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**Report of the Chief Planning Officer** 

PLANS PANEL EAST

Date: 17 February 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

Electoral Wards Affected: Burmantofts & Richmond Hill	Specific Implications For:	
Temple Newsam Garforth & Swillington	Equality and Diversity	
Sanorar & Swinington	Community Cohesion	
Ward Members consulted (referred to in report)	Narrowing the Gap	

# **POSITION STATEMENT;**

For Members to note the content of this report and provide comments and feedback to Officers on the timescale proposed for this extension of time application.

# 1.0 INTRODUCTION:

1.1 This application seeks a significant extension of time to a planning permission granted for a large employment site. The extant permission can be implemented up to 2018, however the applicant seeks to extend this to allow submission of 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).

- 1.2 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.
- 1.3 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 and therefore subject to highway matters being resolved at the site (including legal agreement) feedback is sought as to whether Members are satisfied with the proposed extension of time (to 2023 submission of reserved matters/ 2025 implementation) for this strategic employment site.

# 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.

# 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 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.

4.2 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 there are a number of detailed outstanding matters to be resolved relating to the ELLR contribution and agreement with Yorkshire Forward; Highway matters including Public Transport Contribution measures; and Travel Plan to be agreed. It is unclear when this application will be sufficiently advanced to bring it to Members for determination.

# 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 Transport Statement has used the approved trip rates for B8 use which is acceptable. However, in line with the guidance on Transport Statements, and to provide a link between the Transport Statement and proposed Travel Plan the Applicant has applied a first principles approach to determine person trips by mode.
- 7.3 The Travel Plan needs revising and sspecific mode share targets relating to staff car driver trips, that cover not only the peak hours but all trips across the day should be provided. Targets should be set for each phase of the development, with the final phase target being consistent with the emerging Area Action Plan target. Progression to the next phase of development will be dependent on the car

driver mode share being met. Annual monitoring will be required and a steering group comprising the HA, LPA and developer.

7.4 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 are expected to remove the holding direction shortly subject to securing the travel plan through the legal agreement.

### **Environment Agency -**

- 7.5 The LPA should satisfy themselves that the flood risk sequential test has been met in accordance with the requirements of PPS25.
- 7.6 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.
- 7.7 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

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

# Non-statutory:

Yorkshire Forward

7.9 No comments

#### Metro

- 7.10 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.
- 7.11 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.
- 7.12 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

- 7.13 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.
- 7.14 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".
- 7.15 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.
- 7.16 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.
- 7.17 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.
- 7.18 Using the public transport mode split of 15% and daily person trips of 10,925 and recalculating provides a sum of £677k and it is understood that the applicant accepts this requirement (subject to further discussions on phasing of payment).
- 7.19 There is a need to maintain as much flexibility within the PT 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 (£677k)– to be index linked (this sum is subject to further advice from Metro on costings). 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
  - It is accepted that all of the money cannot be required at commencement or prior to first occupation, but there is likely to be a need for some element of front loading, and

the split of contribution by phase cannot really be determined until, the scale of each phase is known and the appropriate public transport solution at the time is determined.

• 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**

- 7.20 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.
- 7.21 The applicant proposes an amendment to condition 34 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**

7.22 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

7.23 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**

7.24 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 comprises the Regional Spatial Strategy (RSS) and the saved policies of the adopted Leeds Unitary Development Plan (Review 2006).

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 T2: Highway safety T20: East Leeds Link Road BD5: Building design and amenity N24: Green belt boundary R1: Regeneration

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)

National Policy Guidance

PPS1 – Delivering Sustainable Development

- PPS4 Planning for sustainable economic growth
- PPG13 Transport

# 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 and is allocated under the Draft Natural Resources and Waste DPD which went out to consultation in mid December and is part of the Knostrop strategic waste site allocation.
- 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.
- 10.3 The Natural resources and Waste DPD potentially results in a conflict in granting permission for an extension of time application for a B8 use on a site allocated for strategic waste purposes as this would not be in conformity with the draft DPD which allocates the site 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 advises that there is no intention to develop this allocated part of the site in advance of a decision on the strategic waste allocation. It is therefore considered that this matter could be dealt with as part of a legal agreement or condition to safeguard development of the land allocated as part of the strategic waste site unless and until the Council confirms that this allocation is no longer 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 developemnt 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 would also carry out significant reclamation works at the site which are a significant commitment from the developer in carrying out these works in the early stages of the development with significant financial commitments in advance of securing future occupiers. It is considered that a phasing plan for the reclamation works can be sought from the applicant as part of this extension of time application and further details from the applicant have been requested. The applicant advises that the intention is to carry out the reclamation works this year, in accordance with the potential for part of the site to selected as the Council's preferred strategic waste site.
- 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 £2.9m funding for the ELLR to Yorkshire Forward and this is referred to below under the heading of s106 matters.
- 10.12 A revised Transport Statemeth 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 further comments from the Highways Agency are awaited although it is understood that these trip rates are agreed.
- 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. These are detailed conditions and the wording of the conditions is set out below;

#### 10.14 Condition 5.

The development hereby approved shall not exceed the total amounts of gross floor area / scale of development set out below:

275,000 sq m of Class B8 use , plus:

Parking serving the development shall not exceed 3081 spaces, of which no more than 2316 shall be allocated to the parking of cars

#### 10.15 Condition 6.

The Class B8 development hereby approved shall be carried out 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 5

- 10.16 Phase 2: not to exceed 80% of the total gross floor area approved under Condition 5 on a cumulative basis taking into account the gross floor area approved for Phase 1.
- 10.17 Phase 3: the remainder of the total gross floor area approved under Condition 5.

#### 10.18 Condition 7

This is a detailed condition setting out the means of calculating the average peak trips to the site and restricts the development of Phase 2 unless the sum of the calculation set out in condition 7 is less than or equal to 740 vehicle trips. Development of Phase 3 is restricted unless the sum of the calculations set out in condition 7 are less than or equal to 870 vehicle trips.

- 10.19 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 is therefore working 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).
- 10.20 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 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

10.21 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

10.22 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. A full report on the proposed amendments to conditions will be provided for Members when the application is brought back for determination.

#### 6. S106 matters

10.23 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 reclamation works at the site and safeguarding future development of the allocated strategic waste site.

#### East Leeds Link Road

10.24 The developer has a commitment to pay a £2.9 m contribution to the East Leeds Link Road to Leeds City Council who repay this money to Yorkshire Forward (or the Treasury when Yorkshire Forward are disbanded) by way of a legal agreement relating to the site. The applicant has proposed to Yorkshire Forward/ Treasury 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. However it is likely to be some time before it is known whether agreement is reached on this and the City Council does not have the authority to alter the terms of this agreement without agreement from Yorkshire Forward/ the Treasury. 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.

# 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 £677k 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.

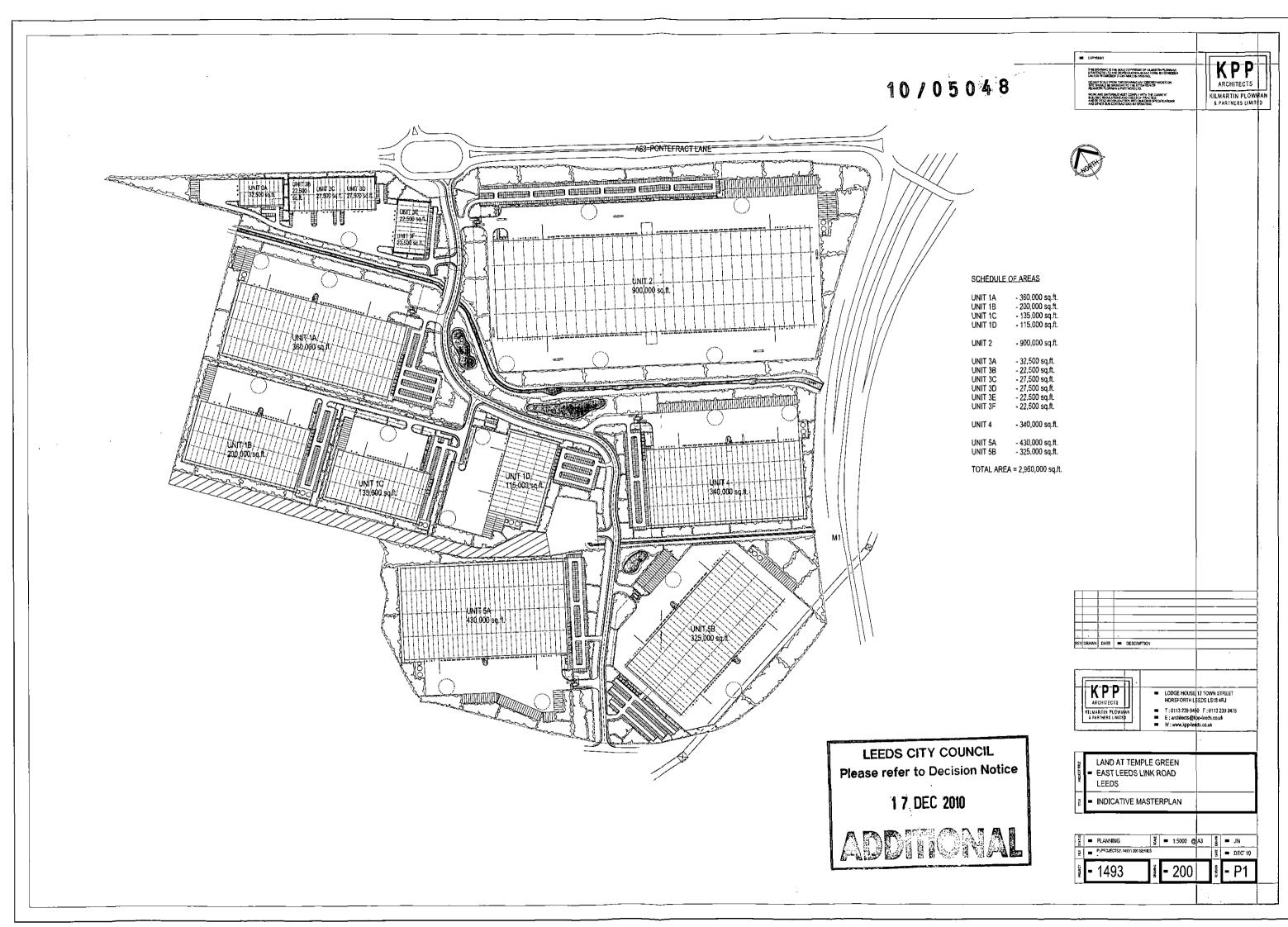
10.26 Further discussion is required on the phasing of the public transport funding as it is considered that there needs to be an element of front loading in the delivery of public transport measures. The s106 and travel plan also include the setting up of a steering group to look at the different measures available at the time development comes forward.

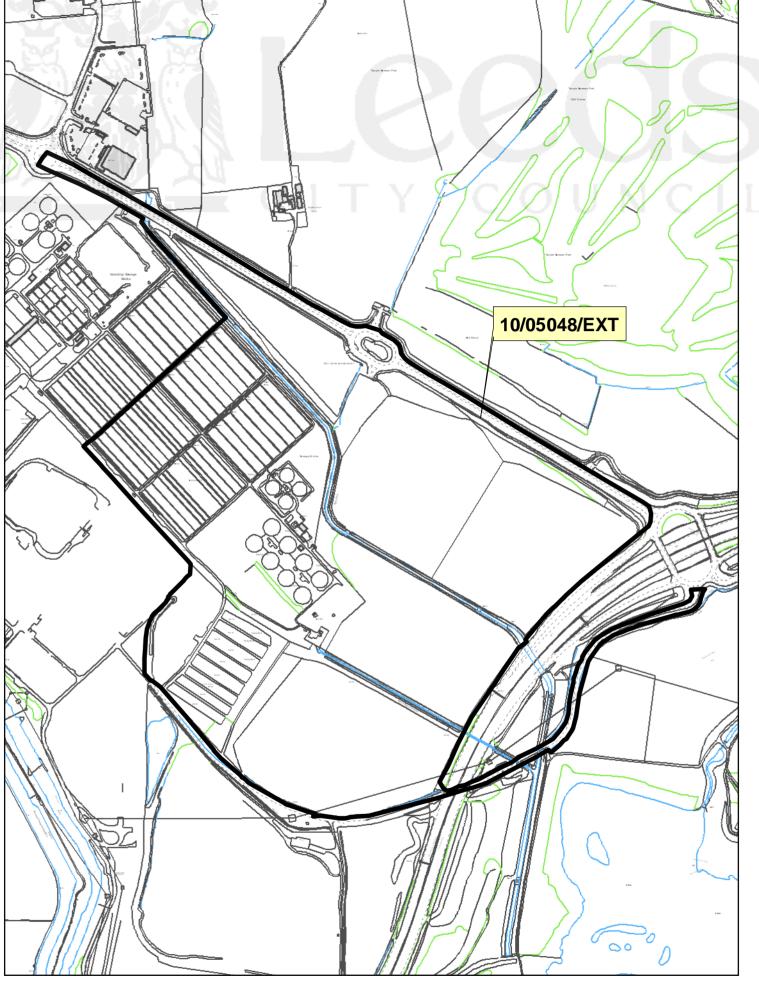
# 11.0 CONCLUSION

11.1 Members are asked to note the content of this report and provide any feedback on the proposal and in particular the timescales which the applicant is seeking to extend this permission in light of the applicant's commitment to the carrying out of reclamation works and the first phase of development coming forward by 2018 and subject to highway matters being resolved at the site (including legal agreement).

## **Background Papers:**

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





# EAST PLANS PANEL

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