that Quod’s letter of 2nd October addresses the key concerns we raised in our September 2015 RPA with regard to the lack of named occupiers, the number of units (four) proposed and the range of goods that could be sold from the newly created retail floorspace. Even after taking into account the removal of ‘home furnishings’ from the suggested condition, we still nevertheless believe that there is a clear and present risk that the scheme could attract existing town centre retailers to relocate to the new floorspace, and/or attract occupiers that would otherwise take up a town centre location.

9.7 In our judgement the significant adverse impact on the town centre’s vitality and viability, and on existing, committed and planned public and private investment arising from the potential loss of existing retailers and/or new retailers to the application site, means that it does not satisfy the impact ‘test’ set out in the NPPF (paragraph 27).

9.8 Notwithstanding this, it is for the Council as decision-taker in this case to weigh all the economic, social and environmental impacts of the application proposal in the balance in its overall assessment and determination of the application proposal. These benefits are listed by Quod (applicants agents) in both their PRA and letter of 2nd October and are not repeated here.”

9.9 A further response from the applicants agents Quod is attached to the report.

10 Conclusion

10.1 The advice from Carter Jonas is as set out Para 8.7 above is clear that the application should not be supported in its current form for the reasons set out

10.2 Para 8.8 above highlights the fact that Members in decision making should weigh in the balance the economic, social and environmental impacts of the application.

10.3 It is fact that the building exists and that there is a baseline permission that permits a range of goods to be sold albeit the range of goods to be sold are restricted by condition.

10.4 There is also clear evidence that B&Q owners have been reviewing a number of stores across the country and the associated retail space occupied by those stores. This has been evidenced in the national and local press with an announcement earlier in the year that some 60 stores were to close across the country. Most recently it was announced that the store in Lowestoft is to close in January next year.

10.5 Whilst it there is no indication this store would suffer the same fate the applicants have stated that the reduction in the size of the store would help protect the existing jobs whilst creating up to 46 new full time jobs and bring new trade to the area thereby increasing the retail offer

10.6 The applicant considers that because the goods proposed will be predominantly 'bulky goods' that this will not compete with the town centre retail offer.

10.7 This has to be balanced against the recommendation from Council's retail consultants that this proposal has the potential to have a significant adverse impact upon the town centre in terms of vitality and viability and jobs.

10.8 The small size of the retail units proposed also have the potential for a number of town centre retailers currently trading in the town centre to relocate out of town to these new units because of the potential range of goods to be sold. They also state that these retailers represent a significant proportion of the floorspace and occupied units in the town centre. As a result there is risk and potential significant harm to the town centre and the arguments put forward by the applicants do not outweigh this position.

10.9 As a result, the proposal does not satisfy the 'sequential test' set out in paragraph 27 of the National Planning Policy Framework.

9.7 It is therefore concluded that the application - as submitted - should be refused because of the risks and potential significant adverse impact to the town centres of Great Yarmouth and to a lesser extent Gorleston.

RECOMMENDATION :- Refuse on the basis that the committed and planned public and private investment arising from the potential loss of existing retailers and/or new retailers to the application site, means that it does not satisfy the impact 'test' set out in the NPPF (paragraph 27).

Should members be mindful to approve the application taking into account the wider economic, employment and social benefits of the scheme then conditions should be proposed to restrict the use of the units to 'bulky goods' only incorporating the suggestions put forward in paragraphs 3.2 to 3.9 as part of the consultations.

Dean A. Minns

From: Tim Rainbird <tim.rainbird@quod.com>
Sent: 13 October 2015 08:04
To: Dean A. Minns
Cc: Adrian Fox; Tom Woolner
Subject: Pasteur Retail Park (ref. 06/15/0390/F) - Comments on CJ letter dated 9 October 2015

Importance: High

Good morning Dean,

Having now digested CJ's letter I thought it would be useful to share my final thoughts with you, which you will hopefully read before your committee report is finalised this morning.

To summarise, CJ's principal concerns surrounding the proposals are two-fold:

1. An increased risk that the scheme could attract existing town centre retailers to relocate to the proposed Floorspace; and/or
2. Attract occupiers who would otherwise consider a town centre location.

In light of these two points and the associated trade diversion that would result, CJ's view is that the loss of any further key retailers from the town centre would be a significant concern both in terms of the impact on the centre's vitality and viability, and on investment confidence. CJ goes on to conclude that in view of this the proposal is likely to result in a significant adverse impact on both the vitality and viability of the town centre, and on existing, committed and planned public and private investment. Investor confidence is specifically highlighted, yet there is no acknowledgement of the clear views expressed by both Ellandi and the Town Centre Partnership, with both key stakeholders expressing tentative support, subject to the imposition of conditions.

I should start by pointing out that *no retailer has ever relocated from the town centre to Pasteur Retail Park*; such a move would therefore be unprecedented. Notwithstanding, the point could easily be overcome by imposing a condition on the permission which would prevent any town centre retailer (defined as trading within the defined Primary Shopping Area) from relocating to the Park say within 5 years of the grant of consent. This condition would pass the tests of validity and directly overcome one of two key concerns held by CJ.

The second point, regarding the attraction of retailers to the Park that might otherwise consider a town centre location, is unfounded in our view. CJ assert that a significant proportion of the floorspace and occupied units in the town centre sell the goods that are proposed within the suggested planning condition. Whilst no evidence of this has been provided, we would strongly contest this point on the basis that a retail park offers a uniquely different retailing pitch compared to the town centre. Large, clear internal floorplates served by immediately accessible surface level car parking is a distinguishing feature that separates the two locations, and is evidence of the fact that they provide very different retail offers. This is further evidenced by the existing retailer representation on the retail park and indeed the most recent letting to the national carpet retailer, Tapi, who took the former Paul Simon unit at 5,000 square feet (465 square metres). Tapi could not have been accommodated in the town centre, so Pasteur Retail Park was able to accommodate a new retailer requirement in an established retail destination. This is exactly the type of letting that we expect to take place in the new units to be created.

Home Bargains equally could not be accommodated in the town centre, and they sold a far wider range of goods that the Council approved, following support from the Town Centre Partnership.

In view of recent lettings at the Retail Park it is very clear that it provides accommodation that is not available in the town centre, therefore allowing new retailers to enter the market. If the retail park did not exist, these retailers would be lost and Gt Yarmouth would not benefit from the increased consumer choice and the much needed new jobs. It does not make sense to suggest that the creation of additional, similar retail units to that which already exist will threaten the town centre; the site serves an acknowledged need that cannot be met within the town centre. By preventing new space from being created in an already well established retail destination will in my view undermine

investor confidence given the barrier to entry that will exist owing to the lack of suitable floorspace beyond the town centre.

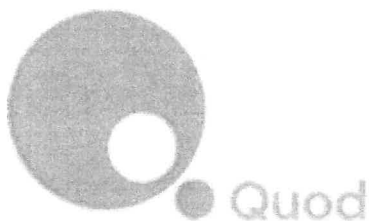
Taking the above into account I would strongly urge you to recommend the application for approval, subject to the additional condition cited above which would prevent retailers relocating to the retail park. This development represents a very good opportunity for Gt Yarmouth to maintain its attractiveness to the market, by providing more complementary retail units at an existing retail park in a format that cannot be provided within the town centre. This position is not contested by two of the town's key stakeholders both of whom were vehemently opposed to the Pasta Foods applications. Despite this, CJ concluded that the sale of soft furnishings from the Pasta Foods site, which the stakeholders identified would have a greater crossover of goods with the town centre, would not result in a significant adverse impact. The conclusions reached on the application are contradictory and should be treated with a high degree of caution.

I look forward to receiving a copy of your committee report as soon as it become available.

Please can you ensure a copy of this email is placed on the Planning Register.

Regards,

Tim



Tim Rainbird
Director
Tim.Rainbird@quod.com

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Mr Dean Minns
Group Manager
Planning Services
Development Department
Great Yarmouth Borough Council
Town Hall
Hall Plain
Great Yarmouth
NR30 2QF

Dear Mr Minns,

06/15/0390/F Variation of con 4 of PP 06/98/0969/O to allow sale of bulky goods use of builders yard for 4 retail units

On behalf of the Town Centre Partnership's Retail Forum, I would like to make the following comments on the above planning application for the development at 'Pasteur Retail Park', Thamesfield Way, Great Yarmouth, NR31 0DH.

There is great concern amongst our members that any additional out of town retail will have a negative impact on an already fragile town centre that has seen footfall decline annually as a result of existing out of town developments on Gapton Hall and Thamesfield Way.

Whilst we understand that a similar application was approved by Great Yarmouth Borough Council in 2008 and not implemented, Great Yarmouth town centre, not unlike many other towns nationally, is in a much more distressed state than it was 7 years ago with footfall down some 25% and vacant retail units at an all time high of 15%.

This application states that it is for 'bulky goods', however, our concern is that permission, if granted, will not restrict the use of the new premises proposed to the generally accepted definition of 'bulky goods'. The main concern here is that without a strictly defined bulky goods restriction the units may be occupied by retailers selling items that should be considered for town centre only e.g. smaller homeware items such as cookware, tableware, linens, lighting, decorative items, etc. which would impact the viability of the town centre that is the trading area for local independent and national traders retailing these items.

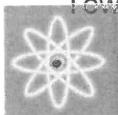
Therefore, any use of this existing retail space must continue to be restricted to the accepted definition of bulky goods e.g. "Goods of a large physical nature (for example DIY, furniture, carpets) that sometimes require large areas for storage or display" and not allow any dilution of the 'bulky goods' restriction to allow the sale of items that could arguably be sold from a town centre location.

Yours sincerely,



Jonathan Newman

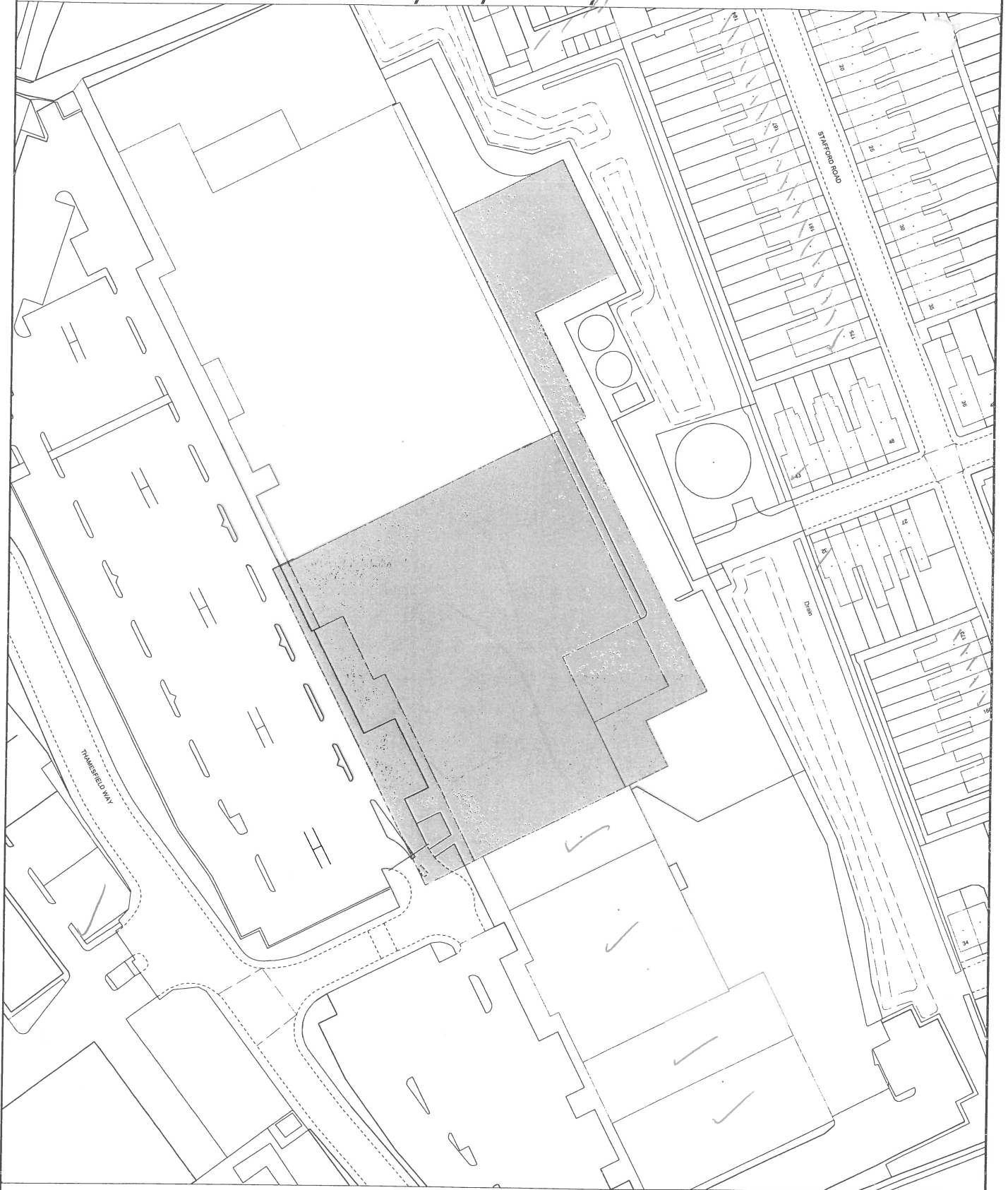
Town Centre Manager



Great Yarmouth
Town Centre Partnership

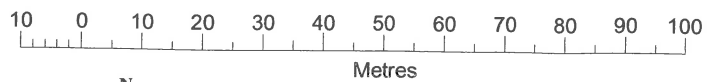


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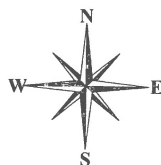


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