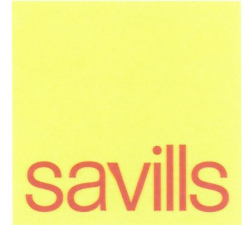


25 September 2015
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Dear Mrs MacLennan

**Planning Application 15/01013/FUL
Queensgate Shopping Centre, Westgate, Peterborough**

I write further to my letter of 8th September 2015 which objected to the above planning application on behalf of Hawksworth Securities plc. In summary, the letter advised that the inclusion of and grant of planning permission for a cinema at QSC will jeopardise and prevent the proposed redevelopment of North Westgate (ref. 15/01041/OUT) which is dependent on the inclusion of a cinema as its anchor tenant.

I have since received the Committee Report for the QSC Application.

Hawksworth welcomes the officer's consideration of and support for the North Westgate proposals within the Committee Report for its own scheme, but there are a number of points in the Committee Report for the QSC application that require considerably more detailed consideration. In addition, we would wish to take this opportunity to comment on some points made in the letter from Nathaniel Lichfield & Partners (NLP) dated 15th September 2015. On that basis, this letter provides further evidence in support of Hawksworth's objection to QSC application.

Viability of North Westgate

We enclose copies of the following correspondence relating to the commercial interest in and viability of the North Westgate scheme:

- Letter from Lunson Mitchenall dated 25 September 2015;
- Letter from Lunson Mitchenall dated 8 September 2015
- Letter from Savills dated 25 September 2015;
- Letter from The Light (cinema operator) dated 9 September 2015;
- Letter from Vue (cinema operator) dated 9 September 2015;
- Letter from Redrock re Premier Inn (hotel operator) dated 8 September 2015.

These letters demonstrate that only one new cinema operator is likely to be viable in Peterborough city centre and that a cinema is required to anchor the North Westgate development for it to be viable. This is acknowledged and accepted by the Planning Officers in their Planning Committee Report. Our evidence serves to confirm the position, and to put this point beyond doubt.

The letters also confirm that the grant of planning permission for a cinema at Queensgate is likely to prejudice the viability of the North Westgate development to the extent that it will therefore not proceed. This too is



acknowledged by the Planning Officers in their Planning Committee Report, and again the effect of our further evidence is simply to confirm that is the position and to put it beyond doubt.

The letters also confirm that there is no viable alternative form of development that will deliver the redevelopment and regeneration of the allocated North Westgate site in the foreseeable future. Please refer to the Lunson Mitchenall letter (25 September) in respect of alternative retail development and the Savills letter in respect of alternative office and residential led development.

It is important for the members to be aware that it is the mere fact of the grant of planning permission at Queensgate that will make the North Westgate development unviable and impossible for it to proceed. A consent for a cinema in Queensgate is therefore the equivalent of a decision by the Council to abandon the North Westgate proposals. This effect is not contingent upon the implementation of the Queensgate scheme. As we explain in more detail further below, the effect is not just a commercial issue, it goes to the heart of the objectives of the Development Plan, which allocates the North Westgate site, the opportunity area, for comprehensive development. Within the same Plan, it is clearly stated that the Council intends to deliver the North Westgate opportunity area through the use of CPO powers. There is therefore no land ownership barrier to its delivery. There is also no planning policy barrier to its delivery.

The commercial evidence submitted with this letter demonstrates that there is strong interest from key commercial anchors, including two cinema operators and a hotel operator and there is also funding support. In addition, the Council has indicated during pre-application discussion between the Applicant and the Officers that there is an interest in the Council directly funding the scheme. It is therefore erroneous for the Officers to advise members that there is no guarantee that the North Westgate scheme will be delivered but on the other hand, that the Queensgate scheme will be delivered and that Odeon is committed to Queensgate. No evidence is provided to support this view, whereas the Council itself has allocated and aspires to the development of North Westgate, and is prepared to use CPO powers to support it.

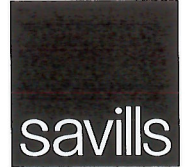
We consider that the Officers' advice is not clear as to precisely what members should conclude in respect of the deliverability of each scheme, and therefore what assumptions members are being asked to make in this respect when weighing the implications of a grant of planning permission for the Queensgate scheme. It is said that there is "no guarantee" that the North Westgate scheme will be delivered, but that is the case for both developments. If members are to be invited in some way to 'discount' the harm caused as a result of the prejudice to the North Westgate redevelopment on deliverability grounds, the factual basis for this would need to be established and then set out very clearly indeed. It is not. This issue has not been assessed properly and there is no evidence to support the apparent implication that Queensgate is deliverable and North Westgate is not.

In addition, the Council should also consider its position - and the consequences of its position - carefully in respect of subsequent applications for planning permission for retail and leisure development at out of centre sites.

We understand that the North Westgate development has been cited as a sequentially preferable site within the city centre for retail and leisure development that should rightly be prioritised over other out-of-centre developments outside of the city centre. However, this position cannot be sustained if:

- Firstly, the Officers have come to the view, without evidence, that their own Local Plan Allocation and Sequentially Preferable Site is not deliverable.
- Secondly, this will be compounded by an approval of the Queensgate application, because it is acknowledged throughout the Officer's Report regarding Queensgate's proposal that only one cinema development can occur within the city centre and that, if Queensgate is approved, then North Westgate will not proceed.

This also has implications for the delivery of housing on the site, because without the commercial, leisure and retail economic drivers to the viability of the scheme, residential development on its own is certainly not viable. This is confirmed in the Savills letter attached dated 25 September 2015.



The North Westgate opportunity area is allocated in the Local Plan for retail and leisure development. Sites and proposals that are thought to be unviable by a Council, and not capable of being delivered, should not be allocated in any plan for development. The Local Plan would be fundamentally undermined by the approach apparently being taken in the Committee Report.

In contrast, we have provided evidence that there is CPO support from the Council itself and therefore ownership is not a barrier to delivery. We have also provided evidence of clear and serious interest from key anchor cinema operators and a hotel operator. We have also provided confirmation of funding interest and the Council themselves have also expressed interest in funding the scheme. There is therefore no viability or financial reasons to suspect that the scheme will not prove to be deliverable (let alone any proper basis to determine the QSC application on the assumption it would not be). In addition, a financial appraisal of the scheme has been submitted directly by the developer to the Council. The scheme is therefore demonstrably viable. In contrast no information has been submitted to support the notion that the Queensgate scheme is viable or that there is a committed anchor as Queensgate suggest. The impact of the Queensgate scheme upon the deliverability of North Westgate is however acknowledged by the Officers. There is therefore a direct impact on the deliverability of the development of the opportunity area, as allocated in the Local Plan.

The approval of the Queensgate application would therefore directly conflict with a key objective of the Local Plan and this planning harm is a substantive and supportable reason for refusal of the Queensgate planning application.

Hawksworths attempts to work with the owners of Queensgate

Hawksworth has attempted to work with the previous owners of Queensgate, Aviva / Hammerson. In earlier years the Council chose Aviva over Hawksworth for its development partner which resulted in an overly ambitious proposal which ultimately failed to be delivered. Discussions were held with Aviva / Hammerson on a retail extension but it became clear that their strategy was one of asset protection rather than development.

Invesco bought the Queensgate shopping centre in January 2014 for, reportedly, in the region of £204m, shortly after Hawksworth launched a leisure lead scheme for North Westgate in November 13. Hawksworth had discussions with Invesco and their appointed asset manager, Lendlease, in the first half of 2014. These discussions were encouraged and assisted by the Council. This included at least one tri-partite meeting to discuss how the two owners could work together to achieve a scheme on the North Westgate land. In the summer of 2014 a further tri-partite meeting was suggested by the Council and although Invesco indicated a willingness to meet proposed dates were not responded to by Invesco. Communication ceased in July 2014 and shortly thereafter Hawksworth discovered that Invesco / lend lease were pursuing their own cinema / food and beverage extension to Queensgate with the cooperation of John Lewis Partnership.

Hawksworth continued to invite Invesco to take a joint approach to North Westgate and there was an agreement to meet in May 2015. That meeting took place on 18 May, but there has been no response from Invesco since.

There is no evidence available to support Invesco's assertion that it has or indeed will cooperate with Hawksworth in relation to the comprehensive regeneration of North Westgate and no proposals to do so have been forthcoming to date.

Policy basis for refusing planning permission

The Committee Report correctly acknowledges that *"if the Queensgate scheme obtains planning permission then the North Westgate scheme cannot be implemented"*. However, having acknowledged that consequence of the grant of planning permission, the Report continues as follows:

"... this is a matter of competition between the developers and not a matter of planning policy (not least because there is not a national or local planning policy that seeks to refuse policy compliant development within the city centre that has the potential to prevent the redevelopment of the North Westgate site)" (emphasis added).



It is then said that it would *"not be reasonable to refuse the application on the basis that the approval of the QSC would prejudice the redevelopment of North Westgate"*.

In both respects the analysis in the Committee Report is wrong, and fails to consider the policy implications of the North Westgate site's allocation and treatment in the development plan.

The North Westgate scheme enjoys very considerable support from a number of policies in the development plan. Importantly, it is an allocated site and the development plan has been drafted on the basis that it is both highly desirable and important in the public interest that it should be redeveloped. Its redevelopment and regeneration are thus important objectives enshrined within the development plan (see in particular Policy CC3 of the City Centre Plan and Policy CS4 of the Core Strategy), and have been taken into account in assessing the sustainability of the relevant policies of the development plan.

The importance of achieving those objectives has been reflected in successive development plans, because the redevelopment and regeneration of this area is a long-standing aim of the Council.

Indeed, the public benefits associated with achieving the redevelopment of the North Westgate site are considered to be of such significance that the City Centre Plan makes clear:

"The council will use its compulsory purchase powers where necessary for land assembly to ensure the optimum redevelopment solution"

Thus the adopted development plan shows that the Council accords such importance to achieving the redevelopment of this site, and the associated benefits, that there is considered to be a compelling case in the public interest for acquiring the necessary interests in land by compulsion if required.

A development control decision which would prejudice the successful redevelopment and regeneration of the North Westgate site would therefore run directly contrary to the clear objectives of important development plan policy, and frustrate the achievement of a long-standing planning objective for the Council.

Section 70(2) of the Town and Country Planning Act 1990 obliges the Council to have regard to those provisions of the development plan that are material to the application. The importance that is attached to the allocated North Westgate site's redevelopment and regeneration in the Core Strategy and the City Centre Plan not only obliges the Council to take proper account of any likely harm to the prospect of that being achieved, but also means that any material harm of that sort would result in conflict with the development plan and prejudice to the achievement of its objectives.

Furthermore any such harm would in any event be a highly material consideration that would weigh heavily in the balance against the grant of planning permission.

Thus it is wholly incorrect to state that prejudice to the redevelopment and regeneration of the North Westgate is *"not a matter of planning policy"* or that it would not be *"reasonable to refuse the application"* on that basis. On the contrary, such prejudice has clear and direct planning policy implications, and provides an entirely reasonable and indeed compelling policy basis for the refusal of planning permission.

Information needed to strike the planning balance

The Committee Report does not provide members with anything like enough information, assessment and guidance to enable them properly to understand and assess the land use planning implications of granting planning permission for the Queensgate scheme.

As we have said, the Report acknowledges that if planning permission is granted for the Queensgate scheme, the North Westgate scheme cannot be implemented.

In those circumstances it is clear that the two schemes are properly to be regarded as alternatives to one another. The loss of the very considerable land use planning benefits associated with the North Westgate



scheme has therefore been accepted as being a likely consequence of granting permission for the Queensgate scheme.

The Committee Report recognises that the North Westgate scheme "*would be a positive contribution for the city centre*" but offers no further guidance to members as to how significant those benefits would be, and what weight should be attached to the loss of those benefits in the planning balance.

In order properly to strike the planning balance for the Queensgate scheme, the Council would need to undertake a comparative assessment of the merits of the two schemes. Unless and until that has been done, the Council will simply not be in a position to take into account and weigh the significance of the planning harm associated with prejudice to the North Westgate scheme. In short, if the Queensgate scheme is to be approved notwithstanding the planning harm it would cause as a result of preventing the North Westgate scheme from going ahead, it would only be appropriate to grant planning permission if the benefits associated with the Queensgate scheme were judged to be such as to outweigh the loss of the benefits associated with the North Westgate scheme.

That analysis - and thus the striking of the planning balance - cannot be undertaken until the land use planning benefits of the two schemes have been properly compared. The Committee Report does not attempt that exercise, and is therefore materially incomplete. A principal important issue for members to consider has been omitted from the analysis. That omission must be rectified in order for a properly informed decision to be reached.

For the reasons we have set out above, we suggest that the Committee should either:

- resolve to refuse planning permission for the Queensgate scheme on the basis of the prejudice it would cause to the redevelopment and regeneration of the North Westgate site; or
- resolve to defer a decision on the Queensgate scheme and to invite officers to undertake a proper detailed assessment of the comparative merits of the two schemes, and then to draft a fresh Committee Report in order to inform a determination of the application in due course.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Craig O'Brien", written over a light blue horizontal line.

Craig O'Brien BA (Hons) BTP MRTPI
Director

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