

Planning and EP Committee 26 July 2016

Application Ref: 16/00252/FUL

Proposal: Part demolition, alteration and extension including change of use and erection of roof top extension to provide for uses within A1, A3-A5 (shops, restaurants and cafes, drinking establishments and hot food take-away), D2 (assembly and leisure) and other associated works

Site: Queensgate Shopping Centre, Westgate, Peterborough,

Applicant: IREEF Queensgate Peterborough Propco S.a.r.l

Agent: Miss Hannah Fortune

Nathaniel Lichfield & Partners

Referred by: Director of Growth and Regeneration

Reason: The application is of wider public interest

Site visit: 22.02.2016

Case officer: Mrs J MacLennan

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Recommendation: **GRANT** subject to relevant conditions

1 **Description of the site and surroundings and Summary of the proposal**

Site and surrounding area:

The application site is at the north west corner of the Queensgate Shopping Centre ("QSC") which lies at the heart of the city centre retail area. The site primarily involves the area occupied by John Lewis and the former Waitrose store. It covers an area of approximately 1.8 hectares, providing c. 36,000 sqm Gross Internal Area (GIA) of Class A1-A5 floorspace. The site is bounded to the north by Westgate and the 'Westgate Development Opportunity Area', to the south by Cowgate and to the west by the Bus Station, multi storey car parks and Bourges Boulevard beyond. The surrounding area comprises a mix of uses including retail, leisure, and offices and further afield, residential. The site abuts the Park Conservation Area and the City Centre Conservation Area to the north and south respectively and lies in close proximity to a number of listed and locally listed buildings.

The site lies adjacent to the Bus Station and is within a five minute walk of the railway station. There are four multi-storey car parks adjoining the centre which offer 2,300 car parking spaces. The site offers good pedestrian and cycling links to nearby residential properties.

Proposal

This application is a re-submission of a former approved application (15/01013/FUL) for the 'Part demolition, alteration and extension including change of use and erection of roof top extension to provide for uses within A1, A3- A5 (shops, restaurants & cafes, drinking establishments and hot food take-away), D2 (assembly and leisure) and other associated works'. The information submitted with regard to the development itself is substantially the same to that submitted under the former scheme save that a Comparative Viability Study has been submitted and is addressed within the Planning Statement.

The former approved application is the subject of an application for permission to apply for judicial review of the Council's decision to grant planning permission.

The application seeks planning consent for the addition of roof extensions to provide a multi-screen cinema (D2) and food and beverage areas (A1-A5).

Cinema: The Cinema would occupy part of the centre occupied by John Lewis at the second floor and would extend over the former Waitrose unit. An additional floor would be provided by a roof extension above the John Lewis store to create a third floor, including a mezzanine, to provide the cinema. The additional D2 floor space required to accommodate the cinema would be 3729 sqm and an additional 688 sqm for the Mezzanine floor.

The height of roof extension accommodating the cinema element would be 3.7m above the existing Mansard Roof of the John Lewis store to the north. The IMAX element of the cinema would be an additional 3m in height and would be set in from the west elevation of the building by 32m.

Restaurant Cluster: Two additional floors would be added at roof level above the former Waitrose Store to provide for food and beverage uses. The food and beverage area will form a cluster located within the extensions providing 2000sqm at first floor level and 457 sqm at second floor level.

The extension above the former Waitrose Store, the southern element, accommodating part of the cinema and restaurants would have staggered roof heights, the highest element being the cinema at 14.9m.

The roof of the west mall would be removed at the upper ground floor level to be replaced with a full height glazed mall. This would provide natural light and a visual connection to the activity on the upper floors.

Changes are proposed to the John Lewis service yard and 'click and collect' facility to include a ramped access and additional customer parking.

The total gross internal area of the Queensgate Centre following development would be 48,516 sqm; an increase of 6,858 sqm. The following table sets out the composition of floor space/uses within the Centre.

Use	Existing GIA (sqm)	GIA to be lost by change of use or demolitions (sqm)	Total GIA New Floorspace (including change of use) (sqm)	Net Additional GIA following development (sqm)	Total Floorspace
A1 (Retail)	35,849	5,252	64	-5,188	30,661
A3-A5 (restaurants & cafes, drinking establishments & Hot-food takeaways)	242	116	2,450	2,334	2,576
D2 (Leisure)	0	0	4,278	4,278	4,278
Scheme 'other'	5,579	249	5,683	5,434	11,013
Total	41,670	5,617	12,475	6,858	48,528

The overall amount of A1 (retail) floorspace will decrease due to the increase in A3-A5, D2 and other uses including improved pedestrian circulation and dining space.

It is proposed that the QSC car parks would be open later during the evenings to accommodate the

cinema goers.

The malls to the QSC would also be accessible during the evenings providing links to Cathedral Square from Queens Street and Cumbergate providing connectivity through the QSC with the Bus/Rail Station.

Internal reconfigurations:

The proposal would involve internal reconfigurations, the details of which are provided below. The internal works do not require the benefit of planning permission and are explained below for information purposes only.

The works to the centre would involve the reconfiguration of the John Lewis Store and the utilisation of back-of-house areas which are no longer required. John Lewis is retracting its shop floor coverage and Waitrose has relocated which has provided the opportunity for additional retail units. New retail units would be provided on the upper ground floor and first floor levels of the John Lewis store. The former Waitrose store will provide a new retail unit and a circulation core/access to the new restaurant and leisure offer to be constructed above. The roof top extension created above the former Waitrose store would provide restaurants. The restaurants would overlook the west mall with terraces surrounding a double height internal courtyard. The circulation core/access continues on this level to access the restaurants and cinema above on the second floor.

The second floor would accommodate the multi-screen cinema. The cinema lobby would be to the south with the majority of screens accessed via a bridge over the west mall. The Mezzanine cinema level is proposed to link both blocks across the enhanced mall space.

2 Planning History

Reference	Proposal	Decision	Date
15/01013/FUL	Part demolition, alteration and extension including change of use and erection of roof top extension to provide for uses within A1, A3- A5 (shops, restaurants & cafes, drinking establishments and hot food take-away), D2 (assembly and leisure) and other associated works This permission is the subject of a judicial review.	Permitted	16/10/2015
15/00989/ADV	6 no. New, non-illuminated signs to replace existing like for like, all these signs are either external to the mall building or visible from the road	Permitted	07/08/2015
12/01414/FUL	Installation of street furniture at external entrances to Queensgate shopping centre, comprising new PAS rated bollards (static, removable and rising variations), vehicle blockers and PAS rated cycle racks. New gatehouse to be installed at one service entrance	Permitted	26/11/2013
12/01377/NONMAT	Non-Material amendment to planning application 10/01426/FUL - Extension to provide additional retail floor space, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations	Determined	27/09/2012
12/01080/ADV	Two internally illuminated Primark blue external letter signs, one internally illuminated projecting banner sign and four Primark blue vinyl text to glazing	Permitted	10/09/2012

12/00956/DISCHG	Discharge of condition C7 (contamination) of planning permission ref. 10/01426/FUL dated 31/01/2011 - Extension to provide additional retail floorspace, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations	Determined	19/07/2012
12/00735/FUL	Installation of metal gate on the King Street Alley Way	Permitted	06/07/2012
12/00641/NONMAT	Non-material amendment to planning permission 10/01426/FUL dated 31/01/2011 (Extension to provide additional retail floor space, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations) for amendments to conditions C8 and C9	Comments	17/05/2012
12/00578/FUL	Installation of a new fire door to King Street (east side).	Permitted	06/06/2012
11/01456/DISCHG	Discharge of condition C4 (Construction Management Plan) of planning permission 10/01426/FUL (Extension to provide additional retail floor space, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations)	Determined	09/11/2011
11/01052/NONMAT	Non-material amendment to planning permission 10/01426/FUL - Extension to provide additional retail floor space, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations	Comments	02/08/2011
11/00980/DISCHG	Discharge of conditions C2 (Archaeological work) , C3 (Materials) and C5 (Site Investigations) of planning permission 10/01426/FUL - Extension to provide additional retail floorspace, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations	Determined	19/08/2011
10/01426/FUL	Extension to provide additional retail floor space, development of new service corridor and lift core in basement service yard, construction of new mansard roofs and elevation works to King Street and Queen Street elevations	Permitted	31/01/2011

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Planning (Listed Building and Conservation Areas) Act 1990

Section 66 - General duty as respects listed buildings in exercise of planning functions

The Local Planning Authority has a statutory duty when exercising its planning functions to have special regard to the desirability of preserving any listed building or its setting, or any features of special architectural or historic interest which that building possesses.

Section 72 - General duty as respects conservation areas in exercise of planning functions.

The Local Planning Authority has a statutory duty when exercising its planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

National Planning Policy Framework (2012)

Section 2 - Retail, Leisure and Office Development Outside Town Centres

Should be subject to an Impact Assessment on existing, committed and planning public/private investment in a centre(s) and on town centre vitality and viability. If there is no local threshold, 2,500 sq m will apply. Proposals which would have an adverse impact should be refused.

Section 4 - Assessment of Transport Implications

Development which generates a significant amount of traffic should be supported by a Transport Statement/Transport Assessment. It should be located to minimise the need to travel/to maximise the opportunities for sustainable travel and be supported by a Travel Plan. Large scale developments should include a mix of uses. A safe and suitable access should be provided and the transport network improved to mitigate the impact of the development.

Section 7 - Good Design

Development should add to the overall quality of the area; establish a strong sense of place; optimise the site potential; create and sustain an appropriate mix of uses; support local facilities and transport networks; respond to local character and history while not discouraging appropriate innovation; create safe and accessible environments which are visually attractive as a result of good architecture and appropriate landscaping. Planning permission should be refused for development of poor design.

Section 8 - Safe and Accessible Environments

Development should aim to promote mixed use developments, the creation of strong neighbouring centres and active frontages; provide safe and accessible environments with clear and legible pedestrian routes and high quality public space.

Section 8 - Social, Cultural and Recreational Facilities

Developments should plan for the provision and use of shared space, community services and other local services; guard against the unnecessary loss of valued services/facilities; allow established shops, facilities and services to develop/modernise; and ensure an integrated approach to the location of housing, economic uses and communities facilities and services.

Section 11 - Contamination

The site should be suitable for its intended use taking account of ground conditions, land stability and pollution arising from previous uses and any proposals for mitigation. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

Section 11 - Noise

New development giving rise to unacceptable adverse noise impacts should be resisted; development should mitigate and reduce to a minimum other adverse impacts on health and quality of life arising. Development often creates some noise and existing businesses wanting to expand should not be unreasonably restricted because of changes in nearby land uses.

Section 12 - Conservation of Heritage Assets

Account should be taken of the desirability of sustaining/enhancing heritage assets; the positive contribution that they can make to sustainable communities including economic viability; and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a new development great weight should be given to the asset's conservation.

Planning permission should be refused for development which would lead to substantial harm to or total loss of significance of heritage assets unless this is necessary to achieve public benefits that outweigh the harm/loss. In such cases all reasonable steps should be taken to ensure the new development will proceed after the harm/ loss has occurred.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Section 12 - Development Affecting Non-Designated Heritage Assets

A balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. Where the assets is demonstrably of equivalent significance to a Scheduled Monuments it should be subject to the policies for designated heritage assets.

Peterborough Core Strategy DPD (2011)

CS04 - The City Centre

Promotes the enhancement of the city centre through additional comparison retail floor space especially in North Westgate, new residential development, major new cultural and leisure developments and public realm improvements, as well as protecting its historic environment.

CS10 - Environment Capital

Development should make a clear contribution towards the Council's aspiration to become Environment Capital of the UK.

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS17 - The Historic Environment

Development should protect, conserve and enhance the historic environment including non-scheduled nationally important features and buildings of local importance.

CS18 - Culture, Leisure and Tourism

Development of new cultural, leisure and tourism facilities will be encouraged particularly in the city centre.

CS15 - Retail

Development should accord with the Retail Strategy which seeks to promote the City Centre and where appropriate the district and local centres. The loss of village shops will only be accepted subject to certain conditions being met.

CS21 - Biodiversity and Geological Conservation

Development should conserve and enhance biodiversity/ geological interests unless no alternative sites are available and there are demonstrable reasons for the development.

CS22 - Flood Risk

Development in Flood Zones 2 and 3 will only be permitted if specific criteria are met. Sustainable drainage systems should be used where appropriate.

Peterborough Planning Policies DPD (2012)

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

PP17 - Heritage Assets

Development which would affect a heritage asset will be required to preserve and enhance the significance of the asset or its setting. Development which would have detrimental impact will be refused unless there are overriding public benefits.

CC1 - Presumption in Favour of Sustainable Development

Development should contribute to the City's Environment Capital ambition and take steps to address key principles of sustainable development.

CC2 - Retail

Proposals for retail development will be determined in accordance with Policies CS4 and CS15 of the Peterborough Core Strategy DPD. Within Primary Retail Frontages, development within use classes A1 and A3 will, in principle, be acceptable.

CC3A - City Core Policy Area (a) General principles

The Council will seek development of the highest quality which strengthens the area as the retail, leisure, tourism and civic focus for Peterborough and its sub-region. New development must: improve the quality of the public realm; protect important views of the Cathedral; preserve or enhance the heritage assets of the area; and protect and enhance existing retail areas. The Council will also support development which results in a net increase in dwellings, improved connectivity,

employment, conservation of historic shop fronts and development which encourages trips into the City Centre.

North Westgate Opportunity Area

Planning permission will be granted for comprehensive mixed-use development including retail, housing, office and leisure. This must also include improvements to the connectivity with the railway station and be integrated with the existing retail area.

Individual proposals which would prejudice the comprehensive development of this area will not be permitted.

CC11 - Transport

Within the area of the City Centre Plan, all development which has transport implications will be expected to make a contribution to the delivery of the City Centre Transport Vision.

The provision of additional car parking spaces will be resisted within the City Core Policy Area.

Elsewhere in the City Centre new residential development within classes C3 and C4 will be expected to make provision for car parking in accordance with Policy PP13 of the Planning Policies DPD. There will be no minimum requirement for car parking spaces in association with any other type of development. Additional spaces will only be allowed if the development has provided a fully justification.

Planning practice guidance (PPG) – Department for Communities and Local Government (2014)

- Conserving and enhancing the historic environment
- Design
- Ensuring the vitality of town centres
- Travel plans, transport assessments and statements in decision-taking

The Park Conservation Area Appraisal Report and Management Plan

The City Centre Conservation Area Appraisal Report and Management Plan

Peterborough Local Plan 2016 to 2036 (Preliminary Draft)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this document runs from 15 January to 25 February 2016.

At this preliminary stage the policies cannot be afforded any weight with the exception of the calculation relating to the five year land supply as this is based upon the updated Housing Needs Assessment and sites which have planning permission or which are subject to a current application. Individual policies are not therefore referred to further in this report.

4 Consultations/Representations

PCC Transport & Engineering Services – No objections. The comments from the former application (15/01013/FUL) remain applicable. Staff cycle parking should be secured by condition. The existing car parks are sufficient to meet the needs of the development.

Travel Plan: The submission of a Travel Plan is welcomed. It includes targets and an action plan.

Traffic impact: The peak hours of use for a cinema are generally outside the highway network peak hours on both a weekday and Saturday.

The TRACK plots submitted for the revised 'click and collect' area for the John Lewis store are acceptable.

The LHA raises no objections subject to conditions being appended in respect of cycle parking, Travel Plan and Construction Management Plan being agreed by the Local Planning Authority.

PCC Lead Local Drainage Authority – No objections – No comments to make in relation to this application as the surface water drainage as the footprint of the centre and ground level hard standings are not due to be changed.

PCC Conservation Officer - No objection - The application is substantially a re-submission of the earlier planning application ref: 15/01013/FUL and no change is proposed in terms of external appearance. The Officer repeats the comments made regarding the former scheme as follows:

The proposed development has the potential to impact on the setting of a number of listed and locally listed building in the vicinity at Lincoln Road, Westgate, Long Causeway, Exchange Street, Cumbergate, Cathedral Square and Cowgate. Also the site is located adjacent to the City Centre Conservation area and the Park Conservation area is to the north.

The more evident part of the extension will be viewed from Crescent Bridge roundabout / Bourges Boulevard. The proposed development sits broadly in the massing of the existing roof elements and the proposed materials - grey cladding and glazing - match the existing roof top materials.

The shopping centre is, or forms, the backdrop to various listed buildings. The bulk of the building currently has a small adverse impact on the setting of some listed buildings (e.g. Wortley Arms Houses, former Royal Hotel, and Westgate). There will be some minor visual impact on long distance views towards and from the Cathedral.

In many locations in views of listed buildings and parts of the Park and City Centre Conservation areas the proposed extension will not be visible. In other locations the development will be seen and this will vary depending on position of the viewer. The extension will be set back from the northern elevation to Westgate.

Overall the effect of the extension adding height to the centre is considered at worst to have a negligible adverse effect on the setting of some listed buildings and the City Centre conservation area.

PCC Wildlife Officer – No objections – The Wildlife Officer is satisfied with the Ecology report's assessment of the impacts on protected species. The Ecological Assessment has identified that the existing building is likely to support nesting birds including various more common species as well as the black redstart which is a UK BAP Priority Species and is listed under Schedule 1 of the Wildlife and Countryside Act (as amended). The Officer recommends targeted Black Redstart surveys are carried out every two weeks in May & June and monthly in July and August during the construction period by a suitably qualified ecologist, as recommended in the Ecology report. Should evidence of their nests being found, then appropriate measures should be put in place to ensure this species is not disturbed. The application proposes a number of bird boxes to enhance the development for biodiversity. The numbers and designs are acceptable. The provision of bird boxes, along with confirmation of their locations for installation, would be secured by condition. The officer considers that subject to my recommendations being fully incorporated into the approved scheme the development will in my opinion result in a net gain in biodiversity.

Archaeological Officer - No objection - The extension would be within the existing footprint of the building. Although the site is located within the core of the historic town of Peterborough, former development of the centre is likely to have caused extensive and deep truncation of potential buried remains. Due to the history of development, the subject site is deemed to have negligible archaeological potential. As a result, there is no need to condition a programme of archaeological

work.

PCC Rights of Way Officer - No comments to make on the application

PCC Sustainable Travel Officer – No objection - Amendments will be required to the Travel Plan Due to the higher footfall, and higher numbers of staff at the site from the new occupier, details should be included as to how the applicant intends to mitigate the impact of the new tenant. Advice can be obtained from the Travelchoice Team.

PCC Pollution Team - No comments have been received for this application however, the comments on the former application were that the details of filtration equipment for cooking odours would not be required as due to the surrounding uses it would be impossible to pin point the A3/A5 uses in Queensgate as a potential source of nuisance.

Building Control Manager - Building regulations approval required. There is not enough detail to provide specific comments however the basic principles appear adequate.

Environment Agency - We have assessed this proposal as having a relatively low environmental risk. Therefore have no further comments on the current application, as submitted.

Police Architectural Liaison Officer (PALO) – No objections – The officer has viewed the re-submitted application and in terms of community safety and crime reduction there are no objections, recommendations, or further observations. The Officer advised that the application was also passed to the Counter Terrorist Security Advisors for comment as the application does contain an element which comes under the definition of a Crowded Place, in their terms of reference. However no concerns have been raised.

Peterborough Civic Society – The current application is identical in all its main content as the previous one which was approved, in outline form, with conditions in June 2015. As nothing has been altered our 2015 comments with some additions are resubmitted as below.

- We understand that a legal challenge to the Peterborough City Council decision on the 2015 application has been made and may we suggest that it might be prudent to wait until a final ruling on the challenge to that decision is known before determining this application.
- The Civic Society recognises that this application has the potential to enhance the attractions of Queensgate both through the introduction of a cinema and through the long-overdue inclusion of a food court.
- We also welcome the proposal to increase the public accessibility of the centre, and hence the City Centre, outside normal shopping hours.
- We have no objection to the reconfiguration of the retail units or the extension of retail trading space into parts of the John Lewis not currently in retail use.

However, we also have the following serious concerns:

- The bulk of the cinema extension rising above the bus station is inappropriate.
- Its design and materials are out of keeping with the elevational treatment of the existing centre.
- The scheme will undermine the viability of the current long-awaited regeneration scheme for the North Westgate area.
- Recommends that Condition C8 of the former scheme regarding pedestrian access and connections through Queensgate Centre be included in the consent.

Historic England - The application is for the same proposals as submitted last year and the advice from Historic England remains the same.

- The majority of the Queensgate Shopping Centre lies outside of the City Centre Conservation Area, but the proximity of the development is such that it will have some impact on the character and appearance of the conservation area and on the setting of listed buildings in Westgate.
- The increased bulk and mass of the Centre as proposed would result in a modest level of harm

to both the character and appearance of the adjacent conservation area and to the listed buildings along Westgate through impact on their setting. In accordance with para 134 of the NPPF it will be necessary for the Local Planning Authority to weigh that harm against wider public benefits that would be delivered by the proposal.

- The application would address the connectivity issues to the city during closing hours. Whilst this is welcomed and would go some way to offsetting the harm from the bulky roof extensions there are further opportunities. The current Queensgate Centre severs the route from King Street the Primark extension has prevented the route but this could be improved by providing active frontages. The improved connectivity should be secured by condition or S106.

Local Residents/Interested Parties

Initial consultations: 265

Total number of responses: 2

Total number of objections: 1

Total number in support: 1

One representation has been made in support of the application. The representation states that having seen the work carried out inside Queensgate since Invesco took ownership, the development would commence far sooner than North Westgate (“NWG”).

Two letters of objection have been received from Savills on behalf of Hawksworth Securities plc (“Hawksworth”). The issues raised in the letters are summarised below. The full letters are attached at **Appendix 1** to this report.

Letter of 1 April 2016.

- Additional information has been submitted, namely the ‘Comparative Viability Study’ (CBRE, Jan 2016).
- The planning statement does not undertake a full and proper assessment of the Development Plan
- The Comparative Analysis is contradictory and makes claims without evidence
- The Council has a duty to undertake such an assessment under Section 70(2) of the Town and Country Planning Act 1990
- North Westgate offers greater planning benefits when compared to the Queensgate proposal
- It would only be appropriate to grant planning permission if the benefits of the Queensgate proposal would outweigh the loss of benefits of the North Westgate Scheme
- North Westgate is an allocation site and is priority for redevelopment. The site’s delivery is key to the regeneration of the city centre
- The regeneration of North Westgate would help deliver the Plan’s objectives of increased housing, retail expansion, enhancement to leisure and cultural offers and improvement to the Evening economy.
- Planning permission for a cinema at Queensgate will jeopardise the redevelopment of North Westgate which is dependent on a cinema as its anchor
- The Council should consider the harm to the prospect of the North Westgate proposal which is a material consideration which should be afforded significant weight
- A claim for judicial review has been submitted – The Council and Invesco dispute the grounds of the claim however, the current scheme provides a comparison exercise
- The supporting information states that the Statutory Development Plan must be considered as a whole but it fails to do so
- With regard to Policy CS4 the focus is solely on the wording, claiming that the extent to which North Westgate is afforded priority relates only to comparison retail (para 6.1 5). When considering the Policy within the context of the wider Development Plan, this point is wholly inaccurate and a significant flaw of Nathaniel Litchfield and Partners (the applicant’s agent) assessment of the weight that should be attached to the Development Plan and the allocation of North Westgate.

- Policy CS4 directly relates to the delivery of objective OB13, setting out the overarching policy aspirations for the City Centre. Of particular relevance is the policy support for the redevelopment of North Westgate and priority for its delivery in the early years of the Plan Period.
- At the time the Core Strategy was produced retail was considered as the catalyst for the regeneration of North Westgate. This changed with the economic downturn and the impact on retail through on line shopping. There is high demand for leisure provision in city centres. There is a need to consider other uses for the regeneration of North Westgate..
- The Council recognised this fundamental change in the market and the most up-to-date Development Plan Document (the CCDPD) encourages other uses at North Westgate, namely leisure and housing.
- For North Westgate, a leisure-led scheme with a cinema anchor, is the only option that can kick-start regeneration.
- The approved scheme at North Westgate represents significant planned investment of £100million which will underpin the regeneration of Peterborough's Central Core and act as a catalyst for investment in the City.
- The Council's long-standing commitment to see this site redeveloped is evident by virtue of the site's continued allocation since 1971.
- The statement that the Queensgate proposal will not have an adverse impact on North Westgate scheme is contended
- The statement speculates there are other viable development options, however this is not substituted with any evidence, however Hawksworth has provided extensive material to demonstrate the cinema is the only viable option
- It is stated that Queensgate has an inherent interest in seeing development at North Westgate come forward but has failed to engage with Hawksworth
- It is unclear why consideration has been given to the relocation of existing major retailers in Queensgate to North Westgate. This is not the intention of North Westgate.
- There is a contradiction between para 6.24 which states 'the regeneration benefits of the [Queensgate] proposals are more beneficial than [North Westgate] and para 6.25 states 'analysis to the two schemes reveals a larger and wider range of benefits arising from the [North Westgate scheme]'
- Having identified that the Queensgate proposal will cause harm to the redevelopment of NWG, the Statement dismisses this on the basis North Westgate is not viable and will not be delivered in any event. This is simply not the case.
- The re-configuration of units does not relate to the cinema offer; indeed there is no tangible evidence to suggest that this could still go ahead regardless of whether a cinema is provided. Thus, it is considered that these supposed benefits could be delivered in any event. It is misleading for NLP (the agent acting for the Queensgate scheme) to suggest that without a cinema, Queensgate will not seek to accommodate the requirements of its 'major national retailers'.
- It is evident NLP is aware that the retail market is not as strong as it once was and, hence, new uses are being encouraged in town and city centres. It recognises the synergy required in order to make mixed-use developments work (as is the case for North Westgate). Yet, it claims alternative uses should be found for North Westgate.
- Policy priority of North Westgate exists. If planning permission is granted for the Queensgate scheme, the North Westgate scheme will not be implemented. This is not disputed in the Queensgate Planning Statement.
- The committee report for the former scheme recognised that North Westgate would be a positive contribution for the city but offered no guidance on the significance of the benefits or what weight should be attached to the loss of those benefits.
- The submitted information acknowledges the wider range of benefits of the North Westgate scheme but relies on the fact that it is 'not viable anyway' to justify why Queensgate scheme should be granted.
- The applicant's precautionary approach giving priority to QSC is contrary to the key objectives of the Plan.
- It is essential that a robust comparative assessment of the merits of the two schemes is undertaken. The analysis submitted cannot be relied upon.

- The Council has a duty to undertake a comparison assessment independently to be in a position to assess the planning balance and make a sound recommendation to Members.
- It would only be appropriate to grant planning permission if the benefits of the Queensgate scheme outweigh the loss of benefits of the North Westgate development.

Letter of 13 April 2016

The letter comments on perceived flaws in the viability report (produced by CBRE) submitted by the applicant re the North Westgate Scheme:

- The report is not rigorous, robust, fair or balanced and contains incorrect assumptions giving an unreliable output
- The Council should undertake its own independent and impartial assessment of viability of the North Westgate scheme in liaison with Hawksworth and do the same regarding Queensgate and the applicant and the assessment should also consider alternative development scenarios
- The negative return for North Westgate identified in the CBRE report is wrong given the work to date on the North Westgate scheme
- No evidence to support CBRE claim that the Queensgate scheme will improve the prospects of North Westgate coming forward and no evidence that alternatives to the approved North Westgate scheme would be workable
- The City Council should have challenged the viability of North Westgate at the time of the determination of that application if it had concerns – it did not do so
- The CBRE report does not consider / properly account for the lettability of the North Westgate scheme / attractiveness to end users. Floor space assumptions used by CBRE are wrong, pessimistic values & yields have been applied, build cost are over estimated
- It is not clear if the figures are based on the existence of the rival scheme
- There remains strong interest in the North Westgate scheme all principal cinema operators in the country prefer the North Westgate location over the Queensgate location
- PCC has offered a JV option re the delivery of North Westgate and there is a policy commitment by PCC to use its CPO powers
- To approve the Queensgate scheme would delay North Westgate again

Letter of 1st June 2016

- Welcome the conclusion that the North Westgate scheme is viable
- Notes that the regeneration and sustainability benefits as well as the other qualities of the North Westgate scheme are recognised
- Notes the acceptance that the grant of planning permission for the Queensgate scheme is likely to prevent the delivery of North Westgate
- The North Westgate planning permission has sufficient flexibility such that if the office demand fell away this use could be replaced by residential development which would have an additional value
- The ability to progress the land acquisition and prospective operators has impacted on by the uncertainty brought about by the Queensgate scheme.
- The Queensgate scheme has low profitability and is essentially an asset enhancement exercise which does not provide significant regeneration that the city centre needs in terms of its leisure offer.
- The North Westgate proposal is planning policy and plan objective compliant. NO alternative policy compliant scheme has been identified for North Westgate and this is confirmed by considerable research undertaken by Hawksworth.

5 Assessment of the planning issues

A. Reason for the resubmission

The former application (ref. 15/01013/FUL) was considered by Members of the Planning and Environmental Protection Committee on 29th September 2015 (**Appendix 2**). At the same meeting an outline application for a mixed use scheme, to include, a cinema (Class D2), restaurants and

cafes (Class A3), retail units (Classes A1, A2) a food hall (Classes A1, A3, A4, A5), office space (Class B1a), a hotel (Class C1), community and health care facilities (Class D1), residential (Class C3) at the North Westgate Development Opportunity Area was considered by Members (ref. 15/01041/OUT) (**Appendix 3**). Members resolved to approve both the Queensgate and North Westgate Applications. Planning permission was granted for the North Westgate Scheme on 2nd October 2015 and for the Queensgate Scheme on 16th October 2015.

Subsequent to the issue of the permission, on the 23rd November 2015 Hawksworth (the applicant for North Westgate) filed a claim for permission to judicially review the decision by Peterborough City Council to grant planning permission in respect of application 15/01013/FUL (the Queensgate application). The grounds of Hawksworth's claim for permission to bring judicial review proceedings are summarised as follows:

- The council failed to determine whether the grant of planning permission for the Queensgate scheme would render the North Westgate scheme unviable and mean that it would not proceed if the Queensgate scheme were permitted;
- That since the grant of planning permission for the Queensgate scheme would be likely to render the North Westgate scheme unviable and prevent its implementation, the Peterborough City Council failed to have regard to a number of material considerations including:
 - The benefits of the North Westgate scheme that would be lost;
 - The weight that should be given to the loss of those benefits;
 - The benefits of the Queensgate scheme and the weight that should be given to those benefits;
 - Whether the benefits of the Queensgate scheme were outweighed by the loss of the land use planning benefits of the North Westgate scheme that would be lost.
- The facts were such that a comparison of the planning merits of the two schemes was required to be undertaken and was not
- That by determining the two planning applications sequentially, Peterborough City Council was prevented from considering these matters properly or at all
- That the Peterborough City Council wrongly considered whether prejudice would be caused to the North Westgate scheme on the basis of the application of a need to discharge a burden of proof "beyond reasonable doubt"
- If Peterborough City Council did determine that the prejudice to the North Westgate scheme was not likely to occur as a result of granting planning permission for the Queensgate scheme, that decision was irrational and unreasonable;
- The Peterborough City Council was wrongly advised that prejudice to the redevelopment and regeneration that would be brought about by the North Westgate scheme did not rise to a conflict with development plan policy, namely Policy CC3 of the City Centre Plan
- The reasons for granting planning permission were inadequate

The grounds for judicial review were considered on the papers by a High Court judge who determined that they were not arguable and he refused permission for Hawksworth to apply for judicial review. Hawksworth, as is its right, applied for an oral hearing.

The hearing took place on the 21st/22nd June 2016. The Judge reserved her decision. At the time of writing this report no judgment has been given. In the event that a Judgment is provided between the publication of this report and the Committee meeting Members will be updated by Officers.

Whilst the Local Planning Authority does not accept that the grounds of claim disclose any error of law, the applicant is re-submitting the present application which is now supported with information to enable a comparative analysis to be made on the viability and deliverability of the two schemes.

A copy of the committee report in relation to the 2015 Queensgate application is in **Appendix 2**

B. Background

Invesco purchased the Queensgate Centre and associated land holdings at North Westgate in

January 2014. The proposal is part of a programme of works including the refurbishment of car parks (completed), internal mall refurbishments and improvements to Westgate Arcade (completed). Investment in the centre is important to ensure the centre remains attractive, in the context of changes in shopping trends.

The planning history and in particular details of the previous application in sections 2 and 5A above. Details of the application in respect of the proposal to redevelop the North Westgate Development Opportunity Area are also included in section 5A above.

C. The principle of development

QSC is located within the city centre core policy area and the vision for this area is for development that will strengthen Peterborough's sub-regional role as a key shopping destination. Paragraph 5.2.12 of the City Centre Plan states that as part of the vision for the city centre, there '*will be new retail and leisure provision, particularly further improvements to the Queensgate shopping centre and the North Westgate Opportunity Area.*' Furthermore Policy CC3 of the Adopted Peterborough City Centre Plan DPD seeks '*development which encourages trips into the city centre for shopping, leisure (including cinema), social and cultural purposes*'. There is an identified need for the city centre to expand its cultural offer and the need to attract new facilities particularly a centrally located cinema and more bars and restaurants.

The cinema has the potential to attract large numbers of people and its location within the city centre is appropriate due to accessibility to a range of transport modes along with the provision of existing car parks/cycle parking provision and the likelihood of linked trips being made and to enhance the vitality and viability of the city centre. It is a key objective of national and local planning policy to have strong city centres.

The food and beverage provision would address a deficiency of these uses in the existing QSC. Investment has already been made in the city to enhance the restaurant provision within the city centre for example Carluccios and The Handmade Burger Company. It is considered the restaurant cluster would provide a complementary offer to the QSC, the cinema and other restaurant uses within the city centre; ultimately encouraging visits to the city centre during the day and evening and increasing dwell time and enhancing the viability and vitality of the city centre.

In addition, although not for consideration under this planning proposal the reconfiguration of the John Lewis Store and the former Waitrose Store will provide large retail units which would encourage new retail operators to the city.

Policy CC3 of the adopted Peterborough City Centre Plan supports improved connectivity for pedestrians and cyclists and particularly to the rail station. The proposal would provide improved connectivity for pedestrians from the city centre to the Bus/Rail station through the extended opening hours of the QSC malls. Also the Policy states that new development must, where appropriate '*protect and enhance existing retail areas.*' The proposal, by virtue of its content clearly satisfies this aspect of the policy.

It is considered that the provision of a cinema and associated restaurant offer will strengthen the existing city centre core, extending retail hours and dwell times and improve the evening and night time economy for the city centre. The principle of development is therefore supported and accords with the Council's vision for the City Centre and policy CC3 of the Adopted Peterborough City Centre Plan DPD, policies CS4 and CS18 of the Adopted Peterborough Core Strategy DPD.

The Peterborough Civic Society have raised concern that the scheme will undermine the viability of the current long-awaited regeneration scheme for the North Westgate area. The proposed scheme for North Westgate is leisure-led and will provide similar facilities to the Queensgate scheme but with the added planning gain of securing the major objective of regeneration for this part of the city.

Under the former scheme (15/01013/FUL) objection letters on behalf of Hawksworth; the applicant

for the North Westgate Development, were received. Copies of the previous objection letters and the most recent objections are attached at **Appendix 1**. Hawksworth maintain that, essentially, the approval of the QSC cinema would render the North Westgate redevelopment unviable since it contends that there is only room for one town centre cinema and its scheme is anchored via the provision of a cinema.

Hawksworth makes reference to national planning policy and contends that it supports the delivery of the North Westgate Scheme, i.e. 'a presumption in favour of sustainable development' and that the three dimensions of sustainability: "economic, social and environmental gains should be sought jointly and simultaneously" and "planning should play an active role in guiding development to sustainable locations". In the objection it is stated that the North Westgate Scheme will deliver these gains with over 200 dwellings, community facilities, new public spaces and connections to the communities to the north as well as enhancing the setting of Westgate Church and properties on Lincoln Road and that if the North Westgate development does not proceed there would be an undersupply of housing and jobs. It is argued that although there would be some economic benefits from the proposed QSC cinema there would not be any social or environmental benefits i.e. housing, community facilities to the city centre and does not represent sustainable development.

The objection is based on the premise that the Queensgate application does not represent sustainable development.

This is not the case. The NPPF sets out the presumption in favour of sustainable development in paragraph 14. In the present case, paragraph 14 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. If the Council determines that the approach required by paragraph 14 of the NPPF results in a decision to grant planning permission, then the development proposed will constitute sustainable development. Indeed, in **Cheshire East Borough Council v Secretary of State [2016] EWHC 571 (Admin)** the High Court determined that there is no separate or anterior step to that set out in paragraph 14 which has to be followed in order to determine whether a proposed development constitutes sustainable development.

In any event, it is considered that the Queensgate scheme provides benefits in related to each of the three dimensions of sustainability:

Economic: - Creation of jobs, focus on investment in the City Centre improving its vitality and viability. Improved access to car parks, the mall and wider city centre to the benefit of the night time economy.

Social:- Inclusive location accessible through a variety of transport modes. Likely to enhance social activity in the town centre particularly attracting visitors in the evening and at night.

Environmental:- Improved public realm in the context of the change to the interior of the mall, improved city centre accessibility at night time which has been a key constraint to date.

Hawksworth suggests that if the Queensgate scheme obtains planning permission then the North Westgate Scheme is unlikely to be implemented. This is because it suggests that there is only scope for one cinema and that without a cinema the North Westgate scheme will be unviable. Thus it is suggested that to grant planning permission for the Queensgate scheme will prevent the North Westgate scheme from coming forward.

Further, Hawksworth suggests that the only type of regeneration scheme for the North Westgate Opportunity area which is likely to be viable is one that is anchored by a cinema. Thus, it contends that if the Queensgate scheme obtains planning permission not only would it be unlikely that the North Westgate scheme would come forward but also the regeneration of the North Westgate Opportunity area would be unlikely.

Consequently, Hawksworth contends that to grant planning permission for the North Westgate scheme would mean that a key objective of the Development Plan i.e. regeneration of the North

Westgate Opportunity Area would be likely to be frustrated.

It contends that as a result the Queensgate Scheme is contrary to the Development Plan and that the loss of the benefits that the North Westgate scheme would deliver and the loss of the opportunity to regenerate the North Westgate Opportunity Area with the benefits that this delivers are material considerations that weigh in the balance against the grant of planning permission for the Queensgate scheme.

Further, Hawksworth contends that these matters are such that they outweigh the policy support provided to the Queensgate scheme to the extent that planning permission for the Queensgate scheme should be refused.

At its core, the Hawksworth objection is to the effect that the cinema should not be permitted at Queensgate because it should be provided on an alternative site within North Westgate which it considers would deliver greater public benefits.

Officers consider that there is no requirement of law or national or local planning policy which supports the view that it is necessary to have regard to an alternative scheme in circumstances where there scheme under consideration accords with the development plan.

National planning policy does not require any impact assessment of a proposal for a town centre use (such as a cinema) upon other such uses within the town centre.

The objectives of the Core Strategy envisage improvement in the quality of the commercial, retail, cultural, leisure and recreational facilities in the City Centre as a whole.

Policy CS4 of the Core Strategy gives effect to these objectives. It identifies the North Westgate area as one of a number of areas where opportunities exist to improve the offer of the city centre, with potential for residential, employment, retail, leisure, open spaces and other forms of development (Core Strategy paragraph 5.9.6).

It identified that a City Centre Area Action Plan (CCAAP) would be produced to address these issues in detail, and to make specific proposals to enhance the City Centre (Core Strategy paragraph 5.9.10).

The Core Strategy recognises the difficulties that are being encountered in relation to the retail offer within the City Centre:

“...the city centre is not without its problems, and there are issues which need to be addressed over both the long and short term. There has been relatively little investment in new retail outlets since the 1980s and the city centre has lost market share of retail expenditure from its catchment area. Its retail ranking has declined as a result of competition from Hampton (Serpentine Green), other retail centres in the East of England and East Midlands, and internet shopping.”

In particular, Policy CS4 provides:

“Expansion of retail floorspace, in particular for comparison goods, will be encouraged in accordance with appropriate capacity forecasts, with priority given to retail expansion in the early years in the North Westgate area.”

Thus, Policy CS4 supports retail expansion, particularly comparison goods, in the early years of the plan “in accordance with appropriate capacity forecasts”.

CS4 of the Core Strategy refers, in the context of the expansion of retail floorspace, in particular for comparison goods, to ‘priority being given to retail expansion in the early years in the North Westgate area’. The North Westgate scheme is not a retail led scheme but rather a leisure led scheme with the largest single floorspace area being dedicated to a food supermarket. The North Westgate

Scheme proposes a maximum of 7,000 sqm of Class A1/A2 floorspace. Hawksworth indicates the retail floorspace will provide medium size retail units but there is no detail on the form or size of the units proposed. Even if it is assumed that all of the Class A1/A2 floorspace is bought forward for comparison use, which seems unlikely, this comprises just 14% of the total development. From this perspective the scheme is not a good match for the 'priority' and so significant weight cannot be given to this aspect of policy.

In any event, Officers consider that Policy CS4 is not to read as a policy giving priority to the redevelopment of the North Westgate area generally, still less to leisure development within it; rather it is to be read as supporting retail development in the North Westgate area early in the plan period so far as is consistent with retail capacity forecasts. It envisaged that this was a matter that would be taken forward in a City Centre Area Action Plan (CCAAP).

Core Strategy Policy CS18 provides encouragement of new cultural, leisure and tourism facilities particularly in the City Centre (B1/226).

Instead of a CCAAP, the Council adopted the City Centre Plan ("the CCP") in December 2014. The CCP recognised a need for the city centre to expand its "cultural offer" including a "centrally located cinema". It explained that over the next 15 years there are a number of projects that would help to improve and enhance the city's cultural and leisure offer including "a city centre cinema, helping to improve the evening economy."

In relation to the City Centre Core Policy Area (which includes both the Queensgate Centre and the North Westgate Opportunity Area) new retail and leisure provisions is envisaged "particularly further improvements to the Queensgate shopping centre and the North Westgate opportunity area" (paragraph 5.2.12).

Policy CC3 supports development which would strengthen the City Core Policy Area as the retail, leisure, tourism and civic focus for Peterborough, but it does not specifically refer to a cinema within the Queensgate Centre or the North Westgate Opportunity Area. However, Officers also consider that Policy CC3 cannot be read as precluding a cinema in either of these locations.

In relation to the NWOA, Policy CC3 of the CCP provides particularly:

"Within the North West Opportunity Area planning permission will be granted for comprehensive mixed use redevelopment including, retail, housing, office and leisure uses, which is well integrated with the existing retail area....

Individual proposals which would prejudice the comprehensive redevelopment of this Opportunity Area will not be permitted"

It is to be noted that the reference to comparison retail being brought forward in the early years of the Core Strategy was not taken forward in the CCP.

Officers consider that the CCP does not provide any policy priority to redevelopment proposals in the North Westgate Opportunity Area ahead of redevelopment proposals within the City Core Area generally. They consider that the CCP supports leisure development in both the Queensgate Centre and in the North Westgate Opportunity Area, does not preclude a cinema coming forward either within the Queensgate Centre or the North Westgate Opportunity Area and does not provide that only one cinema is supported by policy to the extent that any application for a second cinema must be refused as being contrary to the Development Plan.

It is then necessary to consider the suggestion that any development which would harm the prospects of the North Westgate scheme coming forward and/or which would prejudice the prospect of regeneration of the North Westgate Opportunity Area generally is to be seen as being contrary to the development plan.

Officers do not consider that the development plan can be read in this way.

Development plan policies have to be interpreted as a whole in a way which gives effect to their objectives. Officers consider that the development plan supports redevelopment within the city core area generally. They consider that there is no express or implicit support for the view that the redevelopment of the North Westgate Opportunity Area is given any priority over redevelopment elsewhere within the city core area.

Policy OB13 of the Core Strategy lists a number of objectives including the regeneration of the city centre as a priority but also the creation of a vibrant, mixed-use centre and which supports growth elsewhere. It goes on to indicate a range of suitable uses within the city centre. The objective does not specifically refer to redevelopment sites and or sites allocated for development in the City Centre Plan. Officers do not consider that OB13 can be interpreted as giving priority to the North Westgate scheme or the North Westgate Opportunity Area such any development proposals which would harm the prospects of such redevelopment coming forward could be seen to be contrary to policy.

It is the case that policy CC3 refers to individual proposals being refused where they would “*prejudice the comprehensive redevelopment of this area*”. However, this policy is referring to proposals within the North Westgate Opportunity Area itself which would frustrate comprehensive development. It is not to be interpreted as applying to development outside of that area. It is understood from submissions made by Counsel on behalf of Hawksworth during the recent Judicial Review that this interpretation is not accepted by Hawksworth notwithstanding representations to the contrary made previously.

As a result, Officers consider that there is no development plan policy priority afforded to the North Westgate Scheme such that the development plan is to be interpreted as meaning that a development proposal which would harm the prospects of the North Westgate scheme coming forward and/or which would to the prospect of regeneration of the North Westgate Opportunity Area generally is to be seen as being contrary to the development plan.

The consequence of this is that Officers consider that the Queensgate scheme accords with the development plan and with national planning policy.

Consequently, because the Queensgate scheme is acceptable in planning terms, there is no requirement as a matter of law or policy to go on to consider whether the alternative proposal (i.e. the North Westgate scheme) would provide greater benefits to the public interest such that the Queensgate scheme should be refused planning permission.

Nevertheless, Members are asked to determine the application for planning permission for the Queensgate scheme on the basis that it is necessary to have regard to the potential impact of that scheme upon the North Westgate scheme and upon the redevelopment of the North Westgate Opportunity Area generally.

1) Would granting planning permission for the Queensgate Scheme be likely to prevent the North Westgate scheme from coming forward?

It is acknowledged that it is unlikely that two city centre cinema’s would be financially viable. However, the Queensgate scheme could only be seen to prevent the North Westgate scheme from coming forward if it were established that without the Queensgate scheme the North Westgate scheme would be viable and deliverable.

Prior to the consideration of the previous Queensgate scheme, information was submitted by Hawksworth relating to the commercial interests and viability of the North Westgate scheme and the impact that the Queensgate scheme would have (i.e. it would be likely to prevent the North Westgate scheme from going ahead in its proposed or another form) . In light of the information the applicant has commissioned a viability appraisal by CBRE of both developments (**Appendix 4**).

The applicant's assessment concludes that the North Westgate scheme is not financially viable in any event i.e. it is not financially viable even if the Queensgate scheme were not granted planning permission. The applicant contends that the Hawksworth scheme requires external funding to deliver the development and based on the findings of the CBRE report this will not be secured.

The assessment concludes that the North Westgate Scheme will not therefore be implemented based on any reasonable assessment of viability even if the Queensgate scheme were refused planning permission.

Therefore the grant of planning permission for the Queensgate scheme would not cause the North Westgate scheme to be unviable since it is unviable in any event. Consequently, the applicant argues that the Queensgate scheme could not lead to the loss of a regeneration opportunity since the current North Westgate scheme will not come forward anyway.

The applicant feels that there is a risk that if planning permission is refused for the Queensgate development that no investment at all is made into the city centre. The stated fear is that the city centre may lose out on a new cinema altogether as the market demand will be met on a site elsewhere in Peterborough in a less sustainable location not least because there are plans for a leisure scheme at Serpentine Green which could attract a cinema operator. The applicant feels that this would have significant impact on the city centre and that Peterborough's retail ranking will decline even further and its policy vision will not be met. Further, it will then make the investment opportunity at North Westgate less attractive to potential investors in the future.

The applicant also contends that if the Queensgate development is implemented, it will improve the prospects for the regeneration of the North Westgate Opportunity Area in the future. It is argued that the development at Queensgate would significantly enhance the vitality and viability of the city centre and would regain its position as a top retail centre in the region and reverse the decline in its retail ranking. This would have a positive effect upon the developability of the Opportunity Area.

The applicant points out that it has land interests in the North Westgate area and that it is in its interests to see the redevelopment of the area on a comprehensive basis. However, the applicant considers that for a viable scheme to be developed at North Westgate development needs to take place at Queensgate first.

Officer Appraisal

In the light of the viability information submitted by the applicant, a review of the viability position was necessary. In preparation for undertaking that review a request was made by planning officers to Hawksworth seeking permission to utilise the viability information previously submitted in relation to their development; this request was initially denied. This meant that initially only the viability information submitted by the Queensgate applicant, for both its scheme and North Westgate could be used for the purpose of a comparative assessment.

Because of the initial view taken by Hawksworth, the Council's consultant Barker Storey Matthews (BSM) could only review the information provided by the applicant in regard of their own scheme and that at North Westgate (BSM report is in **Appendix 5**).

Hawksworth has more recently changed its stance and has released its viability information on condition that it is not shared with the applicant or the public. This partial co-operation is welcomed and has enabled the Council to engage a firm of national standing (GVA) to review both the Queensgate viability information and the Hawksworth information (The GVA report in its redacted form is in **Appendix 6**. The un-redacted report is in **Appendix 7** and is not for publication in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of a particular

person, namely Hawksworth Securities plc. The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it as to do so would disclose commercially sensitive information pertaining to Hawksworths business affairs.).

Nevertheless the unwillingness to share the information with the Queensgate applicant and the public is disappointing.

The applicant's submitted information suggests that the viability of the North Westgate scheme relies on an improved market for the whole range of uses proposed, for which there is generally an oversupply and lack of demand in Peterborough. This means that the viability of the North Westgate scheme is dependent on an increase in take up, as a result of improved market conditions. The applicant considers that the North Westgate scheme is currently showing a negative return in excess of £41 million.

As above, the Council has obtained independent advice from Barker Storey Matthew (BSM). This review looked at only the information on both the Queensgate scheme and the North Westgate schemes supplied by the applicant.

In addition, the Council has sought independent advice from GVA.

GVA has advised that in their view the CBRE appraisal of the North Westgate scheme is overly pessimistic. In particular, the assumptions adopted in relation to yield are higher than Queensgate identified for their own scheme causing a higher development value to be arrived at which together with the higher build cost assumptions caused a loss to be shown whereas a profit is shown by Hawksworths own figures. It should be noted however that that the scheme costs for North Westgate included in the CBRE appraisal commissioned by the Queensgate applicant were provided by the same firm who provided the costs in Hawksworth's appraisal of their own development, but the latter cost were materially lower and therefore would have strengthened the viability position of the proposal.

GVA have assumed that Hawksworth's own (lower) cost figures are likely to be more accurate since they were produced more recently and by the party with the best knowledge of the current details of the North Westgate scheme. Having looked at the figures produced by Hawksworth for their own scheme as well as the figures produced by the applicant for their own scheme at Queensgate, GVA had no significant concerns regarding the cost, value and yield assumptions used by the respective parties for their own schemes.

GVA have advised however that the viability of the North Westgate scheme depends upon delivering all of its individual elements and that there are real uncertainties surrounding the deliverability of the office element and the foodhall.

GVA have advised that putting the cost, values/yields to one side, the North Westgate scheme has not insignificant deliverability issues relating to:

- land assembly,
- the time taken to undertaken to do this
- Brexit expected to slow the market down (officer comment – this would also apply to Queensgate but it should be noted that may be less impacted upon given the expected short timeframe for delivery)
- the need to secure some prelets (office, supermarket, some of the food/ retail units)
- the foodhall being an unproven product in this location
- the large amount of mezzanine floorspace in the restaurants
- the fact that the whole of the scheme needs to be built in order for it to 'work'

On this latter point, Hawksworth has stated that individual elements of the North Westgate scheme will not be delivered unless they make an important contribution to the whole. One would expect this since a developer is only likely to deliver uses which are supported by market

demand. Officers comment that if there is a lack of market demand meaning that certain aspects of the development, such as the office element, cannot be delivered then this may have a negative impact on value and overall development viability. Also some of the content of the scheme is unproven from a demand perspective e.g. the food hall.

GVA has advised that it is unclear whether there is likely to be a demand for the proposed office space. Discussions with Hawksworth indicated that there are 1 or 2 parties who are in early stage discussions although these discussions have not yet advanced to negotiation of terms. GVA advised that a developer would not build out the office space in the absence of a pre-let of part at least. Thus, the advice from GVA has the effect that in the absence of a pre-let of the office space and some other pre-lets of some of the restaurant space and the supermarket space, the North Westgate scheme, as proposed, cannot be seen as financially viable. At present there is no known firm interest in the supermarket, office or restaurant spaces. In addition GVA commented that the food hall element of the proposal is an unproven concept and there are concerns also regarding the whether there is demand for the quantum of upper floorspace in the food hall and restaurant elements of the scheme. A sensitivity analysis GVA modelled the effect of not delivering the proposed office accommodation and this moved the appraisal from a position of profit to a position of a loss.

GVA have concluded that the North Westgate scheme would be unlikely to be viable / deliverable in the event that the Queensgate scheme gets built out before it (this assumes that both schemes are unchanged from what is proposed), primarily because there is not sufficient market capacity for two multiplex cinemas of the scale proposed by the two schemes. Notwithstanding this, GVA have advised that there remains a possibility that North Westgate could be built out in a different way. Therefore it is not correct for Hawksworth to say that there is no other scheme that could come forward for the North Westgate site should the Queensgate development be built out first. This has not been proven by Hawksworth who have not submitted any detailed financial viability appraisal to prove this. This is discussed further in the next section on this report.

In addition, GVA advised that the outline planning permission granted in respect of the North Westgate scheme contains some flexibility and that in the event that an office pre-let could not be secured other forms of development (such as residential) could come forward in its place. However, again, as there is now, there is uncertainty as to whether such a scheme would be deliverable.

Officers are of the view that the financial viability position (in terms of cost, values / yields) does not establish that the North Westgate scheme will not come forward in any event as suggested by the applicant for Queensgate. However, it also does not suggest that the North Westgate scheme would necessarily be financially viable even if the Queensgate scheme were refused planning permission. There is real uncertainty as to whether the North Westgate scheme is likely to be deliverable even if the Queensgate scheme were refused planning permission.

GVA also examined the financial viability of the Queensgate scheme. GVA concluded that whilst the return on cost is at the lower end of what would be expected but the developer has stated that it is prepared to proceed on the basis that it enhances an existing asset. There is then no reason to suppose that if it were permitted the Queensgate scheme would not proceed due to financial viability considerations.

In addition to the question of financial viability, GVA also considered the deliverability of the North Westgate scheme in the absence of the Queensgate scheme.

GVA identified that there are "significant" site assembly issues associated with the delivery of the North Westgate scheme. This involves the acquisition of some 14 houses, 4 surrounding retail / industrial uses, the acquisition of Frobisher House (recently sold on the open market to a third party), and the acquisition of the Church (currently on the market).

Frobisher House has recently be sold to a third party. A prior approval has been granted by PCC in respect of the conversion of that office block into housing and it is considered likely that property will be converted into residential flats. If that were the case it would make the task of securing a CPO to implement the whole scheme more difficult. If Frobisher House were omitted from the North Westgate scheme, this would be likely to adversely affect the overall development viability of that scheme.

Officers are also aware that Westgate Church has been on the market but that the owner is seeking to retain the curtilage to the church and the building to the rear of the site.

GVA advise that it seems likely that compulsory purchase powers would have to be used. This would mean that the Council would have to be involved in the site assembly process since only the Council has the necessary powers of compulsory acquisition.

The City Council has made no decision on whether to use said powers. Whilst there have been some very high level and early discussions regarding a Joint Venture between the City Council and Hawksworth regarding the development of the North Westgate site, these have not progressed to any significant stage and the Council has made no formal decision regarding the possibility of a Joint Venture.

In order to promote a CPO the Council would have to satisfy itself that there is a 'compelling case in the public interest' for a CPO to be granted, that justifies the private loss and interference with human rights which the exercise of the CPO would give rise to. Part of considering whether a compelling case exists involves considering whether there is any 'funding impediment' to the scheme for which the CPO is sought being developed. This would involve consideration of the financial viability of the scheme the CPO is seeking to bring forward. It would be difficult to secure confirmation from the Secretary of State of a CPO for a scheme which cannot be demonstrated to be financially viable.

The usual process for bringing a CPO forward for a town centre regeneration scheme is for the relevant local authority to enter into an indemnity agreement with a developer. In such an agreement the developer agrees to pay the costs of the authority in bringing forward a CPO including compensation arising from blight claims and following the compulsory purchase itself. The Council would need to satisfy itself that the developer has sufficient funding to meet these costs before it entered into such an agreement since, if the developer could not meet these costs, the Council would have to.

The extent to which Hawksworth (whose 2014/15 accounts identified it having a net worth of £7.65m, assets of £4.79m, liabilities of £2.36m and cash of £96,000) has access to sufficient funding to indemnify the Council in respect of a scheme involving costs in excess of £100m is unclear.

The process of securing a CPO is lengthy. It can take as much as three years to secure a CPO:

Agreeing Indemnity Agreement 1-2 months

To seek authority to commence drafting CPO – 1 month

Negotiating with owners – 6 months

Report seeking authority for the CPO to be made – 6 to 9 months

If objections are received experience elsewhere suggests that it is usual for the confirmation process including an inquiry into objections will take around 18 months

As can be seen, it can take around 3 years from the start of the CPO process to the end.

At the time of planning permission being granted for the North Westgate development Hawksworth indicated that the scheme could be delivered by summer 2018. Whilst the grant of permission for the Queensgate scheme along with the claim for judicial review may have had an impact, it should be noted that there have been no discussions held between the applicant and the Council's planning team with regard to progressing the North Westgate scheme to a reserved matters submission. This factor combined with the likely need for a CPO means that Officers take the view that the scheme would be unlikely to commence construction until the end of 2019 at the earliest.

Officers therefore consider that even without the Queensgate scheme there are substantial hurdles to be overcome before the North Westgate scheme could begin to come forward.

This in turn feeds back into the uncertainty relating to that scheme's financial viability, since it is not possible to assess with any certainty the market demand for the scheme as a whole, or indeed each of the elements of it, in three years' time. Uncertainty over whether elements of the scheme would in fact come forward due to uncertainties in market demand in the future would affect the extent to which a compelling case for acquisition in the public interest could be demonstrated to exist and thus whether the CPO process could be used at all in order to assemble the land required.

By contrast, the applicant for the Queensgate scheme already owns the relevant land. Terms are still to be agreed with some tenants but in some cases discussions are at an advanced stage and in the case of the cinema solicitors have been instructed. Delivery prospects are enhanced by the advanced stage of occupier negotiations and the level of site control.

Indeed, had it not been for the claim for permission to judicial review the grant of permission, the development was due to commence in January / February 2016. It should also be noted that Hawksworth has not contested the likelihood of the Queensgate scheme being viable and deliverable; in a letter dated 22 September 2015, Hawksworth stated that it is likely to be built before its own scheme. Officers are of the view that there is no reason to suppose that if planning permission were granted for the Queensgate scheme that it would not come forward in short order.

On the basis of all of the above, a judgment has to be reached. Officers are of the view that given the lack of certainty with regard to financial viability and the identified deliverability issues it is more likely than not that even without the Queensgate scheme being permitted, the North Westgate scheme would not come forward.

The result is that if planning permission for the Queensgate scheme were refused there would be a real risk that no cinema would come forward within the town centre at all. It would also be to risk the loss of the benefits that the Queensgate scheme would deliver without the benefits of the North Westgate development materialising either.

Members are advised to consider the material and form their own view as to whether the North Westgate scheme is likely to come forward if planning permission for the Queensgate scheme were refused and to give this weight in the planning balance to be struck.

2) Would granting planning permission for the Queensgate scheme be likely to prevent the comprehensive regeneration of the North Westgate Opportunity Area altogether?

The applicant for North Westgate maintains that in the event that the Queensgate Scheme proceeds, not only would the North Westgate scheme not come forward but also there is no alternative land use that could take the place of the cinema in order to make the development economically deliverable again.

The applicant for North Westgate in a letter to the Council (22 September 2015) indicated that 'having carried out extensive viability testing, there is no other anchor, leisure, retail or

otherwise' that could replace the cinema in the scheme. The content of this viability testing has not been submitted to the City Council. The only material on this point that has been submitted consists of a number of letters in which various advisers express their opinions.

In one of the letters (dated 25 September 2015), Savills responded to Hawksworth's request to comment on whether North Westgate could go ahead if it was 'predominately an office or residential scheme rather than a mixed use scheme'. The focus of the letter and advice therein does not comprehensively explore alternative mixes of and qualities of land uses as it comments on either a mainly residential scheme or office scheme. In the other letter (dated 25 September 2015), Lunson Mitchenall express the view that the site, because of its size and distance from the core retail area could not be a successful freestanding retail scheme without the cinema and that the loss of the cinema would reduce the critical mass of food uses and go on bring into question the justification for the development. These statements are not supported by any form of financial viability appraisal and it is not clear exactly what development scenarios were being considered. Given this, it is not accepted that it has been established that the loss of the opportunity to include a cinema necessarily means that no other scheme could be identified to achieve the regeneration of the area envisaged by the development plan.

GVA have advised that on the basis of the approved scheme for North Westgate, it would not be likely to go ahead in the event that the Queensgate proposal gets built out first. However they have gone on to state that they do not see that this would render the North Westgate site necessarily incapable of any form of redevelopment contrary to what is stated by Hawksworth. GVA are of the view that a scheme with different content and scale of development (e.g. more housing and a boutique cinema being part of the scheme) might still be deliverable on the site. Accordingly, even if there were no proposal for Queensgate, there remains a possibility that the North Westgate site could be built out in a way which is different to that which has been granted planning permission.

Members are advised to consider the above and form their own view as to the likelihood that, if planning permission for the Queensgate scheme were granted, redevelopment of the North Westgate Opportunity Area might nevertheless come forward and to give this weight in the planning balance to be struck.

3) Relative Planning Merits

In carrying out the planning balance Members are also asked to have regard to the benefits of each scheme and to weigh them in the balance to be struck.

i) City Centre Regeneration

The applicant considers that in any event the regeneration benefits delivered by the Queensgate development are more beneficial to the city centre than the development of North Westgate. It contends that many of the land use elements of what is being proposed at Queensgate would be delivered by the North Westgate proposals, these comprise a cinema, food and beverage units and new medium sized retail units. These uses reflect what is happening in many shopping centres and town centres across the UK with a big increase in spending on eating out and the on-going popularity of cinemas as a primary leisure activity for all the family.

The applicant considers that Queensgate plays a crucial role in the city centre. It forms the core attraction within the defined Central Retail Area of the city centre. It accommodates the majority of national multiple retailers, including major anchor retailers such as John Lewis, Marks and Spencer, Next and Primark. Queensgate is undoubtedly the major driver of footfall in the city centre as a whole and is fundamental to its overall economic success. It follows, therefore, that the wider success of the city centre is inter-twined with and dependent to a

significant degree on the success of Queensgate.

The applicant considers that this is generally reflected in policy in the City Centre Plan, where it states the Council's strategy is to focus development within the "heart" of the centre and consolidate investment in the existing shopping area. The Plan states that new development "*should complement and strengthen the main shopping area*" (para. 4.3.4). The applicant asserts that the Queensgate proposals are in accordance with this.

The applicant has identified that there has been no significant investment in the Queensgate shopping centre since it opened in 1982 unlike other competing centres such as Leicester and that the centre must be brought up to modern standards. Without this investment the centre will decline and customers will choose other centres in an around the catchment area.

The new shop units created by the internal reconfigurations will provide accommodation for national multiple retailers who want to be located alongside flagship operators such as John Lewis and Marks and Spencer. These opportunities can only be provided in the Queensgate and are fundamental to addressing the centres decline.

The applicant further states that the benefits delivered by the Queensgate proposals go wider than just providing new retail and new leisure opportunities and relate to the long term future of the shopping centre. The reconfiguration of the John Lewis store would result in significant enhancement to the store. John Lewis' needs cannot be met in the North Westgate proposal and if that went ahead and the Queensgate didn't, these important benefits will not be realised to the detriment of the city centre as a whole.

Another operator is Next who plan to utilise the space released by John Lewis creating a larger store. Next must trade in the prime retail area adjacent to national multiple retailers. North Westgate would not be able to provide large retail units, they wouldn't be in the prime retail area and therefore couldn't meet the needs of Next.

The application states that both Queensgate and North Westgate development would provide a cinema and restaurant uses. These aspects of the Queensgate proposals specifically respond to the expectations of the City Council as set out in Policy CC3 as to where the cinema should be located in the city centre. The Queensgate proposals would mean the positive impacts of the cinema and restaurant uses would be maximised as they would be located directly adjacent to and accessible from the highest areas of footfall in the city centre, the bus station and the existing car parking facilities at Queensgate. The proposed development means that the centre will stay open longer into the evenings increasing the connectivity with the city centre and the bus and railway stations. Invesco have stated that funding in place to commence development immediately upon the grant of planning permission and the key operators have arrangements in place. The applicant has also highlighted that all of the land required to facilitate the development is within Invescos ownership and the application is submitted in detail. As such once the application has been granted the scheme will be delivered. In contrast on top of the viability concerns over the North Westgate proposal the timeframes and process for bringing forward this scheme are significantly longer, more complicated and more risky. A reserved matters application has not been submitted for North Westgate. The land is in various ownerships which is likely to require compulsory acquisition and funding for the scheme is not available.

The applicant asserts that from the above considerations it is therefore clear that there are significant benefits to the city centre.

Nevertheless, the applicant acknowledges that a larger and wider range of potential planning benefits would arise from the North Westgate scheme given the size and scope of the proposal compared with Queensgate.

Officers note the above but recognise that the North Westgate proposal has the following regeneration benefits:

- Reuse/ replacement of inefficiently used land and property
- Improvement in the appearance of the area including along pedestrian thoroughfares
- A sustainable location for development
- The creation of jobs
- The provision of housing
- Enhanced retail and leisure offer including night time economy

which are in accordance with the objectives and policies in the development plan.

GVA has expressed the view that they considered the North Westgate scheme preferable from a regenerative perspective but noted that the scheme is hampered by the fact that it does not cover the whole of the opportunity area. It should be noted however that GVA's observations on these two matters is beyond their brief.

ii) Policy Compliance

Within this report the Queensgate scheme has been assessed against national planning policy and guidance as well as local planning policy. The conclusion is that the proposal is policy compliant. The approved North Westgate Scheme, was also found to be largely policy compliant albeit that:

- no affordable housing was to be provided (the deviation from policy was deemed to be justified as a consequence of development viability issues); and
- the application site did not include all of the land identified for redevelopment under City Centre Plan Policy CC3 but it was not considered that the redevelopment of the excluded elements would compromise their subsequent delivery

In the Core Strategy (2011), under objective OB13, it is stated that:

- The regeneration of the city centre is a priority in order to drive growth, maintain viability and enhance vitality so that it remains at the top of the retail hierarchy in the region.
- That a vibrant, mixed use centre that is alive day and night and supports growth elsewhere is facilitated through increases in the quality of the commercial, retail, cultural, leisure offer and the provision of modern retail and office floorspace and high density housing

Both the Queensgate and the North Westgate schemes are compatible with the objective which does not express any specific locational preference.

Objective OB21 is stated as establishing an improved leisure and cultural offer within the city and create a thriving night time economy. This objective is not location specific or locationally preferential. Therefore both Queensgate and North Westgate are compatible with the objective with neither scheme being better than the other.

Under Core Strategy Policy CS4, North Westgate is identified as a priority location for new development with regard to new retail floorspace (particularly comparison goods). It should be noted however that the North Westgate scheme is a leisure lead scheme and not retail lead and that the largest amount of retail floorspace in the scheme is put to food retail rather than comparison goods. Also under the Policy, it is stated that new leisure developments which meet the needs of the city / sub region will be encouraged and no location or priority is identified. It is therefore the case that neither scheme benefits from any policy preference.

In respect of the Council's City Centre Plan, there is a Leisure Objective which mirrors that in the Core Strategy as one would expect. The Plan identifies that there is the need to attract new facilities, such as a centrally located cinema, to the City. Further to this, in the 'Vision' for the City Core Policy Area (in which both developments are located), it is stated

that 'There will be new retail and leisure provision, particularly further improvements to the Queensgate shopping centre and the North Westgate Opportunity Area'. From this point of view the vision sees both locations as being suitable for leisure use. This is confirmed in Policy CC3 which states that within the North Westgate planning permission for leisure uses (amongst others) will be granted and that elsewhere in the City Centre Core Policy Area (which includes Queensgate) will expect and support leisure uses (amongst others) including a cinema.

In conclusion, it is clear that the policy objectives and policies within the development plan for the area support leisure uses in either location and there is no expression of priority or preference in respect of the siting of leisure uses or expressly a cinema to a particular location. From this point of view both schemes are policy compliant with neither having a policy advantage over the other.

ii) Redevelopment of Brownfield Land / Efficient used of land

The North Westgate scheme would bring into use a larger site (part of which is unattractive in appearance and which impacts to a degree on some heritage assets) and deliver more development on land which has been underused and awaiting redevelopment for more than 20 years.

The Queensgate scheme is physically much smaller and would use its existing land and buildings more efficiently. It could be argued that this would then allow for a greater quantity of development to take place within the City Centre. It would be reasonable to conclude that the North Westgate scheme would bring about greater benefits compared to the Queensgate scheme in relation to the redevelopment of brownfield land.

iii) Proposed Land Uses

The uses proposed with both the Queensgate and North Westgate schemes are appropriate for their respective locations and are in accordance with planning policy. The North Westgate scheme proposes a wider range of uses, residential being the most significant (residential is not a feature of the Queensgate scheme). The delivery of housing within the city centre is a feature of the City Centre Plan. The North Westgate scheme by virtue of its larger size, range of land uses will result in more physical development than the Queensgate scheme to the greater benefit of the City Centre and the local economy. However, this too has to be balanced against the conclusion that there is the risk that the North Westgate scheme will not proceed in any event. In addition, GVA has recorded Hawksworth as having stated that individual elements of the scheme will not be delivered unless they make an important contribution to the whole. It therefore follows that Hawksworth itself accepts that the North Westgate scheme may not be implemented as a whole. As a result, the benefits arising from a comprehensive development of the site may not arise even if part of the scheme were to come forward.

iv) Access & Transport

The Queensgate scheme will result in the centres car parks (recently refurbished to a high standard) being open for longer meaning that they are being used more efficiently, that there will be a greater degree of access through the centre well beyond the existing hours of access to the benefit of pedestrians which to move across the city. It should be noted that the proposal will significantly improve the entrance and interior to the mall which is currently below expectation and is adversely affected by a low ceiling. The proposal will open up the entrance giving it a light, airy and modern appearance. The proposal does not result in any changes or alterations to the streets outside the centre. Given the content of the scheme, the fact that it represents an extension to the existing mall and reuses existing floorspace to a significant degree. The traffic impacts of the scheme were considered to be negligible (the

increase in trips in both weekday and Saturday peaks as a result of this proposal was 16 trips and 13 trips respectively) with no changes or improvements needed to the public highway unlike the North Westgate scheme

The North Westgate will sever some existing access routes (pedestrian and vehicular including cycling) but will create some alternative routes (that provide an improved pedestrian environment) as well as provide an onsite car park. This onsite parking facility is not required under policy (given that it is a city centre location) rather it is understood to satisfy a prerequisite demand by the prospective cinema operator. There is no evidence to suggest that existing car park capacity in the City Centre would be insufficient to serve the proposed development. In this context the existing car parks in the City Centre would be used less efficiently because onsite parking is proposed. Also use of part of the site for parking could be seen as the land not being used as productively as it could be. With regard to traffic circulation, the proposal will result in significant changes to how traffic moves in and around the area e.g. traffic exiting the multi storey car park on Westgate, traffic travelling down Lincoln Road, Park Road and Westgate as well as a less convenient arrangement for travelling to / from the John Lewis click and collect point. There are no such associated issues in respect of the Queensgate scheme. The scale of the development together with the changes to the streets through and adjacent to the North Westgate site is such that it would impact on traffic using Crescent Bridge / Thorpe Road i.e. There will be an average delay per vehicle on Thorpe Road of some 13.5 minutes per vehicle during the Saturday peak (1-2pm). Notwithstanding this it should be noted that officers supported the scheme and planning permission was granted for the scheme.

Both schemes are conditioned to have travel plans in place which will assist in facilitating modal shift away from the private car,

Whilst both schemes were found to be acceptable in terms of their highway and transportation impacts and also policy compliant, it is evident that the North Westgate scheme has a greater impact on the transportation network than the Queensgate proposal. This is perhaps not surprising given its larger scale and location.

v) Housing benefits (market and affordable)

The Queensgate scheme has no housing land use element to it whereas the North Westgate proposal does (between 150 and 200 dwellings a proportion of which will be lifetime homes). The provision of housing will help meet the stated housing requirement identified in the Core Strategy and in the City Centre DPD, though it should be noted that due to viability issues, no affordable housing is being provided. The proposal would help meet the Council's five year land supply situation however, it should be noted that the Council is currently reviewing its Local Plan and because of the questions around the deliverability of the development and its timing, its contribution is not assured.

vi) Economic and Employment benefits

It has not been possible to establish the relative benefits of the schemes as it is not known what the net gain / loss in employees will be for each of the developments (No figures have been provided for Queensgate and a figure of 1117 jobs has been given for North Westgate but this is not a net figure). North Westgate is physically a much larger development and so it seems reasonable that it would generate more jobs and engage more services in the construction and post construction phases expect (although there will be the loss of the existing businesses in the site).

vii) Other Economic Benefits

The North Westgate development would contribute significantly more in terms of council tax and new homes bonus (from the dwellings element) and business rates compared to the

Queensgate scheme.

North Westgate:

New Homes bonus (assuming 175 band B dwellings all delivered today at current rates) - £1.2

Council Tax (assumption as above) – £249K (all dwellings delivered at today's rate)

It should be noted that there is a pending review of business rates and as the new homes bonus links to this and in addition there has been a recent government consultation on a review of policy. Therefore there is no certainty regarding the level quotes. It has not been possible to provide an estimate of business rate income as to do this a rateable value has to be established by the valuation office and this has not been undertaken.

viii) Night time Economy

Both the developments are leisure based proposals and so they will each contribute towards the Council's stated objective of improving the night time economy. It is not considered that one scheme or the other performs better in respect of this issue.

ix) Design/Public Realm Improvements

The North Westgate development will bring about significant improvements to what is in part underutilised area in the City which of poor physical appearance. It does this in a number of ways including new street frontages, new traffic free thoroughfares and formation of 'public' spaces. The enhancements are substantial given the physical scale of the development whereas those arising as a consequence of the Queensgate scheme are more modest. Nevertheless, the latter will result in a significantly improved entrance and mall environment which will bring the facility right up to date and assist the centre and therefore the City Centre as a whole enhance its position in the retail rankings. Whilst on the surface it may appear that the North Westgate has greater benefits than the Queensgate due to the extent of the physical enhancements it is considered that these are actually matched because the Centre is to a substantial degree the lifeblood of the City Centre and if it is allowed to stagnate there is the real risk that the attractiveness of the centre will start to decline which would be damaging to the city centre as a whole.

x) Heritage Assets

Please see section C of this report for an assessment of the Queensgate scheme in respect of its relationship / impact to Heritage assets which in the main relates to Cathedral views the Park Conservation area. The conclusion of the assessment is that the less than substantial harm to the heritage assets is outweighed by the public benefits of the scheme.

By way of comparison, it could be argued that the North Westgate scheme impacts on a higher number of heritage assets (Cathedral views, Wortley's Almshouses, the adjacent conservation area and also the asset of Westgate Church. Notwithstanding this, at the time the application for the development was considered, the conclusion of the assessment is that the less than substantial harm to the heritage assets is outweighed by the public benefits of the scheme.

As a consequence of the North Westgate scheme impacting on more assets it could be argued that it is by default more harmful than the Queensgate scheme. In such a context it

could be said that this is balanced by the fact that the development is likely to improve those part of the site that are currently detrimental to the appreciation of some of the heritage assets. It is therefore concluded that no one scheme performs better overall than the other in terms of being less harmful / more beneficial to heritage assets in the locality.

xi) Ecology

An ecological assessment of the North Westgate scheme found that several Species of Principal Importance nesting within the site including Starling, Cumnock and House Sparrow. No bats were found although not all the building on site were assessed. Nothing was found on site which would prevent the development from going ahead.

With regard to the Queensgate scheme, please see the ecology section below. As with the North Westgate scheme, nothing was found on site which would prevent the development from going ahead.

There is no evidence to suggest that one of the two scheme performs notably worse or better in respect of impact on or contribution towards ecology. Both schemes need to be undertaken with regard to the bird nesting season and will have to include measures to facilitate bird nesting.

xii) Resources / Energy / CO2

By virtue of its larger size the North Westgate scheme will consume more resources than the Queensgate scheme. In addition as a result of the changes to the road layouts in the locality and the trips associated with the development more resources will be used by vehicles with an associated increase in CO2 emissions. More positively, the buildings to be removed from site are unlikely to be efficient in their use of energy.

Whilst either scheme is free in principle to be built out to a high specification that is required by building regulations in order to reduce energy consumption / have on site generation, the planning permission for the North Westgate scheme is subject to a condition requiring that a higher standard must be met (10% better than building regulations). The nature of the Queensgate proposal (reuse of existing floorspace and an extension) means that it is impractical to apply the same condition to it. Whilst not enforceable, the proposed energy efficiency measures (see the sustainability section below) should be noted.

GVA has commented that they saw that the North Westgate scheme was more sustainable from an energy perspective however these comments went beyond their brief and given that the North Westgate scheme is only at outline permission stage so there are no confirmed details other than to say it will be designed to perform 10% better than building regulation requirements (see para above).

The Queensgate scheme performs better than the North Westgate proposal but only in the context of it being a significantly smaller scheme and therefore it will use less resources by default.

Conclusion

Officers consider that looked at in isolation the North Westgate scheme would deliver greater benefit to the public interest than the Queensgate scheme, if the North Westgate scheme were to come forward. However, the Queensgate scheme itself generates significant benefits in the public interest.

Members must look at all of these issues in the round and form a view whether, in the light of the questions surrounding whether the North Westgate scheme's deliverability even if the Queensgate

scheme is not granted planning permission, on balance the risk of the loss of the benefits of the North Westgate scheme and the impact upon the potential for the North Westgate Opportunity Area's regeneration are such as to outweigh the policy support given to the Queensgate scheme in the development plan and the benefits that it would deliver.

Officers do not consider that they are of such weight as to outweigh that support and for that reason officers recommend that planning permission is granted for the Queensgate development.

D) Design and Visual Amenity

The existing centre is a large block and forms the back drop to the finer urban grain of the historic streets of Westgate and Cowgate. The existing material palette is simple, primarily comprising buff brick, lead mansard roofs and glazing. Due to the existing substantial mansard roofs most of the extensions would be screened by the existing roof structure. The retained lead mansard on the north block restricts visibility of the majority of the new cinema volume. It would be clad in matching material to blend into the mansard rather than contrast and draw attention to the increased volume.

The cinema is set back from the existing elevation edge providing space between the mansard and the cinema's façade. The southern block would be more visible but the western façade would be in the most part, screened by the Bus Station and multi storey car parks. This element would be finished in light grey cladding panels with dark grey aluminium framing strip.

The massing of the extension would be broken up into 3 blocks with public spaces between them provided by the glazed malls. The variation in materials punctuates the otherwise continuous bulk and mass of the extension on the west façade of the building. Glazing to the mall elevation and roof is a clear glass curtain wall – the glass will restrict solar glare and unwanted heat. The glass is self-cleaning and low emissivity. The restaurant courtyard is also glazed the same as the mall.

It is proposed that the varying heights of the blocks create a rhythm on the roofline and this is accepted.

The west mall is the main point of connectivity from the Bus/rail station and people's first impression of the city. Current low ceilings lack natural lighting resulting in an uninviting environment. The introduction of the glazed west mall has provided a visual enhancement to this entrance to the QSC and creates a more legible route to the rest of the centre and upper floor uses.

The Peterborough Civic Society recognises the proposal's potential to enhance the attraction of Queensgate through the introduction of a cinema and the inclusion of a food court and welcomes the increase in public accessibility. However concern is raised regarding the proposal. It is considered that the bulk of the cinema rising above the bus station is inappropriate and that the design and materials are out of keeping with the elevation treatment of the existing centre.

It is acknowledged that the elevational changes to the western façade are substantial however as stated above the majority of view of this elevation would be screened by the multi storey car parks. With regard to the design and use of materials, the existing building is a simple and bulky design with a variety of roof heights and the materials are limited to buff brick, lead mansard roof and some glazing aspects to the entrances. The existing centre is also described as 'inward facing'. It is considered that the proposed materials aluminium cladding, glazing and buff brick to match the existing would complement and harmonise with those used in the existing building.

In addition it is considered that the design of the entrance to the western mall would provide a more welcoming experience for visitors to the centre.

It is considered that whilst the roof top extensions would result in an addition to the height and mass of the building the design of the extensions and appropriate use of materials would harmonise with the proportions and appearance of the existing building and would not detract from the character

and appearance of the city centre as a whole. Hence the proposal accords with policy PP2 of the Adopted Peterborough Planning Policies DPD, policy CS16 of the Adopted Peterborough Core Strategy DPD and section 7 of the NPPF.

E) Impact on the conservation area and heritage assets

In assessing the impact upon heritage assets it is necessary to refer to section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires Local Planning Authorities to have special regard to the desirability of preserving a building or its setting, or any feature of special architectural or historic interest which it possessed. Section 72(1) of the same Act states that special attention should be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.

The setting of heritage assets is perhaps best defined within the Glossary to the NPPF which states that setting refers to: *'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'*

A Townscape, Visual and Heritage Impact Assessment has been submitted in support of the application. There are no listed or locally listed buildings within the application site however part of the site is situated within the city centre conservation area boundary and the Park Conservation area is to the north. There are a number of listed and locally listed buildings nearby. The study assessed three elements: the likely effects on the character and quality of the townscape; the effects of the development on the significance of heritage assets; and the effect of development on views, viewers and their visual amenity. Twenty-one key representative views were selected. It is noted that due to the low lying nature of the site and the dense development of the city, street level views of the scheme are well contained to the immediate vicinity of the site. The proposed development would, however, be seen together with the wider roofscape of Peterborough from the elevated view locations of the Cathedral Tower and bridges across the railway line.

The extension is located to the north-west of the QSC roof, furthest from the historic core of Peterborough. This means that the majority of the views from where the extension is visible are away from the sensitive townscape elements and particularly the Cathedral. The change to the view from the Cathedral tower is likely to be neutral in the context of the existing townscape character and acceptable. In terms of the remaining views, all effects are either negligible or neutral (minor to moderate).

Account should be taken of the desirability of sustaining/enhancing heritage assets; the positive contribution that they can make to sustainable communities including economic viability; and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of new development great weight should be given to the asset's conservation.

Planning permission should be refused for development which would lead to substantial harm to or total loss of significance unless this is necessary to achieve public benefits that outweigh the harm/loss. In such cases all reasonable steps should be taken to ensure the new development will proceed after the harm/loss has occurred.

Where harm is considered to be less than substantial, the harm should be weighed against the public benefit of the proposal.

The Conservation Officer has considered the assessment and identified that the more evident part of the extension will be viewed from Crescent Bridge roundabout / Bourges Boulevard. In this context the proposed development sits broadly within the massing of the existing roof elements and the proposed materials would match existing roof top materials, and so is visually acceptable.

In addition, the shopping centre is, or forms, the backdrop to various listed buildings. The bulk of the building currently has a small adverse impact on the setting of some listed buildings (e.g. Wortley Arms Houses, former Royal Hotel, and Westgate). There will be some minor visual impact on long distance views towards and from the Cathedral. In many locations in views of listed buildings and parts of the Park and City Centre Conservation areas the proposed extension will not be visible. In other locations the development will be seen and this will vary depending on position of the viewer. The extension will be set back from the northern elevation to Westgate.

The Conservation Officer recommends the application be approved and considers that the work will only have a slight adverse impact on the setting of certain listed and locally listed buildings but overall would accord with section 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990. Also, it is considered that the work will preserve the character and appearance of the City Centre and The Park Conservation Areas in accordance with Section 72(1), of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and is in accordance with Peterborough Core Strategy DPD (2011), Peterborough Planning Policies DPD (2012) and the National Planning Policy Framework (Heritage considerations)

Officers agree with the conclusions of the applicant that the extension would have a negligible effect on surrounding townscape character. The increase in height to the north-western part of the QSC roof would not alter the key characteristics or setting of the identified townscape character areas surrounding the site. The greatest townscape changes would be to the transport corridor character area (around Bourges Boulevard) but due to the poor quality townscape of this area and the height precedent already set by the shopping centre, the effect to the character of this area as a whole would be negligible.

Historic England has made representation on the application and considers that the bulk and massing of the alterations to the Queensgate centre would result in a modest level of harm to both the character and appearance of the adjacent conservation area and to the significance of listed buildings along Westgate through impact on their setting. Historic England has referred to para 134 of the NPPF that the Local Planning Authority will be required to weigh that harm against wider public benefits that would be delivered by the proposal.

It has been noted in the above report that the existing QSC comprises a large mass of buff brick and as a consequence has some existing impact on the setting of some listed buildings which lie to the forefront of the building. Consideration therefore is limited to the additional impact on the listed buildings resulting from the rooftop extensions. It is considered that whilst extension would add large volumes to the existing building these would not be apparent at the street level and would only be visible from views further from the site where, given the scale and mass of the existing building, they would appear proportionate.

The impact is measured against the benefits of the proposal which would be improved vitality and viability for the city centre through the likely increase in visitor numbers through cinema and restaurant offer, increased dwell times, employment opportunities improved night time economy, and improved pedestrian connectivity outweighs the negligible adverse harm caused by the extension.

Historic England have stated that the improved connectivity in the city would go some way to offset the harm resulting from the proposal however have requested that active frontages are provided to the elevations fronting King Street.

The potential to open up the ground floor elevation to King Street was considered under a previous scheme for the Primark extension. At the time of the application it was considered that this was a flaw in the original consent for the QSC and it would not be 'possible to turn back the clock'. It is considered that this part of the centre is not included in the changes and due to the internal layout of this element of the QSC it would not be reasonable to request this. It is considered that the improved connectivity from the city centre through the QSC to the Bus/Rail stations provided by the Queen Street and Cumbergate entrances would be a significant improvement on the existing connections for the city centre.

As per paragraph 134 of the NPPF, the development will result in less than substantial harm to the significance of the designated heritage assets, and this harm needs to be weighed against the public benefits of the proposal. Whilst great weight is to be given to the preservation of the character and appearance of the character and appearance of the Conservation Area, the harm is considered to be limited and outweighed by the benefits of the scheme including the enhancement to the vitality and viability of the existing city centre, economic benefits, and improved city centre pedestrian access. Therefore the less than substantial harm is outweighed by the public benefits of the scheme and hence the proposal accords with policy CS17 of the Adopted Peterborough Core Strategy DPD, policy PP17 of the Adopted Peterborough Planning Policies DPD and section 12 of the NPPF.

F) Highway Implications

The Local Highway Authority (“LHA”) is content with the information provided within the Transport Statement.

There are 4 multi-storey car parks directly to the west of the QSC and in total there are 2,300 parking spaces. It is not proposed that there would be any additional car parking provided, however the car parks would be open later into the evening for users of the cinema. It is likely that the cinema will increase the demand for parking however the peak time for cinema goers is likely to be in the evening, outside the core shopping hours when there is likely to be spare capacity.

Cycle parking: It is considered that there are insufficient staff cycle parking spaces available and further provision would be secured by condition. There would be provision within the ‘click and collect’ area.

There is customer cycle parking around the city centre in numerous locations. The LHA considered that further cycle parking should be proposed or at least the existing covered to encourage more trips by cycle. However, subsequent to the information as originally submitted the applicant has provided an assessment of provision and whether these are fully utilised. The LHA is satisfied that there are ample spaces around the entrances to the centre for visitor cycle parking.

Car parking: It is accepted that the existing car parks will open later to accommodate the proposed opening hours for the Cinema and associated restaurants. It is accepted that the existing car parking provision within the centre accords with the adopted parking standards under policy PP13 of the Adopted Peterborough Planning policies DPD.

Traffic impact: A 10% discount rate has been applied to the cinema trips to take into account linked trips with the shopping centre or other retail uses. However, the LHA are of the opinion that cinema trips are highly unlikely to link with an existing shopping trip and that the 10% discount is somewhat unrealistic. It is noted that the peak hours of use for a cinema are however generated outside the highway network peak hours on both a weekday and Saturday.

In respect of A1, A3-A5 trips these are more likely to be linked to the cinema during the evening or possibly shopping trips during the day. The application of a discount rate to these trips is therefore acceptable.

There would be a positive impact from the new proposals as the area of A1 retail floorspace is reduced which in turn would lead to a reduction in traffic to and from the shopping centre. The Transport Statement shows that overall because of this there would be a decrease in overall traffic during the Saturday network peak hours and a small increase in the weekday peak.

The LHA have however, stated that the 10% discount applied to the cinema trips is unrealistic and therefore the cinema trips for the network peaks have been recalculated to remove the discount. The result of this is that there is an increase in trips in both weekday and Saturday peaks as a result of this proposal. This increase is however, not significant being 16 trips and 13 trips respectively.

TRACK plots have now been submitted for the revised 'click and collect' area for the John Lewis store which the LHA consider to be acceptable.

It is noted that there are concerns regarding likely disruption that could be caused by the construction. The team will work closely with the centre management and local authority to develop and coordinate the construction methodology and plan any logistical operations that may impact on access to the centre and schedule these for out of hours working as appropriate to mitigate disruption. A Construction Management Plan will be secured by condition.

G) Travel Planning

A workplace travel plan has been submitted which has been developed with the Peterborough City Council Travel Choice Team. The submission of a Travel Plan is welcomed and it is hoped that the plan will encourage alternative methods of travel to work which would reduce the pressure on staff car parking, reducing the number of single occupancy car journeys along with the environmental benefits. The plan includes targets and an action plan and will be continuously reviewed and improved. However, further details are required in terms of how the applicant will mitigate the impact of the new tenant. These details will be secured by condition.

It is not considered that the proposal would unduly impact on the highway network and measures would be put in place to encourage alternative modes of transport. Hence the proposal accords with policies PP12 and PP13 of the Adopted Peterborough Planning Policies DPD and policies CS14 of the Adopted Peterborough Core Strategy DPD.

H) Ecology

An Ecological Assessment of the site has been undertaken and has not identified any potential constraints to development. Due to the urbanised nature of the site and the lack of semi natural habitats the supporting value to the site in terms of flora and fauna is therefore limited and the impact on the wider environment as negligible. This report identifies the biodiversity features present which tend to be opportunist bird species that utilise building fabric including feral pigeon and gulls and the specially protected black redstart was identified in the wider area with the variety of levels and vertical habitats (rooftop plant and ventilation ducts) potentially offering suitable habitat. The building does not contain features associated with bat roosting. The report goes on to identify mitigation measures that should be followed to minimise impacts including avoiding construction work during the bird nesting season and undertaking surveys works.

The Wildlife Officer is satisfied with the conclusions of the report. The Officer's view is that as the building is likely to support nesting birds including the Black Redstart which is a UK BAP Priority Species and is listed under Schedule 1 of the Wildlife and Countryside Act (as amended). A condition should be appended to the decision notice requiring Black Redstart surveys are carried out every two weeks in May & June and monthly in July and August during the construction period by a suitably qualified ecologist, as recommended in the Ecology report. Should evidence of their nests being found, then appropriate measures should be put in place to ensure this species is not disturbed.

The report recommends a number of bird boxes to enhance the development for biodiversity. The provision of these bird boxes, along with confirmation of their locations for installation would be secured by condition.

With the recommendations being fully incorporated into the approved scheme the development would provide a net gain in biodiversity and accords with policies PP16 of the Adopted Peterborough Planning Policies DPD.

I) Statement of community involvement

The applicant in relation to the original application undertook a programme of community consultation prior to the submission of the application in order to gain the views of key stakeholders and members of the public and to inform the scheme on areas of concern. Pre-application discussions were undertaken with the Local Planning Authority and the Local Highways section.

An evening reception was held on the 14th May 2015 where local Councillors and key stakeholders were invited to attend a preview of the public exhibition.

A public exhibition was held on the 15th and 16th May 2015 at the QSC which was open to local employees, residents and the general public. It was attended by representatives of the development team to provide opportunity for customers to ask questions and offer comments. The event utilised paper questionnaires and exhibition stands. 290 people attended the event and over 304 responses were received either from the event or by post. 98% of respondents indicated that they were in favour of the proposals.

A briefing was also given to Members of the City Council on the 3rd July 2015 following the submission of the application.

The applicant has not repeated any community consultation as a part of its latest application.

J) Sustainability

The proposal includes measures to reduce the development's energy demand, consumption and associated CO2 emission include:

- Maximising internal comfort conditions by passive means
- Improving U-values for opaque and transparent elements over building regulations requirements
- Utilising energy efficient lighting systems with automated controls
- Maximising daylight use
- Enabling natural ventilation in the glazed façade to exhaust air from the space
- Building management system to monitor mechanical systems

It is considered that the proposal would make a contribution to Peterborough City Council's aspiration to become an environment capital in accordance with policy CS10 of the Adopted Peterborough Core Strategy DPD.

K) Conclusion

Whilst officers maintain that there is no requirement in law or in policy terms to undertake a comparative assessment of the Queensgate scheme against the North Westgate scheme one has been undertaken. It has been concluded that neither scheme benefits from any policy priority over the other and that both schemes are policy compliant with neither scheme performing significantly better than the other in planning terms.

The North Westgate scheme has an advantage over the Queensgate scheme in terms of the extent of the public interest benefits it could deliver if it were to come forward as explained above.

However, having reviewed the relevant information Officers are of the view that it is more likely than not that the North West scheme would not come forward even if the Queensgate scheme is refused planning permission.

This means that if the Queensgate scheme were to be refused planning permission there would be a very real risk that no cinema would be delivered within the town centre in any event and that the benefits associated with the Queensgate scheme would be lost without the benefits of the North Westgate scheme materialising either. The benefits that the Queensgate scheme would deliver would also be lost. That would in turn give rise to the risk that Peterborough City would continue to lose ground in terms of its attractiveness as a regional shopping and leisure destination.

It is for Members to consider the weight to give to the risk that the North Westgate scheme may not come forward even if planning permission for the Queensgate scheme were refused.

It is also for Members to consider the weight to give to the risk that granting planning permission for the Queensgate scheme would pose to the prospects of the North Westgate scheme and/or an alternative scheme for the regeneration of the North Westgate Opportunity Area coming forward.

Members should also have regard to the benefits of the North Westgate scheme and the Queensgate scheme and give these weight in the planning balance.

For example, if a Member reaches the view that it is very likely that the North Westgate scheme will come forward if the Queensgate scheme is refused but that it will not if the latter scheme is granted planning permission, and reaches the view that the North Westgate scheme would deliver very significant public interest benefits whilst the Queensgate scheme would not, then that Member might consider that there are significant material considerations weighing against the grant of planning permission.

By contrast, if a Member reaches the view that it is very unlikely that the North Westgate scheme will come forward if the Queensgate scheme is refused and that Queensgate would deliver significant benefits in the public interest, then that Member might consider that there are no material considerations of significant weight weighing against the grant of planning permission.

Members are advised that it is only if the material considerations are such that they outweigh the support afforded to the Queensgate scheme by the development plan and the benefits of that scheme that planning permission should be refused.

Officers consider that the material considerations are not such as to outweigh the support of the development plan and that planning permission should be granted.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed against the policies in the development and in the light of all material considerations, and specifically:

- the principle of a city centre cinema and restaurant provision with additional retail provision for the city centre is acceptable. This is in accordance with the vision for the City Centre, Policy CC3 of the City Centre DPD and Policy CS4 of the Core Strategy,
- the scale, proportions, design and use of materials would harmonise with the existing centre. This is in accordance with Policy CS16 of the Core Strategy and Policy PP2 of the Planning Policies DPD.
- it is accepted that the resultant bulk and mass of the extension would have a negligible adverse effect on the setting of some listed buildings and the City Centre conservation area. However this is outweighed by the benefits of the scheme to the vitality and viability of the city centre through the likely increase in visitor numbers through cinema and restaurant offer, improved night time economy, employment, and improved pedestrian connectivity. This is in accordance with the NPPF and Policy CS17 of the Core Strategy and Policy PP17 of the Planning Policies DPD.
- the site is accessible by a choice of means of transport and the proposal is supported by a transport statement and travel plan and will not result in any adverse highway implications. This is in accordance with Policies CS14 of the Core Strategy and Policy PP12 of the Planning Policies DPD.

Whilst it is accepted that some limited harm would be caused to the character and appearance of

the conservation area and that great weight is to be given to the preservation of the same, the benefits of the proposed development are considered to outweigh that harm.

Whilst it is not considered that the proposed development was required to subject to a comparative assessment against the North Westgate scheme, such an assessment has been carried out. It has been concluded that:

- Both schemes are, in solely financial terms, viable
- That whilst the North Westgate scheme has some advantages over the Queensgate scheme these are not so compelling to outweigh that the delivery of the former it is less certain that the North Westgate scheme would come forward as it is at a significantly less advanced stage (outline permission, less occupier interest / occupier interest not as advanced), has land use elements where demand is weak or the uses are untested and requires a significant amount of land assembly still to be undertaken.
- The implementation of the Queensgate scheme would not certainly prevent an alternative scheme for North Westgate coming forward

Thus, having reviewed the comparative merits of the schemes, it was not concluded that the refusal of planning permission for the proposed development would deliver any material advantage in the public interest; rather it was considered on balance that a refusal of planning permission for the proposed development would be likely to result in material disadvantage to the public interest since this would put at risk the delivery of a town centre cinema and further investment in the town centre coming forward.

7 Recommendation

The Director of Growth and Regeneration recommends that Planning Permission is **GRANTED** subject to the following conditions:

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 No development shall take place until details of the materials to be used in the external elevations of the extensions hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details submitted for approval shall include the name of the manufacturer, the product type, colour (using BS4800) and reference number. The development shall not be carried out except in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policies CS16 and CS17 of the Peterborough Core Strategy DPD (2011) and Policy PP2 of the Peterborough Planning Policies DPD (2012). This is a pre-commencement condition because it is important to ensure that the appropriate materials will be available at the time the above ground building work takes place given the proximity to the Conservation Area.

- C 3 Prior to the commencement of the development hereby approved, a detailed Construction Management Plan (CMP) shall be submitted and approved by the Local Planning Authority. The details of the CMP shall include the following:

* Parking turning and loading/unloading for construction traffic taking into consideration access/parking requirements for surrounding building occupiers

* Method of ensuring that mud/debris is not carried on to the adjacent public highway including wheel/chassis cleansing (where applicable)

* Management of the manoeuvring of large construction vehicles including details of the types of vehicles being used in the construction process

The approved CMP shall be implemented for the entire duration of the construction period of the approved development.

Reason: In the interests of highways safety in accordance with Policy PP12 of the Adopted Peterborough Planning Policies DPD. This is a pre-commencement condition as the details will need to be approved before any work commences on site to avoid disruption to the adjacent highway network.

- C 4 Prior to the extensions being brought into use additional cycle parking for staff shall be provided, the number and location of which are to be agreed in writing by the Local Planning Authority. The cycle parking shall be secure and covered and once implemented be thereafter maintained for the parking of cycles only.

Reason: In the interests of promoting travel by non-car modes and in the interests of highway safety and in accordance with policies PP12 and PP13 of the Adopted Peterborough Planning Policies DPD.

- C 5 Prior to the extensions being brought into use a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall contain SMART targets to encourage the reduction of car trips to the Queensgate Centre and promote the use of non-car modes instead and details of a review mechanism. The Travel Plan shall be implemented in accordance with the approved details.

Reason: In the interests of promoting travel by non-car modes and in the interests of highway safety and in accordance with policies PP12 and PP13 of the Adopted Peterborough Planning Policies DPD and policy CS14 of the Adopted Peterborough Core Strategy DPD.

- C 6 Details of the locations of the bird boxes as proposed under section 4.3.1 of the Ecology Report shall be submitted to and approved in writing by the Local Planning Authority. Development shall be implemented in accordance with the approved details prior to the extensions hereby approved being brought in to use.

Reason In order to provide biodiversity enhancements for the site and in accordance with policy PP16 of the Adopted Peterborough Planning Policies DPD.

- C 7 In the event that construction works are undertaken during the months of May to August targeted Black Redstart surveys shall be carried out every two weeks in May & June and monthly in July and August during the construction period by a suitably qualified ecologist, as recommended in the Ecology report. Should evidence of their nests being found, then appropriate measures should be put in place to ensure this species is not disturbed.

Reason: To protect features of nature conservation importance, in accordance with Policy CS21 of the Peterborough Core Strategy DPD (2011) and Policies PP16 and PP19 of the Peterborough Planning Policies DPD (2012).

- C 8 Notwithstanding the details hereby approved the opening times for the car parks and connective routes through the Queensgate Centre shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented when the extensions are brought into use and shall be maintained in perpetuity.

Reason: In order to provide connectivity, particularly in the evenings to and from the city centre, bus station and railway station and in accordance with policy CC3 of the Adopted Peterborough City Centre Plan, and policies CS4 and CS18 of the Adopted Peterborough Core Strategy PDP.

- C 9 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - BNY-SA 08 LL90 Rev B01
Proposed site plan - BNY-SA 08 LL93 Rev B02
Proposed Elevations - BNY-SA 08 LL02 Rev B02
Proposed Elevations BNY-SA LL03 Rev B02
Proposed Elevations - BNY-SA 08 LL04 Rev B01
Proposed Detail Elevations BNY-SA 08 AL05 Rev B01
Proposed Detail Elevations BNY-SA 08 AL06 B01
Proposed Lower Ground Floor Plan - BNY-SA 08 0002 Rev B02
Proposed Upper Ground Floor Plan - BNY-SA 1002 Rev B02
Proposed First Floor Plan - BNY-SA 08 2002 B01
Proposed Second Floor Plan - BNY-SA 08 3002 Rev B01
Proposed Third Floor Plan BNY-SA 08 4002 B01
Basement Floor Plan - BNY-SA 08 B102 Rev B01
Roof Plan - BNY-SA 08 5002 Rev B01
Service yard and section - BNY-SA 08 LL16 Rev B01
Click and Collect - BNY-SA 08 AL07 Rev B02
Click and Collect - BNY-SA 08 AL08 Rev B01
Proposed Section - BNY-SA 08 LL13 Rev B01
Proposed Section - BNY-SA 8 LL15 Rev B01
Proposed Section - BNY-SA 8 LL14 Rev B01
Vehicle Tracking

Reason: For the avoidance of doubt and in the interest of proper planning.