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By E-mail only

Dear Mrs MacLennan

**Planning Application 16/00252/FUL
 Queensgate Shopping Centre, Westgate, Peterborough**

I write on behalf of Hawksworth Securities plc ('Hawksworth') with regard to the above referenced planning application concerning Queensgate Shopping Centre (QSC). I understand it is a duplicate of the planning application that was granted planning permission on 16 October 2015 and given the reference 15/01013/FUL ('Original QSC Application').

Having reviewed and compared the material submitted with both QSC applications, I note that additional information is contained within the Planning Statement (NLP, ref.10624914v3), namely the comparison exercise at Section 6. A 'Comparative Viability Study' (CBRE, Jan 2016) has also been submitted.

This letter focuses on the content of the Planning Statement and matters raised in previous objection letters submitted by Savills on behalf of Hawksworth, dated 8th and 25th September 2015, in respect of the Original QSC Application. A full critique of the CBRE Study will be submitted under separate cover.

In summary, it concludes that the QSC Planning Statement does not undertake a full and proper assessment of the Development Plan which, when considered as a whole, prioritises the regeneration and redevelopment of North Westgate ('NWG'). The comparative analysis is contradictory and makes claims without evidence. It cannot and should not be relied upon. In line with Section 70(2) of the Town and Country Planning Act 1990, the Council has a duty to undertake such an assessment and until this is done, the Council is not in a position to assess the planning balance and reach a sound outcome / recommendation to Members.

NLP acknowledges that the retail market is not as strong as it once was, that synergy is required in order to make mixed-use developments work and, finally, that NWG offers greater planning benefits when compared to QSC proposals. Notwithstanding all of this, NLP goes on to claim that alternative uses should be found for NWG and that QSC should be prioritised.

Overall, Hawksworth maintains that, in order for the Council to make an informed decision about the QSC proposals, it is necessary to properly assess the land use planning implications of granting planning permission for the QSC proposals. This letter, once again, demonstrates the clear Development Plan priority for NWG. It also highlights the implications to NWG if planning permission is granted for the QSC, which is that the NWG scheme will not be implemented; a point which is acknowledged in the QSC Planning Statement.



The QSC and NWG schemes must be regarded as alternatives to one another. If planning permission is granted for QSC, this will result in the loss of the very considerable planning benefits associated with the NWG scheme. It is essential that a robust comparative assessment of the merits of the two schemes is undertaken and until this is done, the Council is not in a position to assess the planning balance and reach a sound outcome. As above, the Comparative Assessment undertaken within the Planning Statement cannot be relied upon. This assessment relies upon the conclusions of the CBRE Study and for the reasons detailed under separate cover, Hawksworth is of the opinion that it is fundamentally flawed and, similarly, cannot therefore be relied upon. In any event, it would only be appropriate to grant planning permission if the benefits associated with the QSC scheme were judged to be such as to outweigh the loss of the benefits associated with the North Westgate scheme.

Background

Hawksworth is the Applicant/Developer for the approved scheme (LPA ref. 15/01041/OUT) at North Westgate for the first phase of redevelopment comprising a mixed-use scheme including leisure, retail, office, residential and community uses which will be anchored by a multiplex cinema. The NWG scheme was granted planning permission on 2 October 2015.

NWG is an allocated site that is identified for the delivery of a mixed-use development and it is prioritised for redevelopment in the early years of the plan period. The site's delivery is key to achieving the regeneration the City Centre needs, that which the Development Plan identifies and seeks to secure. The regeneration of NWG, together the development of other underused and vacant sites, will help to deliver the Plan's key objectives for Peterborough including, increased housing provision and City Centre living; retail expansion; enhancing the City's leisure and cultural offers to attract people into the City and improve the evening economy which, together, will create an integrated City Centre that responds to surrounding urban communities.

The Original QSC Application and the NWG Application were heard at the same Planning and Environmental Protection Committee on 29 September 2015. The QSC Application was heard first and Members resolved to grant planning permission for both applications.

As above, letters of objection, together with supporting evidence, were submitted during the consideration of the Original QSC Application which demonstrated that the grant of planning permission for a cinema at QSC will jeopardise and prevent the proposed redevelopment of NWG, which is dependent on the inclusion of a cinema as its anchor tenant. Section 70(2) of the Town and Country Planning Act 1990 requires the Local Planning Authority (LPA) to have regard to the provisions of the Development Plan that are material to an application. The importance attached to the redevelopment of NWG, as an allocated site, means the LPA should properly consider any likely harm to the prospect of the regeneration objectives for NWG being achieved, which would be in conflict the objectives of the Development Plan. Any such harm is a material consideration that should be afforded significant weight because NWG is a priority for development within the Development Plan.

This exercise was not undertaken and, accordingly, on 23 November 2015, Hawksworth filed a claim for permission to judicially review the decision of PCC to grant planning permission for the previous scheme. The grounds of claim can be summarised as follows:

1. that PCC failed to properly consider the representations and evidence submitted by Hawksworth that the granting of the previous QSC permission would render the North Westgate scheme unviable with the result that it would not proceed; and
2. that PCC failed to undertake a proper and effective comparison between the merits of the two schemes and the impact if granting permission of QSC, upon the delivery of NWG, given its policy status.

Peterborough City Council (PCC) and Invesco dispute the alleged grounds of claim but, in any event, the current QSC application seeks to undertake a comparison exercise which is considered below.

The substantive hearing of the judicial review application is due to be heard by the Planning Court on 15 and 16 June 2016.

Comments Made in Response to Current QSC Application (16/00252/FUL)

As above, the Planning Statement submitted with the Current QSC Application includes a section entitled 'Other Material Considerations: North Westgate'. After establishing the relevant background, it considers the policy position, before going on to consider the impact on NWG, undertaking a comparative analysis and, finally, looking at the 'No Development at QSC Scenario'. The information contained within is considered in the same order below.

Policy Priority for North Westgate

Paragraph 6.15 of the QSC Planning Statement recognises that the statutory Development Plan must be considered as a whole but it fails to do so. The letter submitted by Savills on and dated 8th September 2015 ('Letter 1', enclosed) in respect of the Original QSC Application considers the planning policy context surrounding NWG and QSC in full.

The QSC Planning Statement first considers Core Strategy Policy CS4 and focuses solely on the Policy wording, claiming that the extent to which NWG is afforded priority relates only to comparison retail (para 6.15). When considering the Policy within the context of the wider Development Plan, this point is wholly inaccurate and a significant flaw of NLP's assessment of the weight that should be attached to the Development Plan and the allocation of NWG.

To recap, the adopted Development Plan for Peterborough, includes the Core Strategy DPD (CS) and the City Centre Development Plan Document (CCDPD). Together, these documents identify a number of objectives and development priorities for the City which, ultimately, seeks to achieve the strategic growth vision, as follows:

'encourage and enable new development that will maintain and enhance the vitality of the centre, whilst preserving and enhancing the quality of the local environment. This will undoubtedly involve changes widening the retail, leisure, tourism and cultural offer, creating new jobs, making the best use of land that is currently vacant or underused and improving the experience and convenience for pedestrians and cyclists.' (emphasis added)

This Vision reflects Policy PB1 of the East of England Plan (now revoked) which highlighted that the strategy for Peterborough was for 'growth and regeneration', emphasising, inter alia, the need for regeneration of the City Centre and inner urban areas. CS objective OB13 echoes this, stating 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 East of England region'.

Policy CS4 directly relates to the delivery of objective OB13, setting out the overarching policy aspirations for the City Centre which, ultimately, seeks to ensure Peterborough maintains its position as a centre of regional significance. In achieving this, support is given to mixed-use and major new cultural and leisure developments, together with the creation of a significantly larger City Centre resident population. Of particular relevance is the policy support for the redevelopment of NWG and priority for its delivery in the early years of the Plan Period. Paragraph 6.12 of the Planning Statement states that only retail provision is given priority with regard to NWG. The same paragraph, together with paragraph 6.25, acknowledges the market conditions under which the CS policy was formulated and the subsequent change in policy (CCDPD) as a result of the economic downturn, as well as the changing nature of town and city centres, particularly the growth of the leisure industry (food and beverage and leisure activities). However, there is no consideration of what this means for the development of NWG and the City Centre.

At the time the CS was produced the retail market was buoyant and, thus, retail uses were considered the right and necessary catalyst to bring forward regeneration of NWG. This is evident from the two planning applications submitted for NWG in 2003 and 2007 which were both retail-led. This changed in 2007/8 as a result of the economic downturn and subsequent recession. The retail market also now faces new threats such as online shopping. Meanwhile, demand for leisure provision in town and city centres has increased significantly and the provision of such



uses has supported and diversified the offer in UK town and city centres. It is, therefore, essential to assess what other uses aside from retail could drive the regeneration of NWG.

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. Hawksworth has gone to considerable lengths to demonstrate that, for NWG, a leisure-led scheme with a cinema anchor, is the only option that can kick-start regeneration and see this long awaited development site come forward.

Paragraph 7.0.2 of the CS is clear that planned investment in the redevelopment of Peterborough City Centre is critical to facilitating its regeneration. The approved scheme at NWG 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 when it was originally identified in the Greater Peterborough City Centre Plan. In addition, paragraph 5.2.8 of the CCDPD states '*the council will use its compulsory purchase powers where necessary for land assembly to ensure the optimum redevelopment solution*'. This is a clear commitment from the Council to deliver the land required for development of the North Westgate scheme.

The above demonstrates that the Development Plan as a whole does, in fact, prioritise regeneration and the redevelopment of NWG. Accordingly, significant weight should be attributed to the delivery of a long-term regeneration goal and development that will jeopardise this should be refused planning permission accordingly.

Impact on North Westgate

Paragraph 6.18 of the Planning Statement references a 'CBRE Appraisals and Assumptions Report'. It is assumed that the 'Combined Viability Study' prepared by CBRE and the referenced report are one and the same and the comments made within are done so on that basis. Please advise urgently if this is not the case.

Paragraph 6.20 of the Statement states that QSC will not have an adverse impact on NWG on the basis it is not a viable prospect in any event based on the findings of the CBRE Study. This is contended and full assessment of the CBRE Study is provided under separate cover.

The Statement goes on to claim that QSC will make NWG a more, not less, attractive investment opportunity (para 6.23). It speculates that '*Other development options which may fall within the parameters of the permission (albeit without a large multiplex cinema); or within the general nature of the policy for the North Westgate Opportunity Area, become viable development options*'. This is not substantiated with any evidence, whereas Hawksworth has provided extensive material to demonstrate that a cinema is the only viable anchor for the NWG scheme. This is detailed and summarised in Savills' letter dated 25 September 2015 (Letter 2), also enclosed.

Finally, Paragraph 6.23 claims that Invesco, the owner of QSC, '*has an inherent interest in seeing development come forward on this site [NWG]*'. Page 3 of Letter 2 (entitled 'Hawksworth Attempts to Work with Owners of Queensgate') provides evidence to the contrary. Invesco has consistently failed to engage with Hawksworth and certainly has not shared any view that NWG would become a priority following expansion of QSC (as stated in the CBRE Study).

It is clear from the above, that the Planning Statement has made a number of incorrect and / or unsubstantiated assumptions that means the overall assessment on the impact of NWG cannot be considered sound.

Comparative Analysis

The comparison exercise undertaken within the Planning Statement is somewhat confusing; it is not clear why paragraphs 6.36 – 6.38 consider the relocation of existing major retailers in QSC to NWG. NWG does not include units that would accommodate such occupiers and it is not the intention to draw across existing tenants of QSC. Whilst the scheme is in outline, detailed indicative plans were submitted which shows the size and shape of these units at NWG.



Paragraph 6.24 of the Planning Statement reads *'it is our view that the regeneration benefits delivered by the QSC proposals are more beneficial to the city centre than the development of North Westgate, in any event, so planning permission should still be granted for QSC'*. However, paragraph 6.25, goes on to state that *'analysis of the two schemes as presented in the respective planning application material reveals a larger and wider range of potential planning benefits arising from the North Westgate scheme, reflecting the size and scope of that proposal, compared with that for QSC'*. The Statement contradicts itself in this respect but it is clear, as is recognised in the Development Plan, that the regeneration of NWG will bring significantly greater benefit compared to what can be offered by the QSC scheme.

Having identified that QSC will cause harm to the redevelopment of NWG, the Statement dismisses this on the basis NWG is not viable and will not be delivered in any event. This is simply not the case. This conclusion is based on the findings of the CBRE Study which has made assumptions that are inaccurate and, thus, impact on its findings. Hawksworth's detailed comments on that CBRE Study are being prepared and will be submitted under separate cover.

The benefits identified with regard to the QSC primarily relate to the retailers which already lease units in the shopping centre, *'the majority of [which are] national multiple retailers including major anchors such as John Lewis, Marks and Spencer, Next, BHS and Primark'* (para 6.26). 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 to suggest that without a cinema, QSC will not seek to accommodate the requirements of its 'major national retailers'.

Overall the assessment is contradictory and makes claims without evidence; it cannot be relied upon. 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 NWG). Yet, it claims alternative uses should be found for NWG. It is clear that QSC is very successful and acts as the core attraction in Peterborough City Centre. It also acknowledges the NWG offers greater planning benefits compared to QSC. Despite all of that, it considers the inclusion of a cinema at QSC should be prioritised over the regeneration of NWG.

The Planning Balance and Conclusions

In order to make an informed decision about the QSC proposals, it is necessary to properly assess the land use planning implications of granting planning permission for the QSC proposals. As per previous written correspondence, this letter has demonstrated that policy priority for NWG exists. It has also highlighted the implications to NWG if planning permission is granted for the QSC, namely, the NWG scheme will not be implemented. This is not disputed in the QSC Planning Statement.

It is clear that the two schemes must be regarded as alternatives to one another. If planning permission is granted for QSC, this will result in the loss of the very considerable planning benefits associated with the NWG scheme.

The Committee Report for the Original QSC Application recognised that the NWG scheme *'would be a positive contribution for the city centre'* but offered no further guidance about how significant those benefits would be and what weight should be attached to the loss of those benefits in the planning balance. The submitted Planning Statement for the Current QSC Application acknowledges, through its own analysis of the two schemes, that *'a larger and wider range of potential planning benefits arising from the North Westgate scheme compared to QSC'* and simply relies on the fact that NWG is *'not viable anyway'* to justify why QSC should be granted planning permission. In effect, it proposes that QSC should be granted by default, "just in case" NWG is not viable. The Applicant's proposed precautionary approach, giving priority to QSC over NWG, is perverse as that approach would clearly be contrary to key objectives of the Development Plan. If there is to be a precautionary approach, it should be in favour of NWG rather than QSC given its Development Plan support.

In conclusion, it is essential that a robust comparative assessment of the merits of the two schemes is undertaken. The comparative analysis in the Planning Statement and the CBRE Study cannot be relied upon for reasons detailed in this

letter. Section 70(2) of the Town and Country Planning Act 1990 requires the City Council to have regard to the provisions of the adopted Development Plan that are material to an application for planning permission. The importance that is attached to the allocated NWG site's development and regeneration in the Core Strategy not only obliges the Council to take proper account of any likely harm to the prospect of that being achieved as an important and significant material consideration but also means that any material harm of that sort could result in conflict with the Development Plan and prejudice to the achievement of its objectives. Thus, the Council has a duty to undertake a comparison assessment independently and until this is done it is not in a position to assess the planning balance and reach a sound recommendation to Members. In any event, it would only be appropriate to grant planning permission if the benefits associated with the QSC scheme were judged to be such as to outweigh the loss of the benefits associated with the North Westgate scheme.

I trust this letter is helpful in your consideration of the QSC application and I would be grateful for your response to the concerns raised. Please do not hesitate to contact me should you require further information or wish to discuss.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Craig O'Brien", written in a cursive style.

PP

Craig O'Brien BA (Hons) BTP MRTPI
Director

Enclosed:

Savills Letter, dated 8th September 2015

Savills Letter, date 25th September 2015