



Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 12th September 2013

Subject: APPLICATION 10/05048/EXT – Application for extension of time for outline planning permission 21/199/05/OT (warehouse and distribution development with car parking and landscaping).

APPLICANT

Keyland Development s and
Aire Valley Land Ltd LLP

DATE VALID

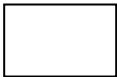
08 November 2010

TARGET DATE

07 February 2011(PPA to be renegotiated).

Electoral Wards Affected:

Burmantofts and Richmond Hill



Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to agree to continued negotiations by Officers on the issues arising in this report and to defer and delegate to the Chief Planning Officer for approval, following completing of a Section 106 Agreement and subject to conditions as set out in the report and minutes of Plans Panel East 01/12/11.

In the circumstances where the Sec.106 has not been completed within 3 months of the resolution to grant planning permission, or in accordance with a re-negotiated Planning Performance Agreement, the final determination of the application shall be delegated to the Chief Planning Officer.

1 INTRODUCTION:

- 1.1 This application has previously been reported to East Plans Panel, once as a position statement on 17 February 2011, and once for a decision on 1st December 2011. At the December meeting members resolved that planning permission should be granted in accordance with the recommendation with changes to condition 2 and

5 and additional conditions to include a landscape and design framework and flood risk mitigation.

- 1.2 Following this decision officers have been pursuing completion of a s106 agreement with the applicants and this has recently come close to being signed. At this stage however some inconsistencies were discovered. Furthermore due to the lapse of time and the economic climate the applicant is now seeking additional time for the commencement of development on site. For this reason it has been determined that the application should be referred back to Plans Panel for agreement on the new timescales and s106 provisions.
- 1.3 This application is being dealt with through a Planning Performance Agreement which does require re-negotiation of the timescales.

2 CHANGES FROM LAST PANEL DETERMINATION

- 2.1 Since the last Plans Panel determination the applicant has not been able to find operators for the sites or any of the proposed units, and the continued economic downturn has made things difficult. There are significant costs involved in remediating the site so that it is ready for development so speculative development is not economically feasible. The landowners therefore want to remove or minimise their liabilities in relation to timescales and triggers for financial payments.
- 2.2 Members are therefore asked to consider the following:
- That the time limit for submission of first reserved matters be changed to allow an additional 2 years, taking it to 2020 (condition 3) with submission of all reserved matters within 11 years (2024).
 - That the draft s106 be amended to remove the requirement that 28,000m² of floorspace be practically completed by 2018 in its entirety (clause 5.1).
 - That agreement be given to the consideration of removal or variation of the Backstop Date for payment of the East Leeds Link Road (ELLR) monies in agreement with the Homes and Community Agency.

3 CONSULTATIONS

- 3.1 Discussions are ongoing with the Homes and Community Agency (HCA) who have taken over the ELLR funding from Yorkshire Forward. The HCA have advised that they are comfortable with extending the time limits for submission of reserved matters but that they are not comfortable with removal/variation of the backstop date, except perhaps as a minimum 2 year extension.

4 APPRAISAL

- 4.1 This is a large development site that will benefit from Enterprise Zone funding streams and will significantly add to the regeneration aims for the Aire Valley. The site does however have significant costs involved with the initial ground works due to its former use for open cast mining. It is also clear that the site has been hit by the economic downturn with less interest in new build sites. The closest development site is just across the road and planning permission has recently been granted for an extension of time on this site, reserved matters on this site have not yet come forward and similar problems are being experienced in terms of marketing.
- 4.2 It seems logical that due to the amount of time that has lapsed since the last Plans Panel determination that the timescales should be amended to reflect this lapse, and consequently Officers have no issues with adding an additional two years to the extended time limits for reserved matter submissions.
- 4.3 There is also an anomaly between the draft conditions as agreed by Plans Panel and the draft s106 agreement in that the applicants would have been obliged to provide 17% of the floorspace built out, prior to the deadline for having to actually

submit a reserved matter application. It is not known how this arose but this is clearly unacceptable. There is therefore no Officer concern with regard to extending the time limit on this provision of floorspace so that things happen in a logical order.

- 4.4 The applicants would prefer to have this clause removed altogether given the financial liabilities this introduces to the scheme. The clause was originally included as Members felt that there needed to be some assurances with regards to a start being made on site. It is felt that there does need to be some enforcement power given the importance of the site to the Enterprise Zone, but it is also accepted that in the current climate the liabilities may result in the development failing altogether. It is recommended therefore that Officers negotiate with the applicants, and with the HCA to agree a more appropriate floorspace and time limit clause. Further clarification has been sought from the agents regarding steps taken since the application was last reported to Panel in terms of marketing the site etc, and anticipated timescales for the carrying out and phasing of the development if a further extension of time is granted. It is anticipated that a further verbal update on this matter will be provided at the Panel meeting.
- 4.5 With regard to the backstop date this is an important clause in the s106 that requires payment of the ELLR in full if the site has not been developed to an extent that all monies are repaid. Clause 2.3 of the draft 106 requires that if by March 2020 any part of the ELLR contribution has not been paid to the Council then AVL shall pay to the Council that remaining part of the ELLR Contribution to the Council prior to that date, plus interest.
- 4.6 The applicants would like to remove this clause altogether, however the HCA are unlikely to agree to this as this could result in public monies not being repaid. The HCA have indicated that they are willing to consider a variation to the date, but would like some comfort that Members agree with such a variation. An extension of between 2 – 5 years would seem appropriate as this would then fit in with the timescales for submission of reserved matters.

5 CONCLUSION

- 5.1 Members are asked to agree to Officers continuing negotiations on these changes in accordance with the parameters set out. It is considered that the cause of the delays have been largely out of the applicants control, but it is also recognised that public money has been spent on the infrastructure to access the site and that this needs to be repaid. It is recommended that if Members are happy with the proposals set out that the decision be deferred and delegated to enable further negotiations.

Appendix 1 – Report to Plans Panel East 01/12/11

Appendix 2 – Minutes of Plans Panel East 01/12/11

APPENDIX 1 – REPORT TO PLANS PANEL EAST, 01/12/11

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 1 December 2011

Subject: APPLICATION 10/05048/EXT - Extension of time for Outline planning application 21/199/05/OT to allow submission of Reserved Matters until 2023 (to erect warehouse and distribution development with car parking and landscaping) at Land at Temple Green off East Leeds Link Road, LS10

APPLICANT	DATE VALID	TARGET DATE
Keyland Developments And Aire Valley Land Ltd LLP	08.11.2010	PPA

<p>Electoral Wards Affected: Burmantofts & Richmond Hill Temple Newsam Garforth & Swillington</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION;

DEFER and DELEGATE approval to the Chief Planning officer subject to the conditions specified (and any others which he might consider appropriate) and the completion of a legal agreement to deal with the following matters;

- **Delivery of 28,000 sq.m development floorspace by 2018.**
- **Vehicle Trip Generation – methodology for calculating trip generation**
- **Public Transport Infrastructure Improvements contribution £500k (to be index linked). Payment to be phased as follows;
£167,000 payable at first occupation
£167,000 payable at occupation over 93,000 sq. m.
£166,000 payable at occupation over 163,000 sq. m.**
- **Travel Plan Implementation and Monitoring Evaluation fee (£15k) and implementation**
- **East Leeds Link Road repayment to be phased (in agreement with HCA) as follows;**

Stage 1: construction of main site access road, associated works and site preparatory ground works - nil contribution

Stage 2: commencement of construction of buildings in accordance with B8 planning permission - 25% of the contribution and interest

Stage 3: occupation of premises constructed on the site - contribution payable based on the following calculations: -

OF/TF x TC x 1.5 - for the first 93,000 sq.m

OF/TF x TC x 0.375 - for the remainder of the floorspace (approx 182,000 sq.m)

Where:

OF = Occupied floorspace for the relevant phase
TF = Total floorspace permitted by the planning permission
TC = Total contribution with accrued interest under the S106 agreement

- **Backstop date of 31 March 2020 for payment of any outstanding balance of the ELLR contribution**

In the circumstances where the Sec.106 has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

1. Approval of reserved matters.
2. Time Limit for submission of reserved matters and commencement of development. First RM by 2018, Second RM by 2023, 2 years for commencement of development.
3. Submission of programme for the phasing of the development
4. The development hereby approved shall not exceed the total amounts of gross floor area:
275,000 sq m of Class B8 use , plus:
Parking serving the development shall not to exceed 3081 spaces, of which no more than 2316 shall be allocated to the parking of cars
5. Phasing of B2 / B8 in a minimum of three phases, the amount in each phase not to exceed the following areas:
Phase 1: not to exceed 60% of the gross floor area approved under Condition 4
Phase 2: not to exceed 80% of the total gross floor area approved under Condition 4 on a cumulative basis taking into account the gross floor area approved for Phase 1.
Phase 3: the remainder of the total gross floor area approved under Condition 4.
6. Vehicular trips restriction
7. System for automatic vehicle detection
8. Submission of information obtained from the approved system of automatic vehicle detection.
9. Car parking spaces shall not exceed:
Phase 1 as defined in Condition 5 - 1,389 spaces
Phase 2 as defined in Condition 5 - 1,852 spaces inclusive of the provision of parking spaces in Phase 1.
Phase 3 as defined in Condition 5 - 2,315 spaces inclusive of the provision of parking spaces in Phase 1 and Phase 2.
10. A car parking management scheme to be submitted
11. Sustainable Travel Plan
12. Provision of internal roads DCB and DCF as shown as plan number BWA2 (or such other route as agreed between the parties) prior to the occupation of any floorspace on the development in excess of 60,000m² provided that the local planning authority demonstrates by way of a contractual commitment from a public transport provider for a minimum of two bus services per hour at peak periods and a bus gate shall be provided.
13. Access from East Leeds Link Road within the site to be provided
14. Samples of all external walling and roofing materials
15. Details of the position, design, materials and type of all walls and/or fences or permanent boundary treatment.
16. Area of site to be used by vehicles to be laid out, drained, surfaced and sealed.
17. Submission of hard and soft landscape details and masterplan for Green Infrastructure Proposals including measures to safeguard and enhance biodiversity.
18. Hard and soft landscaping works to be carried out in accordance with the approved details.
19. Replacement of any trees or plants if any trees or plants are removed, uprooted, destroyed or die within a period of five years from the planting.
20. All surface water drainage from parking areas and hardstanding shall be passed through an oil interceptor.

21. Any above ground oil or liquid chemical storage tanks shall be located at least 10 metres from any watercourse and within a bund
22. No discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.
23. Details of storage ponds, permeable paving areas to be submitted and approved in writing.
24. Details of bridge crossings of Wyke Beck
25. A separate system of drainage for foul and surface water shall be provided.
26. Details of the proposed methods of disposal of both water and foul waste from the site.
27. No piped discharge of surface water from the development prior to the completion of the approved surface water drainage works
28. No development shall take place until details submitted of the treatment of emissions to atmosphere, resulting from any processes, plant or activity, including the method of treatment and height, position and manner of discharges.
29. Details of machinery, water tanks, boilers, or other plant and ancillary equipment to be installed.
30. Sound-insulating material to plant and/or machinery
31. Details of mechanical ventilation or air conditioning system
32. Details of the method of storage and disposal of litter and waste materials.
33. No ground clearance or removal of hedges, shrubs or trees shall take place during the period 1 March to 31 August. To prevent disturbance to breeding birds.
33. Scheme for the restoration of Wyke Beck within the site.
34. Details of bird and bat boxes to be provided
35. A sustainability statement shall be submitted for approval at reserved matters stage for each phase of development. The statement shall have regard to the requirements of the Sustainable Construction SPD. The development shall be implemented in accordance with the approved details.
36. Submission of Phase 1 and Phase 2 Contamination reports
37. Notification of unexpected contamination
38. All remediation works to take place in accordance with the approved Remediation Statement and submission of verification reports
39. Revised remediation statement in the event of unexpected contamination
40. Notification of any unexpected significant contamination
41. An uncontrolled pedestrian crossing including dropped kerbs/ tactile paving on East Leeds Link Road shall be provided prior to first occupation.
42. On completion of the second phase of development, a review of pedestrian routes to and from the site shall be undertaken and submitted to the LPA. If justified in line with the Council's Pedestrian Crossing Sight Assessment Guidelines on the East Leeds Link Road, a controlled pedestrian crossing shall be provided within timescales to be agreed.

Reason for approval

This application has been considered in accordance with the requirements of the UDPR 2006 and the City Council considers that granting permission for an extension of time for the development of an allocated site with extant permission would give greater flexibility to bring forward development of the site whilst also ensuring delivery of development in reasonable timescales. The application is considered to comply with the following UDPR policies;

E4 (9), E8 (4), E7, GP5, GP7, T2, T20, BD5, N8, N9, N24, N38A, N38B, N39A, N39B, N51, R1

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

INTRODUCTION:

- 1.1 This application seeks a significant extension of time to a planning permission granted for a large employment site. Members will recall that a position statement was brought to Plans Panel East on 17 February 2011 where Members resolved to note the report and that at that stage no concerns had been raised regarding the proposed extension of time for the submission of Reserved Matters
- 1.2 The extant permission for the site can be implemented up to 2018, however the applicant seeks to extend this to allow submission of 2nd reserved matters details by 2023 and a further two years to implement the first reserved matters scheme. The applicant advises this is required in order to provide the developer with confidence of the longevity of the permission and therefore the ability to develop the site over a longer period of time given the current economic climate and the significant expenditure commitment in the early stages of development (reclamation of the site).
- 1.3 The extant outline permission was approved by Plans Panel East in February 2006 and allowed the submission of first reserved matters until 2016 (with further two years to implement the reserved matters scheme). This application is reported to Members due to the significance of the extension of time which is sought and the scale of the application which is to provide 275,000 sq.m of B8 floorspace.
- 1.4 The report below sets out the applicant's commitment to the carrying out of reclamation works and the first phase of development coming forward by 2018. The site is considered to be a strategic employment site and one of the sites within the announced Enterprise Zone and it is considered that assisting the applicant to achieve flexibility in delivering the development is in line with current government guidance and the aspirations for the Enterprise Zone. The extension of time application also provides the opportunity to secure travel plan evaluation monitoring and public transport contribution for the development as the relevant policies to deliver these contributions were not in place at the time the extant permission was granted.

2.0 PROPOSAL:

- 2.1 The proposal is to extend the extant permission for a major proposal of B8 storage and distribution use, on an 84.7 hectare site. Part of the site is allocated for employment purposes in the UDP Review and part of the site is now included within the Knostrop strategic waste site allocation within the Natural Resources and Waste DPD (formerly part of the Knostrop treatment works).
- 2.2 Access into the site is proposed from a new roundabout off the East Leeds Link Road (ELLR), which has been constructed and opened since the extant permission was granted. A second emergency access is proposed from Knowsthorpe Lane to the south.
- 2.3 A new s106 agreement is also proposed to deal with the delivery of the first phase of development, public transport contribution and travel plan requirement. These are new matters arising since the grant of the extant permission. The s106 will also deal with the applicant's proposal to revise the phasing of the repayment of the East Leeds Link Road monies to central government.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is a major employment site within the Aire Valley. The site comprises 84.7 hectares of land to the south of the ELLR and to the west of Jct 45 of the M1 motorway. This site is one of a number of sites within the Aire Valley which is subject to a commitment to repay the funding for the construction of the East Leeds Link Road infrastructure which has been funded jointly by the City Council and Yorkshire Forward.
- 3.2 The site is partly on the site of Knostrop treatment works (comprising an extensive area of filter beds) and also partly on open pasture land. The land is generally fairly flat with a slight slope across the site from south to north. The site was previously used for open cast mining and was formerly part of Waterloo Colliery site. Wyke Beck and an effluent channel pass through the site.
- 3.3 To the north west of the site is Cross Green Industrial Area, through which access to the treatment works is gained. To the North of the site is Temple Newsam Park.
- 3.4 The M1 motorway is to the east of the site and Green Belt land is to the east of the M1. Part of the site (eastern boundary along M1 boundary) is within an Urban Green Corridor which extends up to Temple Newsam Park to the north of the site. Temple Newsam Park also lies within the designated Green Belt.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The development of the site is covered by a s106 legal agreement which requires a contribution of £2.88m to central government for the East Leeds Link Road. The s106 agreement is tied to the land rather than the implementation of a specific planning permission.
- 4.2 11/02133/FU - Engineering works, including ground preparation works, formation of levels to development plot and provision of access and spine road with associated bridge. Approved 29.09.2011
- 4.3 21/199/05 - Outline application to erect warehouse and distribution development with car parking and landscaping. Approved 24.05.2006. The extant permission subject of this extension of time application, requires submission of first reserved matters by 2016 with a further two years to implement.
- 4.4 21/252/02/OT - Outline application to layout access and erect industrial warehouse units. Approved 24.05.2006, permission requires submission of first reserved matters by 2016 with further 2 years to implement. This extant permission covers 46.4 ha of land subject to the current extension of time application. The site is smaller and notably does not include the Yorkshire Water filter beds.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The application is subject to a Planning Performance Agreement following pre application discussions with the applicant. The Planning Performance Agreement agreed timescales for reporting a position statement to Plans Panel however this timeframe slipped as there were a number of detailed outstanding matters to be resolved relating to the ELLR contribution and agreement with Yorkshire Forward now understood to be taken over by Homes and Communities Agency; as well as Highway matters including Public Transport Contribution measures; and Travel Plan.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Prior to submission of the application, the applicant wrote to Ward Members for the 3 wards affected by the application – the site falls mainly within Burmantofts and Richmond Hill Ward. The access roundabout of East Leeds Link Road is within Temple Newsam Ward and the access road leading to Knowsthorpe Lane is within Garforth & Swillington Ward. Ward Members have also been formally notified of the application.
- 6.2 Councillor R Grahame has written to confirm that he fully supports the application.
- 6.3 Site notices were posted on 19.11.10 and expired on 10.12.10 – no representations have been received.

7.0 CONSULTATIONS RESPONSES:

Statutory:

Highways Agency -

- 7.1 Comments have been received from the Highways Agency in conjunction with discussions with the Council Highways Officers.
- 7.2 The Highways Agency issued a holding direction on 29 November 2010 which directs that the application is not determined for a period of 3 months. A revised Travel Plan has been submitted and an addendum to the Transport Statement regarding the trip rates and comments from the Highways Agency are awaited. The Highways Agency removed the holding direction subject to requested conditions and securing the travel plan through the legal agreement.

Environment Agency -

- 7.3 The LPA should satisfy themselves that the flood risk sequential test has been met in accordance with the requirements of PPS25.
- 7.4 The proposed development will only be acceptable if the measures detailed in the Oct 2010 Flood Risk Assessment submitted with the application are secured and implemented by way of conditions. The final Environment Agency Wyke Beck Model 2010 information shall be used for the purposes of assessing the compensatory storage requirements and the setting of finished floor levels.
- 7.5 The EA also advise that when the layout for the site is produced, they will expect to see a sequential approach to flood risk has been adopted in accordance with the FRA.

Health and Safety Executive

- 7.6 Does not advise, on safety grounds, against the granting of planning permission in this case.

Non-statutory:

Yorkshire Forward

- 7.7 No comments but negotiations regarding the ELLR repayment are now ongoing with Homes and Communities Agency (HCA) who have taken over dealing with Yorkshire Forward assets. HCA have indicated support for revised phasing of the repayment set out in the heads of terms at the start of the report. This will need to be agreed through HCA Board and it is unknown at this time whether approval is needed from central government.

Metro

- 7.8 The Aire Valley is not currently served by public transport and as a result the development will be car dependent. Metro have been working with the Council in developing the Aire Valley Area Action Plan (AAP). As part of the delivery of the APP, an option which is under consideration is to introduce a park and ride site close to the development which would greatly improve the accessibility of the site and the Aire Valley. Metro point out that the park and ride option is at early stages and is not likely to be delivered in the short term and therefore raise concerns about the sustainability of the development without any public transport available.
- 7.9 Metro comment that the developer needs to demonstrate what role public transport has in ensuring the site can be accessed by non car users. A financial contribution to fund a bus service should be investigated through Metro or the Council should consider implementing the public transport SPD to help fund future major public transport initiatives in the area in the future.
- 7.10 In absence of any realistic public transport Metro advise that the developer needs initially to look into reducing car trips through car sharing, walking and cycling. The travel plan needs to set out in a clear and concise manner what interventions will be implemented with a timeframe and show how performance will be monitored.

Public Transport Improvements Contributions Officer

- 7.11 The proposed development if implemented in full would comprise of 275,000sqm of B8 storage and distribution uses. At present the site is not served by public transport with bus stops in excess of 1km from the site boundary – clearly this is not adequate for an employment generator of this size. As part of the Aire Valley Area Action Plan, measures and infrastructure would have to be put in place to serve this and adjacent sites with appropriate levels of public transport. These measures, however, will require funding.
- 7.12 It is noted that the developer is required to pay a significant sum towards the completed East Leeds Link Road, which provides access to the site and nearby motorway, but this does not compensate for the requirement for public transport services as set out in the City Councils adopted Supplementary Planning Document (SPD) “Public Transport Improvements and Developer Contributions”.
- 7.13 An overall calculation of £680k was initially provided based on the public transport mode splits given in the submitted Travel Plan of 6% and the SPD generic daily person trip rate for B8 warehousing / distribution uses of 10 per 100sqm. This SPD rate was used rather than a site specific value as the Transport Statement did not identify daily trips.
- 7.14 The applicant’s Highway Consultant has since provided daily trip rates generated by the Highways Agency and the applicant and it is clear that this rate of 10 trips per 100sqm is too high for sites of this size (as expected) and that a lower rate would be applicable. The applicant’s Highway Consultant’s note gives a total daily person trips of 10,925 (which equates to a rate per 100sqm of 4), which has now been agreed.
- 7.15 The Public Transport Contribution Officer also notes the issue of the Aire Valley Area Action Plan Mode split target of 15% for public transport which should be used as the Travel Plan target and calculation of the SPD contribution.
- 7.16 Using the public transport mode split of 15% and daily person trips of 10,925 and recalculating provides a sum of £677k. Further negotiations have taken place and it is

considered that a public transport contribution of £500k could be accepted on the basis that the ELLR contribution could be considered partly towards public transport under paragraph 4.5.3 of the SPD. However, there should be flexibility in terms of the public transport contribution for this site and if the contribution is by way of a payment then the phasing of this payment needs to include an element of front loading and this needs to be agreed as well as the potential financial contribution should this be required rather than any direct provision. The following phasing has been agreed with the applicant.

- £167,000 payable on first occupation
- £167,000 payable on occupation over 93,000 sq. m.
- £166,000 payable on occupation over 163,000m sq. ft.

7.17 There is a need to maintain as much flexibility within the public transport options as possible whilst securing a contribution that enables a meaningful intervention. Regard also has to be had to the restrictions placed on the developer via the conditions relating to trip generation and phasing. It is therefore suggested that something along the following lines is incorporated within a s106:

- A defined level of contribution payable over the lifetime of the permission (£500k)– to be index linked. There would be nothing to stop the developer providing further funding if they saw fit or was required to meet trip generation targets
- The actual measures should not be tied down within the s106 but reference should be made to service bus diversions, a dedicated shuttle bus service, or contribution to a larger scheme such as a bus rapid transit service along the ELLR to a P&R site at the motorway or any other such measure as agreed between parties at the time of each reserved matters application
- This could require the need for a ‘steering group’ comprising of representatives from the developers, prospective occupiers, Leeds City Council, the Highways Agency and Metro. This group and funding could also be tied in with the Travel Plan
- The agreement to the above does not release the developer from conditions relating to trip generation targets, but should be seen as a means to achieve those targets

Nature Conservation Officer

7.18 There is a need for the development to make a contribution towards green infrastructure in the Aire Valley the need for which is identified in the Aire Valley Area Action Plan and eco settlement proposals. The use of green roofs should be considered. A condition should be imposed to require a Green Infrastructure masterplan. A comprehensive scheme is required at an early stage as part of the master plan and Green Infrastructure proposals.

7.19 The applicant proposes an amendment to condition 33 and the restoration of Wyke Beck on a phased basis rather than details of a full scheme prior to commencement of development. A comprehensive scheme for the beck corridor is required and this should be agreed at an early stage as part of the masterplan and green infrastructure proposals for the site. Further details can then be provided at the reserved matters stage for each relevant phase.

Public Rights of Way Officer

7.20 Public Bridle Way 51 lies in close proximity to the site but does not appear to be affected by the development therefore no objections.

Leeds City Council Flood Risk Management

- 7.21 Support the comments and conditions put forward by the Environment Agency with regards to Wyke Beck which crosses the site, compensatory storage and finished flood levels at the site. Discussions regarding on site balancing facilities would be necessary prior to agreement of drainage details.

Contaminated Land

- 7.22 Desk top report received in 2006 indicating potential for gross contamination. It is recommended the scope of works for investigation is agreed with the Council and the Environment Agency prior to site investigation. No objections subject to conditions.

8.0 PLANNING POLICIES:

- 8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development.

8.2 UDP Review (2006)

E4 (9): Employment allocation

E8 (4): Key employment site

E7: Retention of employment land

GP5: Detailed planning considerations including amenity and highway safety

GP7: Planning Obligations

T2: Highway safety

T20: East Leeds Link Road

BD5: Building design and amenity

N8: Urban Green Corridors

N9: Urban Green Corridors and development

N24: Green belt boundary

N38A: Flood Risk and development

N38B: Planning applications and flood risk assessments

N39A: Sustainable drainage

N39B: Watercourses and new development

N51: Nature conservation and enhancement

R1: Regeneration

8.3 Supplementary Planning Guidance

Aire Valley Area Action Plan (Draft - Preferred Options)

Draft SPG – A design guide for the Aire Valley

Draft Natural Resources and Waste DPD – currently out to consultation

Draft Travel Plan SPD (adopted for development control purposes)

Public Transport Improvements and Developer Contributions SPD (adopted)

Sustainable Design and Construction SPD (adopted)

8.4 Regional Spatial Strategy (RSS) (adopted May 2008)

ENV5: 10% renewable energy requirement.

YH1: Spatial pattern of development and core approach.

YH2: Sustainable development.

YH4: focus development on regional cities.

YH5: Focus development on principal towns.

YH7: location of development.

LCR1: Leeds city region sub area policy.

E1: Creating a successful and competitive regional economy

E3: Land and premises for economic development

- 8.5 National Policy Guidance
PPS1 – Delivering Sustainable Development
PPS4 – Planning for sustainable economic growth
PPG13 – Transport
PPS9 – Biodiversity and Geological Conservation
PPS25 – Development and Flood Risk

Ministerial Statement – Planning for Growth, March 2011

9.0 **MAIN ISSUES**

1. Principle of development
2. Time periods for extension of time
3. Highway Issues
4. Flood Risk Assessment

10.0 **APPRAISAL**

1. Principle of Development

- 10.1 Part of the site is allocated for employment use and as a key employment site under Policies E4 and E8 of the Unitary Development Plan Review (the allocated site is 98 ha in area). The part of the site which is not within the employment allocation consists of sewage treatment works filter beds. This land the Knostrop strategic waste site allocation under the Natural Resources and Waste DPD which is currently undergoing an Examination in Public (programmed for 16 November to 7 December 2011).
- 10.2 Outline approval has been granted in principle for storage and distribution development on the application site and this remains an extant permission until 2016. The outline permission approved only the principle of development with all other matters reserved although an indicative layout was provided. An updated indicative masterplan has been provided.
- 10.3 As referred to above, part of the site was one of the Natural resources and Waste DPD allocated sites for strategic waste purposes. The policy (Waste 6 – Strategic Waste Management sites) allocated these sites for the lifetime of the document which covers a 15 year period unless it is shown that there is no requirement for the allocation. The applicant has made representations regarding this policy and the site has since not been the chosen site in the procurement process for an Energy from Waste development. The Forward Planning team confirm that the proposed text of the DPD, which is currently undergoing an Examination In Public, is to be altered to clarify that once the procurement process completes then the unsuccessful site will not be needed for strategic waste purposes. Therefore a condition safeguarding the site for the duration of the plan period is not required.
- ### 2. Time period for extension of time
- 10.4 The government reintroduced the ability for applicants to extend the time period for implementation of applications which were granted planning permission on or before 1 October 2009. It is only possible to grant one extension of time to each permission. The DCLG guidance document 'Greater flexibility for planning permissions' advises with regard to 'how local authorities should approach these applications', that in the current circumstances local planning authorities should take a positive and constructive approach to applications which improve the prospect of sustainable development being taken forward quickly. As the principle of development will have been accepted at an earlier date, the guidance goes on to state that local planning authorities should focus their attention on development

plan policies and other material considerations which may have changed significantly since the original grant of planning permission. There is discretion in terms of the length of time a permission can be extended for with discretion to grant longer permissions if this is justified on planning grounds.

- 10.5 The extension of time is a significant issue for the Council to consider. The proposal would allow submission of second reserved matters by 2023 and commencement by 2025, with further phases of reserved matters then coming forward no later than 2 years from approval of the last phase.
- 10.6 The applicant advises that this extension of time is required in order to provide them with the confidence that they can have the ability to start on site and carry out significant reclamation works and have further time to deliver this scheme given current market conditions.
- 10.7 The extant permission allows submission of first reserved matters by 2016 and implementation by 2018. The applicant has agreed a commitment to submission of the first reserved matters in line with this time period for the extant permission, therefore the proposed extension of time relates to the second reserved matters application to be submitted up to 7 years beyond that which the extant permission allows for in relation to both reserved matters and commencement of development respectively.
- 10.8 In order to ensure that the proposed extension of time does not result in significant delays in development of the site coming forward altogether, Officers have sought to reach agreement with the developer on delivering a reasonable level of development within the timescales of the extant permission. In this respect, the applicant has offered to commit, by way of the legal agreement, to the delivery of 28,000 sq.m of floorspace at the site by 2018. This represents just over 10% of the total floorspace approved at the site under the extant permission. It should also be noted that conditions on the outline permission restrict more than 60% of floorspace from being provided if the agreed trip rates for the site are exceeded at phase 1. This could therefore reduce the total floorspace delivered at the site to 165,000 sq.m and therefore the proposed 28,000 sq.m to be delivered by 2018 would then represent 17% of the development.
- 10.9 The applicant has however indicated that at the present time the aspiration is to deliver some 93,000 sq.m floorspace as Phase 1 of the development and this is likely to be the largest of the plots shown on the indicative masterplan. The developer would also carry out significant reclamation works at the site in the early stages of the development with substantial financial commitments in advance of securing future occupiers.
- 10.10 It is therefore considered that the proposed commitment by the developer to carry out the first phase of reclamation works and provide 28,000 sq.m of floorspace by 2018 represents an acceptable start to development of this site and will facilitate other phases of the development to come forward. As such, it is considered that the proposed extension of time will not lead to unacceptable delays to development given the current market conditions and significant commitment which is required from the developer in order to deliver development of this site.

3. Highway Issues

- 10.11 The allocation of the site under Policy E4 included that development of the site is subject to the construction of relevant road proposals to serve the development. The East Leeds Link Road (ELLR) has now been constructed and is open to serve the

site. The condition preventing development until this time is therefore no longer necessary. It should be noted however that the applicant is seeking to revise the terms of the s106 agreement which covers the development of this site and which deals with the repayment of £2.88m funding for the ELLR to Yorkshire Forward (now replaced by HCA) and this is referred to below under the heading of s106 matters.

- 10.12 A revised Transport Statement has been submitted as part of the application and this is based on a gross floor area of 275,000 sq m of B8 warehousing with access from the East Leeds Link Road. Revised trip rates have recently been received and the Highways Agency has removed the holding direction subject to conditions and securing the Travel Plan through a legal agreement.
- 10.13 The extant permission was approved subject to a limit on the number of trips generated by the development, with Phase 1 being no more than 60% of the floorspace and Phase 2 not coming forward if agreed trip rates at the site are exceeded in order to ensure that the M1 motorway network is not overloaded.
- 10.14 The Travel Plan will be an important factor in achieving the trip rates restricting development on this site. Since the extant permission was granted permission, the draft Travel Plans SPD has been adopted for development control purposes and the applicant has therefore worked with the Council Highway Officers and the Highway Agency on agreeing a Travel Plan Framework for the site. The Travel Plan will be secured by way of the s106 agreement which will include the travel plan evaluation monitoring fee (estimated to be £15,000 based on number of staff anticipated).
- 10.15 The Public Transport Infrastructure Developer Contributions SPD has also been adopted since the extant permission was granted and therefore there is a requirement to secure this contribution as part of the s106 agreement however this will also be of benefit to the developer in helping them to achieve the trip rates which development must achieve in order to deliver phases 2 and 3.

4.Flood Risk Assessment

- 10.16 The Environment Agency have not objected to the application subject to conditions in accordance with the recommendations of the FRA. Officers are also satisfied that the applicant's approach to the sequential test required under PPS25 is acceptable in light of the limited part of the site which is within Flood risk zones 2 and 3, the less vulnerable end use proposed on the site and the sequential approach to future development of the site as part of the reserved matters as recommended in the FRA

5. Revised conditions

- 10.17 The applicant is seeking to revise the conditions attached to the original permission to allow development of the site to be phased. These conditions principally relate to materials, boundary treatments, landscaping, oil interceptor provision, drainage, ventilation and plant equipment, litter and waste storage, sustainability statement and contamination investigations/ remedial works. It is considered that this approach is entirely acceptable for such a significant amount of floorspace and it is expected that reserved matters applications will be submitted in a phased approach and therefore the original conditions should have reflected this. The original condition numbers and proposed revisions are set out below;
- Condition 3 – Submission of programme for the phasing of the development
Revised to allow for submission of phasing plan at each stage of development, to increase flexibility
- Condition 4 – No development prior to completion of ELLR
Delete – ELLR is now complete
- Condition 8 - System for automatic vehicle detection

- Revised to allow for submission prior to commencement of Phase 1.
- Condition 16 - Details of the position, design, materials and type of all walls and/or fences or permanent boundary treatment.
Revised to allow phased submission
- Condition 18 - Landscape Details
Revised to allow phased submission
- Condition 24 - Details of storage ponds, permeable paving areas and bridge crossings of Wyke Beck to be submitted and approved in writing
Revised to allow phased submission and separate condition for Wyke Beck
- Condition 26 - Drainage details
Revised to allow for phased submission
- Condition 27 - No development shall take place until details submitted of the treatment of emissions to atmosphere, resulting from any processes, plant or activity, including the method of treatment and height, position and manner of discharges.
- Condition 30 - Delete – the condition is not relevant to B8 development
Details of the extract ventilation system
Delete, the condition is duplicated at condition 32.
- Condition 32 - Details of mechanical ventilation or air conditioning system
Revise to allow phased submission of details.
- Condition 33 - Details of the method of storage and disposal of litter and waste materials.
Revised to allow phased submission of details
- Condition 35 - Bat survey to be carried out, by a licensed bat worker, of the dead tree along the north-west boundary of the site
Delete – tree has been removed, appropriate bat surveys were undertaken
- Condition 36 - Scheme for the restoration of Wyke Beck within the site.
Amend to allow for phased submission
- Condition 37 - Details of bird and bat boxes to be provided
Amend to allow for phased submission
- Condition 38 - Sustainability statement
Amend to allow for phased submission and in accordance with current Sustainable Construction SPD
- Condition 39 - Submission of Remediation statement
Amend to allow for phased submission and in accordance with current contamination conditions
- Condition 45 - Intrusive investigation to assess and characterise potential land contamination
Amend to allow for phased submission and in accordance with current contamination conditions

6. S106 matters

- 10.18 The applicant has submitted heads of terms for the following matters to be dealt with by way of a s106 legal agreement. It is also considered that delivery of the travel plan will need to be secured through the s106 legal agreement as well as a commitment to the carrying out of the first phase of development by 2018. All of the obligations and contributions proposed within the S106 as contained within this report are considered to be directly related to the development and compliant with the three legal tests introduced by CILs Regulations (necessary; directly related; and fairly and reasonably related in scale and kind to the development)

- 10.19 The existing s106 agreement which deals with repayment of the ELLR money relates to the land and not the implementation of a specific planning permission. It should also be noted that there is an inconsistency between the red line area of the site subject of the extant B8 planning permission and the land subject of the legal agreement as the full B8 site is not included. It is considered that this is likely to have been an oversight and should be rectified as part of the s106 agreement required for the extension of time application.
- 10.20 The developer has a commitment to pay a £2.88 m contribution to the ELLR to Leeds City Council by way of a legal agreement relating to the site. The Council are then party to a joint venture agreement and are required to repay this money to Yorkshire Forward. Yorkshire Forward's Assets are now being dealt with by the Homes and Communities Agency since Yorkshire Forward has been disbanded.
- 10.21 The terms of the existing legal agreement require payment of 50% of the money prior to stage 2 works (site preparation) and 50% prior to commencement of development. This is the same for 3 sites that are required to contribute to the ELLR monies.
- 10.22 The applicant has proposed to the Homes and Communities Agency (HCA) that the terms of the agreement are amended to alter the timing and phasing of the payment. This matter will need to be dealt with by way of a new legal agreement to accompany this extension of time application which can also deal with the discrepancy relating to the land tied to the legal agreement. The City Council does not have the authority to alter the terms of this agreement without agreement from HCA. It is recognised that it is desirable to provide some degree of flexibility to the developer in order to help bring development at this site forward and this has greater importance given that the site is one of the sites within the announced Enterprise zone. This is also consistent with government advice on Planning Obligations issues in March this year, in light of the Ministerial Statement, Planning for Growth. The government advice is that an appropriate review of planning obligations, which takes account of local planning priorities, could allow development to proceed on stalled schemes. The HCA have indicated support for an amended agreement based on the following repayment triggers that have been put forward by Aire Valley Land and KeyLand;
- Stage 1: construction of main site access road, associated works and site preparatory ground works - nil contribution
 - Stage 2: commencement of construction of buildings in accordance with B8 planning permission - 25% of the contribution and interest
 - Stage 3: occupation of premises constructed on the site - contribution payable based on the following calculations: -
 - OF/TF x TC x 1.5 - for the first 93,000 sq.m
 - OF/TF x TC x 0.375 - for the remainder of the floorspace (approx 182,000 sq.m)
 Where:
 - OF = Occupied floorspace for the relevant phase
 - TF = Total floorspace permitted by the planning permission
 - TC = Total contribution with accrued interest under the S106 agreement
- 10.23 On this basis the payments would be:

- £720,000 on commencement of buildings
- £1.4m *pro rata* spread across the first 93,000 sq.m. of occupation; and
- £720,000 *pro rata* spread across the remaining 182,000 sq.m..

10.24 Aire Valley Land and KeyLand also propose a backstop date of 31 March 2020 for payment of any outstanding balance of the ELLR contribution.

Public Transport Contribution

10.25 The public transport improvement contribution will need to be dealt with as part of a s106 legal agreement but needs to maintain flexibility in terms of agreement of the best delivery of public transport measures at the time development comes forward. The sum of £500k has been agreed between the developer and Officers and it is considered that this could be spent on a number of measures; funding of a Metro service (advice has been sought from Metro), direct funding of a shuttle bus service for a future occupier of the site if public transport services are not feasible, contribution towards the Park and Ride scheme or other such measures.

10.26 Phasing of the public transport funding has been agreed with the applicant to ensure an element of front loading in the delivery of public transport measures as follows;

- £167,000 payable on first occupation
- £167,000 payable on occupation of 93,000 sq. m.
- £166,000 payable on occupation of 163,000m sq.m.

10.27 The s106 and travel plan also include the setting up of a steering group to look at the different measures available at the time development comes forward.

11.0 CONCLUSION

11.1 The site is considered to be an important strategic site within the announced Enterprise Zone. It is considered that subject to the matters set out in the report to be dealt with through a legal agreement and the delivery of the first phase of development by 2018, the proposed extension of time for submission of 2nd reserved matters is acceptable. Granting the extension of time should assist in providing the applicant with flexibility in delivering the development and in determining this application, regard should also be had to the government's agenda of fostering sustainable economic growth and the job creation associated with the proposed development.

11.2 Members are asked to defer and delegate approval of the application to Officers subject to the completion of a legal agreement to deal with the matters set out at the start of the report. The City Council is party to a joint venture agreement in respect of the repayment of the money for the East Leeds Link Road and therefore the legal agreement can only be varied in agreement with the government through the HCA.

Background Papers:

Application and history files; 21/199/05/OT
Certificate of Ownership – Certificate B

APPENDIX 2 –MINUTES OF PLANS PANEL EAST 01/12/11

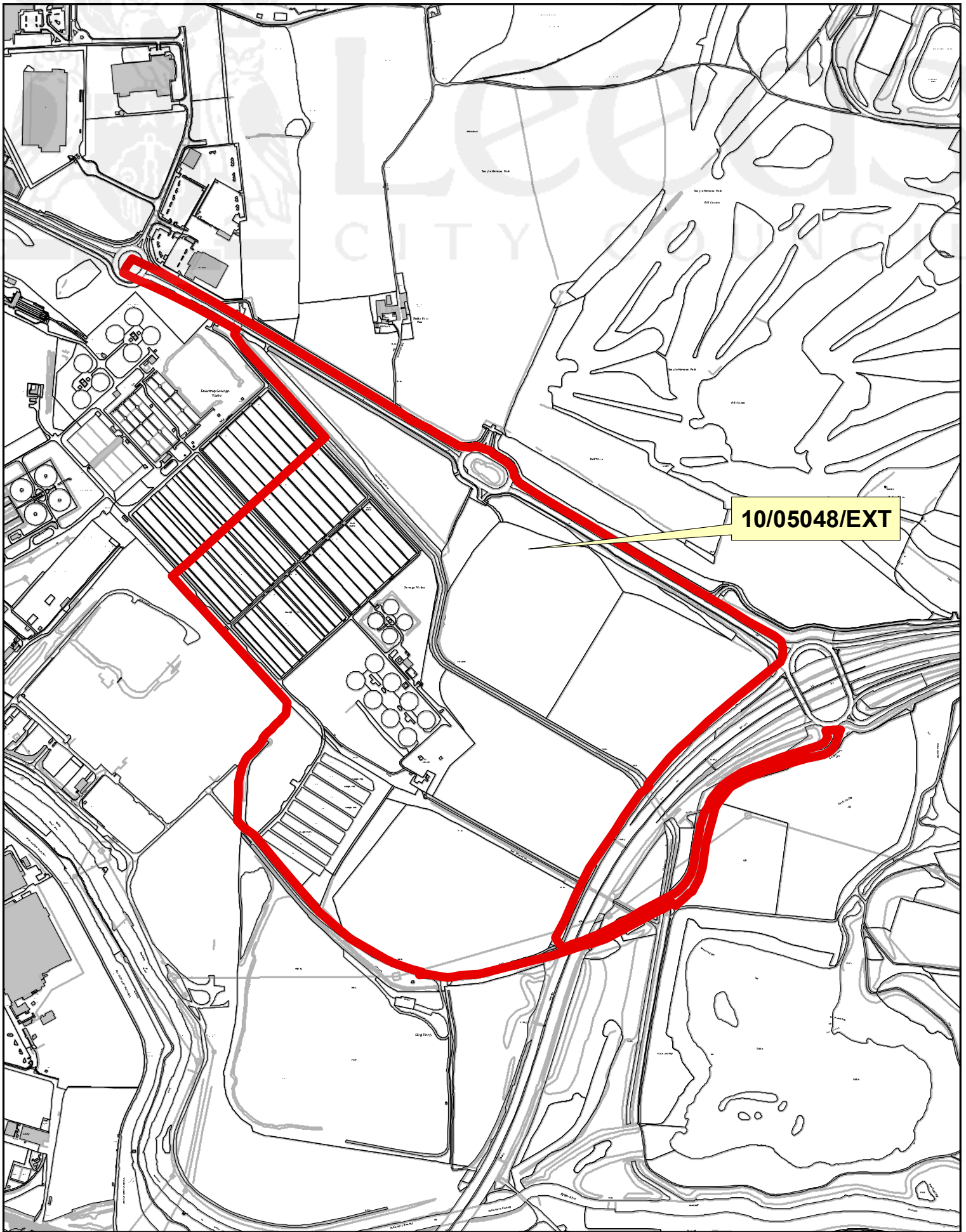
The report of the Chief Planning Officer referred to an application for extension of time for outline planning application 21/199/05/OT to allow submission of Reserved Matters until 2023 (to erect warehouse and distribution development with car parking and landscaping) at Land at Temple Green off East Leeds Link Road, LS10.

RESOLVED – That planning permission be granted in accordance with the recommendation.

- Condition 2 – to read ‘submission of first reserved matters and commencement of development both by 2018’
- Condition 5 – reference to B2 to be deleted.

Additional conditions:

- Update of Landscape and Design Framework for whole site to be submitted with each reserved Matters application.
- Development in accordance with the approved Flood Risk Assessment (October 2010).



SOUTH AND WEST PLANS PANEL

