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Late item for 11th March 2010 Plans Panel East

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Plans Panel (East)

Tuesday, 23rd February, 2010

PRESENT: Councillor G Latty in the Chair

Councillors D Congreve, M Coulson,
R Finnigan, C Fox, M Lyons, J Marjoram,
K Parker, A Taylor and D Wilson

181 Chair's opening remarks

The Chair welcomed everyone to a special meeting of Plans Panel East and asked Members and Officers to introduce themselves

182 Declarations of Interest

The following Members declared personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct

Councillors Congreve, Fox and Lyons declared personal interests through being members of West Yorkshire Integrated Transport Authority as Metro had commented on both proposals

Councillor Fox declared personal interests through having two family members who were minor shareholders in Tesco

Councillor Taylor declared personal interests through being a member of Wades Trust which was referred to in both reports
(minutes 186 and 187 refer)

Councillor Congreve also referred to the comments he had submitted on both schemes and which were included in the reports regarding highways issues, but stated that these were without prejudice to the determination of the applications

183 Apologies for Absence

Apologies for absence were received from Councillor Gruen who was substituted for by Councillor Coulson and from Councillor Wadsworth who was substituted for by Councillor Fox

184 The order of the meeting

The Panel's Lead Officer set out the order for consideration of the applications in view of the two proposals being for similar forms of development in close proximity

Members were informed that after consideration of agenda item 6, Officers would present the proposals for Application 09/01727/FU – Tesco. This would be followed by speakers and questions from the Panel. This process would be repeated for Application 09/02589/FU – Asda. The Panel would then discuss both applications and reach decisions

185 Application 09/01727/FU Proposal by Tesco Stores Ltd for a retail store at Benyon House Middleton and Application 09/02589/FU - Proposals by Asda Stores Ltd for a retail store on land at St George's Road Middleton

The Panel considered a report of the Chief Planning Officer prepared by Colliers CRE who had been instructed by the City Council to provide expert advice relating to the retail assessments which had been submitted as part of the two applications being considered and the relationship of these studies to both Council and national planning policies

Mr Connell from Colliers CRE presented the report and outlined the main issues which related to:

- whether planning permission should be granted for a new edge of centre store
- whether both applications could be allowed
- whether one application should be allowed and whether there were grounds to prefer one application over the other

Members were informed that there was a deficiency in convenience shopping in this area although this could be improved by a smaller store than that proposed by either application

In respect of whether both applications could be allowed, the Panel was informed that UDP Policy S5 and recent government guidance contained in PPS4 stressed the need to consider the impact on the existing centre and the hierarchy of centres. Mr Connell stated that if permission was granted for both stores this would create a shopping magnet which would draw shoppers from a wide area and could be detrimental to shopping areas in Dewsbury Road, Morley and Rothwell. Whilst Tesco had provided information to support the view that both applications could be accommodated in this area, this information was based upon estimates and therefore had to be treated with caution

Regarding whether one application should be preferred over another, the Panel was informed that the Tesco application was further from Middleton District Centre; that it would be necessary to cross a busy access link to the store and that this could discourage linked trips to the Centre

In terms of the Asda application, this was sited closer to Middleton District Centre, creating better links to it and for this reason Colliers CRE were of the view that the Asda application was more favourable than the one submitted by Tesco

In response to questions from the Panel, Mr Connell stated that whilst both proposals were for the sale of food and non-food items the main deficiency in the Middleton/Belle Isle area was for a good quality food store. A store in the region of 4000sqm, ie two-thirds the size of one of the proposed stores would deliver what was needed

That in terms of population growth, the 1400 new homes to be built in Sharp Lane had been taken into account by Colliers CRE in respect of retail issues

RESOLVED - To note the report and the comments now made

186 Application 09/01727/FU -Single storey retail store with service yard, car parking and landscaping - Benyon House Ring Road Middleton LS10

Further to minute 17 of the Plans Panel East meeting held on 4th June 2009 where Panel considered a position statement on proposals for a supermarket on Benyon House Ring Road Middleton LS10, Members considered the formal

minutes approved at the meeting
held on Thursday, 11th March, 2010

application. A site visit had taken place on 4th June 2009 which some Members had attended

Plans, photographs, graphics, drawings and artist's impressions were displayed at the meeting

Officers presented the report and stated that the proposals comprised the demolition Benyon House and the erection of a store with a gross external floorspace of approximately 6092sqm. Vehicular access would be from a spur from the existing roundabout and car parking provision of 351 spaces would be provided; provision for cyclists also formed part of the proposals

The new building would occupy a lesser footprint than Benyon House and was sited at a lower level making this less intrusive in terms of height and massing and improving the outlook for residents on Dolphin Lane

The supermarket would be constructed in brick with larch cladding and glazing and would meet BREEAM 'Very Good' standards

Officers referred to the points raised by Members at the meeting on 4th June 2009 and how the applicant had responded to issues relating to the service yard; parking; servicing; regeneration; employment; landscaping and public art

Pedestrian links to the store would be increased with five toucan crossings being provided

Members were informed that the overall walking distances within the application were acceptable for an edge of centre site, however these were greater than those within the Asda application

As Middleton District Centre was not owned by the applicant, improvement works to this could not be made, however enhancements through improved linkages and the provision of public art had been included in the scheme

Public transport contributions of over £1m had been negotiated which included a sum of money for the provision of a free hopper bus with an organisation having indicated an interest in operating this. Provision of bus shelter upgrades with real-time information displays formed part of the proposals

A statement on behalf of the Middleton Park Ward Members was included in the report and Officers stated that the application accorded with Ward Members' wishes. Furthermore Tesco had a commitment to partnership working and this had been demonstrated at their Seacroft store

Officers reported the receipt of 11 additional letters of support for the application and 7 letters from local traders objecting to both of the applications

The Panel was informed that in isolation the application from Tesco had taken on board the comments made by Panel Members and Ward Members. However the application from Asda on the adjacent site was a material planning consideration and having regard to planning policy and guidance, particularly PPS4, Officers were recommending refusal of the scheme, with the report containing a possible reason, for Panel's consideration

Members heard representations from the applicant; a local resident who supported the scheme and an objector who attended the meeting

The Panel, noting all the points made in the representations commented on the following matters:

- the distances between the proposed supermarket and the Middleton District Centre and the likelihood of people making linked trips
- the absence of contributions for improvements to Middleton District Centre

- whether in the future a mezzanine floor would be sought for the development
- the number of jobs to be provided through the development
- the view of local people that the jobs and investment arising from the proposals were urgently needed
- the public transport contribution; the provision of a hopper bus for five years and whether this could be required to continue beyond that period

Members then considered the following application

187 Application 09/02589/FU - Single storey retail store, petrol station and office/warehouse unit with car parking and landscaping on land at St George's Road Middleton LS10

Further to minute 65 of the Plans Panel East meeting held on 27th August 2009 where Panel considered a position statement on proposals for a supermarket on land at St George's Road Middleton LS10, Members considered the formal application. A site visit had taken place on 27th August 2009 which some Members had attended

Plans, photographs and graphics were displayed at the meeting. Members were informed that the layout plan included in the papers was incorrect as this was an earlier version of the proposals which had been amended following the Panel's comments on the position statement

Officers presented the report and stated that the proposals were for the erection of a single storey supermarket with a gross external floorspace of approximately 6265sqm; a petrol station and a three storey office/warehouse building together with a new roundabout and new access to the nearby household waste site

The supermarket would be of an attractive, modern design and constructed in red brick, white cladding, timber panels and glazing and would meet BREEAM 'Very Good' standards

To address the Panel's previous concerns, the position of the supermarket and car park had been reversed so enabling the store to be sited further north

In terms of regeneration and employment the development would provide these

Public transport contributions of over £1m had been negotiated which included provision of bus lay-bys, shelters and real-time information displays

Regarding highway improvements, four signalised pedestrian crossings would be provided. Highway Officers were of the view that the road network could absorb the traffic from the development and that it could lead to a reduction in longer journeys to other retail centres

The provision of a new access road had led to concerns being raised by local residents particularly due to possible noise nuisance from delivery vehicles. To remedy this opening hours of 7am – 10pm had been agreed with these hours also applying to deliveries. The creation of an acoustic barrier would further mitigate any possible noise nuisance, with Environmental Health Officers being satisfied at the measures taken. If minded to approve the application a revised condition specifying these hours for opening and deliveries was recommended

Members were informed that the principle of development had been established, although having regard to planning policy and guidance, Officers

considered that only one application could be accommodated in the area. The application would involve the loss of an area of employment land, however Officers were of the view that sufficient sites remained in the area. Additionally, the office/warehouse element of the proposals would provide employment use and the applicant would relocate Brandon Medical, an existing, expanding business currently located on the site, within the local area

A statement on behalf of the Middleton Park Ward Members was included in the report

Officers reported the receipt of 7 additional letters from local traders objecting to both of the applications and one letter from the owner of a local petrol filling station

The Panel was informed that due to the linkages the development would provide to Middleton District Centre and the St George's Centre, Officers were of the view that this application was stronger than the other application being considered and recommended its approval to Members subject to amendments to the following conditions:

- condition 2 relating to hours of opening and delivery
- condition 6 relating to the use of the car park
- condition 9 relating to boundary treatments
- condition 20 relating to details of the new road and visibility splays to be provided

Members heard representations from the applicant and three objectors who attended the meeting

(Councillor Congreve left the meeting during consideration of these representations)

The Panel, noting all the points made in the representations commented on the following matters:

- the contribution within the application for District Centre improvements; that Tesco had not been asked to provide such a contribution; the reasons for this and to note that Tesco had indicated they would be willing to match the sum to be provided by Asda
- the lack of a contribution towards public art, with the applicant's willingness to consider some provision being noted
- the inclusion of a petrol station in the proposals and the possible impact of this on an existing petrol station in the area
- the Road Closure Order which would be required and the length of time this could take to be obtained, with the Panel's Legal representative stating this could take approximately 6 months if the Order was not objected to. However, if a Public Inquiry became necessary, this could take up to 18 months to resolve. In terms of the likely outcome, the Town and Country Planning Act procedure was to be used. The test for these Orders is to enable development to be carried out. Accordingly, whilst the outcome of the Order could not be guaranteed, the fact that planning permission is in place will be a highly material consideration
- the position of the household waste site in relation to the development and whether queues to the waste site could impact on the petrol station and access to the store car park. The Panel's Highways representative stated there was sufficient capacity; that any build up of

traffic would not be so great as to impact on the petrol station and that the proposals would improve the current situation

- clarification that the car park would not be open beyond store opening hours as this could lead to nuisance and anti-social behaviour
- the number of jobs to be provided through the development
- that additional jobs would be created within the local area from the relocation by the applicant of a business which sought to expand
- the consultation process which had been carried out and concerns that some residents had not been included in that exercise
- links to Middleton District Centre via St George's Road and the willingness of the applicant to discuss provision of a covered area/moving staircase

The Panel's Lead Officer addressed Members and acknowledged that the recommendation for the Asda scheme included a clause relating to the provision of public realm. He explained that the clause had been included as this was the application which Officers were recommending to Panel for approval. Had the Tesco application been the one to be recommended for approval, then a similar clause would have been included. Having regard to Tesco's commitment given at the meeting to match this funding, Members were informed that in this respect both applications were equal

In terms of the general approach taken to both applications, Members were informed that negotiations had taken place with both applicants on similar levels of S106 contributions but that there were differences based on the individual schemes

The expert advice which had been obtained had concluded that only one store was appropriate in this location. Both schemes would bring benefits to the area, however the conclusion of Officers was that the Asda scheme was preferred based upon proximity and the links which flowed from that. In addition there were regeneration benefits, including those relating to the relocation of Brandon Medical centre and the employment opportunities arising from that

The Panel's Lead Officer also advised that Members would need to have regard to the deliverability of the schemes; that it was not a race between the two applicants and that the longer term benefits should be considered rather than which store could be operational the soonest

Members considered how to proceed

A proposal to agree both applications did not receive majority support

Application 09/02589/FU – Land at St George's Road Middleton LS10 – Asda

RESOLVED- To defer and delegate the application to the Chief Planning Officer for approval subject to the conditions set out in the submitted report, subject to the following amendments:

- condition 2 – Hours of opening and deliveries to the supermarket, petrol station and office/warehouse to be restricted to 07.00 – 22.00
- condition 6 – The car park shall remain open to the public free of charge during store opening hours in accordance with a management plan to be agreed
- condition 9 – Boundary treatments including highway retaining walls and details of steps and ramps to be approved
- condition 20 – Details of the new adoptable road including details of visibility splays to be approve

and subject to the applicant entering into an agreement under S106 of the Planning Act to cover the following matters:

- local jobs and training creation
- relocation of Brandon Medical within the local area
- public transport contribution of £1,052,114
- provision of bus lay-bys, bus shelters and real-time information displays as set out in the submitted report
- travel planning including payment of £3750 monitoring fee
- on-site public realm provision in accordance with approved plans
- off-site public realm (including improvements to the steps/ram linkage on St George's Road to the existing shops to create a new terraced link area – approximate cost £150,000)
- off-site highway works including improvements at the Throstle Nest/Middleton Ring Road roundabout
- to secure the adoption by the Council of the new access road leading from St George's Road to the Household Waste site
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The Panel agreed not to enforce a current legal restriction which affects the application site, under Section 52 of the Town and Country Planning Act 1971 (the predecessor of the current Section 106). This states that 'Pursuant to Section 52 of the Town and Country Planning Act 1971, not to use the Property for any purpose whatsoever other than for light industrial, general industrial, warehousing and ancillary office accommodation'. This was entered into by Leeds City Council, the former owner of the application land and other parties at the time of the Council's sale of the land to others

The Panel agreed in principle to the closure of Holme Well Road under the Planning Act

The above is subject also to the Secretary of State not wishing to call the application in for his own determination following a referral under the provisions of the Town and Country Planning (Consulation) (England) Direction 2009

Application 09/01727/FU – single storey retail store with service yard, car parking and landscaping – Benyon House – Ring Road Middleton LS10 – Tesco

RESOLVED - That the application be refused for the reason set out below and to defer and delegate to the Chief Planning Officer for expiration of the notification period (12th March 2010) and subject to no new issues being raised in representations

The application is one of two which seek permission to build a large retail store on locations outside Middleton District Centre. It has been resolved to grant planning permission to another application which is considered more likely to encourage convenient linked trips to the existing District Centre in accordance with Development Plan Strategy, notably UDP Policy 3A and also PPS4 Policy EC3.1. In these circumstances, this application is considered to be contrary to UDP Policy S5(2), RSS Policy E2A and PPS4 Policies EC17.2 and EC15:C in that it is considered it will:

- result in unacceptable cumulative impacts on the vitality and viability of a number of defined centres

- change the role of Middleton in the shopping hierarchy contrary to existing development plan strategy and
- prejudice the LDF process in relation to its strategy for the provision of shopping facilities and the identification of a sustainable hierarchy

188 Date and time of next meeting

Thursday 11th March 2010 at 1.30pm in the Civic Hall, Leeds