

Plans Panel (East)

Thursday, 10th June, 2010

PRESENT: Councillor D Congreve in the Chair

Councillors R Finnigan, R Grahame,
P Gruen, G Latty, M Lyons, K Parker,
J Procter, A Taylor and D Wilson

1 Chair's opening remarks

The Chair began by welcoming the two new Panel Members; Councillor R Grahame and Councillor J Procter and then welcomed everyone else to the meeting and asked Members and Officer to introduce themselves

2 Late Items

The Chair admitted one late item to the agenda (minute 10 refers). This item was not available when the agenda was despatched and required urgent consideration because it addressed matters that were potentially relevant to items to be considered by the Panel and therefore could have a bearing on how they should be dealt with. A copy of the report had been circulated to Members prior to the meeting

3 Declarations of Interest

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

Application 08/03378/OT – Knowsthorpe Crescent/Cross Green Lane LS9 – Councillor Lyons declared a personal interest through being a member of West Yorkshire Integrated Transport Authority as Metro had commented on the proposals (minute 7 refers)

Application 08/03378/OT – Knowsthorpe Crescent/Cross Green LANE ls9 – Councillor Grahame declared a personal and prejudicial interest through his previous involvement in this application (minute 7 refers)

Application 10/00060/FU – Tennyson Street Morley LS27 – amendment to permission 23/436/03/FU – Councillor Finnigan declared a personal interest through being a member of Morley Town Council which had commented on the application (minute 9 refers)

4 Latest planning guidance - verbal update

At the request of the Chair, the Panel's Lead Officer referred to amendments to PPS3 which had been reissued on 9th June which two significant changes, these being that garden land would no longer be classed as brownfield land but would now

be greenfield land; the other change relating to the requirement to achieve a density of 30 dwellings per hectare which had now been removed

Members were informed that the implications in respect of garden land would be that it would strengthen the Council's position when dealing with developments on garden land but it was stated that whilst priority had to be given to brownfield sites, there was not an embargo on developing greenfield sites

In respect of the second change, this would strengthen the ability of the LPA to seek development which was more in keeping with the character of an area

The Panel's Lead Officer also referred to a letter from the Secretary of State Communities and Local Government regarding the abolition of the Regional Spatial Strategy (RSS) which had set targets for housing supply. Whilst each application would continue to be dealt with on its merits, the letter from the Secretary of State should be regarded as a material planning consideration when dealing with applications

Members commented on the following matters:

- whether Permitted Development (PD) rights remained
- that applications had recently been refused by Panel for garden land developments and had been appealed and whether the new guidance could be applied in such cases
- that the speed in which the new guidance had been brought to Members' attention was to be welcomed; that it should also be provided to Members on Plans West and Plans City Centre; be written up into a guidance note for Members and be incorporated into future training
- that the new guidance was welcomed and that Officers should continue to robustly defend the Council's position where this was necessary
- that an update from the Chief Planning Officer on appeals was requested
- whether any costs had been incurred in relation to the RSS which had now been abandoned
- that the requirement to meet housing targets as part of the RSS had led to applications for flats in areas where family housing was a greater priority

Officers provided the following responses:

- that the new guidance contained in PPS3 would not affect existing buildings on garden land or uses which were ancillary to the house, ie PD rights, but related to new, independent dwellings
- that for appeals which had been lodged and might be affected by the new guidance, this would be brought to the attention of the Planning Inspectorate
- that the Council had not had to bear direct costs as part of the RSS. In response to the request by Councillor R Grahame for a copy of the Regional Spatial Strategy, this would be provided

5 Minutes of the Previous Meeting

RESOLVED – That the minutes of the Plans Panel East meeting held on 13th May 2010 be approved

6 Matters arising from the minutes

Further to minute 235 of the Plans Panel East meeting held on 13th May 2010 – Application 08/00298/OT – Optare site Manston Lane LS15, the Panel's Lead Officer stated that it had not been possible to obtain the information Panel had requested in the timescale. Furthermore there were ongoing discussions with Education Leeds and Legal Services about this matter so a further report would be brought to the meeting on 8th July where a representative from Education Leeds would also be present to respond to questions from the Panel

7 Application No. 08/03378/OT - Outline Application for residential development comprising 86 Flats and car parking at Knowsthorpe Crescent, Cross Green, Leeds 9

(Having declared a personal and prejudicial interest in this matter, Councillor Grahame withdrew from the meeting)

Plans were displayed at the meeting

Further to minute 237 of the Plans Panel East meeting held on 13th May 2010 where Panel resolved to defer determination of the application to enable further negotiations on the provision of affordable housing and reconsideration of the proposed car parking, the Panel considered a further report

Officers presented the report and informed the Panel that despite a financial viability assessment indicating the provision of affordable housing was not viable, the applicant had now offered some affordable housing, this being four units, but that the greenspace contribution would be reduced

Panel Members were informed of comments received from Councillors Brett and Pryke who maintained their support for the application and stated there was no shortage of affordable housing in the area

Officers reported receipt of 20 letters of representation supporting the proposals; nine of these having previously supported the scheme

Members were informed that there were three options open to them, these being to approve the previous recommendation which provided no affordable housing; approve the proposal before Panel which provided four affordable units but a lower greenspace contribution or refuse the application on the lack of affordable housing provision. Officers stated that if Panel were minded to refuse the application it was unlikely that the site would come forward for development

In respect of on-street car parking, the police had been consulted and it was accepted that cars could be more vulnerable when parked on the street. Highways Officers had considered the car parking layout and were of the view that the best which could be achieved was by providing echelon parking as opposed to chevron parking

Members discussed the following matters:

- that affordable housing was needed in this area
- that it would be possible for speculators to buy affordable units cheaply for rental purposes so denying people for whom such housing was intended, being able to purchase a property

- concerns at the security for car parking and that people living in inner city areas should be afforded the same level of protection and safety as everyone else
- that property values had decreased and that there was spare capacity in the area
- that the area needed environmental improvements
- the difficulty of the decision before Members

The Panel considered how to proceed

RESOLVED - To approve the application in principle and to defer and delegate final approval to the Chief Planning Officer subject to the conditions set out in the submitted report and following completion of a Section 106 Agreement to cover the following matters:

- Greenspace commuted sum - £50,000
- Affordable Housing provision of four units
- Public Transport Infrastructure enhancement contribution - £28,306
- Traffic Regulation Order (Knowsthorpe Crescent/Cross Green Lane)
- Travel Plan (including monitoring fee - £2500)

In the circumstances where the Section 106 Agreement 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

(Councillor Grahame resumed his seat in the meeting)

8 Application No. 10/00944/FU - Variation to Condition No. 4 of Permission H34/582/89 (opening Hours 16:00 to 00:30 Sunday to Thursday and 16:00 to 01:00 Hours Friday and Saturday) to Premises at 250 Easterly Road, Leeds 8

Plans and photographs were displayed at the meeting

The Panel considered a report of the Chief Planning Officer on an application for a variation of condition 4 of permission H34/582/89 in respect of opening hours of a hot food takeaway shop at 250 Easterly Road LS8

Officers presented the report and stated that an extension of opening hours was being sought from the approved hours of 0800 to 2300 hours Sunday to Thursday and 0800 to 2330 hours on Friday and Saturday to the extended hours of 1600 to 0030 hours Sunday to Thursday and 1600 to 0100 hours on Friday and Saturday

Officers were of the view that the extension of opening hours would set a precedent and would have a detrimental impact on residential amenity and were recommending the application be refused with a possible reason being included in the submitted report

The Panel heard representations on behalf of the applicant from Councillor Iqbal who stated he was not speaking in his capacity as an Elected Member, but as an advocate for the applicant

The Panel commented on the following matters:

- that it was possible to take into account economic impact which had been cited as part of the representations made to the Panel on the applicant's behalf
- that an extension of opening hours had been refused in the past and how the situation had changed since then

- whether an Environmental Impact Assessment had been carried out
- policy SF15, which relates to hot food takeaway shops
- that only one objection had been received from a resident in the area
- the possibility of setting a precedent in allowing increased opening hours
- the comments of the applicant's representative that an increase of one hour per evening could be considered
- that the application went against policy which was put in place to create uniformity across the city
- the possibility of granting temporary planning permission for 6 months to ascertain if there was a significant difference in terms of economic impact, with a further report being presented to Panel

The Panel considered how to proceed

RESOLVED - That the application be refused for the following reason:

The Local Authority considers the proposed opening hours of the hot food takeaway shop to be unacceptable, as they would cause significant detriment to the residential amenity and quality of life of the occupants of adjoining and nearby residential properties, as a result of noise disturbance emanating from within the premises and externally, generated by the comings and goings of customers and congregation of customers outside of the premises. Therefore, the proposed development is contrary to policies GP5 and SF15 of the Leeds Unitary Development Plan (Review)

In reaching the decision, the Chair stressed this did not reflect on the applicant or the way in which his business was run

9 Application No. 10/00060/FU - Amendment to Permission 23/436/03/FU (Change of Use involving First Floor Extension and New Second Floor of Workshop to 10 Flats) for alterations to unauthorised works to approved scheme at The Fab Shop, Tennyson Street, Morley Leeds 27

Plans, drawings, photographs and sample materials were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which sought approval to rectify unauthorised and unacceptable works which have been carried out on the site when implementing a previous permission – application 23/036/03/FU. Details of the proposed amendments were included in the submitted report

Members were informed of the concerns of Morley Town Council in relation to the situation and the Town Council's acceptance for the need for a practical solution to be reached which was clear to all the parties involved

If minded to approve the application, two additional conditions relating to the submission of detailed drawings of the balconies and details of the access barrier were recommended

Members commented on the following matters:

- concerns at the quality of the building work which had been undertaken and the need for this to be monitored carefully if the same builder was to continue on the development

- that the ground floor flats comprised three rooms but only one window, with concerns being given to the amount of available light and that Panel had refused applications on the provision of inadequate light
- the legal position in cases where planning permission had not been adhered to
- the view that the scheme was a result of the previous guidance in respect of housing targets which had to be met, resulting in cramming of accommodation on sites
- that the proposed wooden cladding was out of keeping in the area which was typified by old, stone buildings with some brick elements and that the design of the consented scheme did not relate to its location

Officers provided the following responses:

- with regard to the internal layout of the flats and penetration of natural light, it would be a matter of debate whether what was before Members now would be granted if this was a new application. However the fact remained that there was an existing, part implemented permission and that developers were seeking to rectify the errors which had been made
- that where plans had not been adhered to, the applicant was entitled to submit a further application to regularise the works. In such cases Government guidance confirms that the LPA has a discretion when it comes to pursuing enforcement action and the possibility of such an application being submitted was relevant to the decision that the Council makes on whether or not to enforce

The Panel discussed the application and how to proceed

RESOLVED – To defer and delegate approval to the Chief Planning

Officer subject to the conditions set out in the submitted report additional conditions relating to profile drawings/section of the balustrades and fixtures of the Juliet balconies to Tennyson Street elevation to be submitted and agreed in writing to ensure they do not overhang the footway and details of the access barrier to the car park and pedestrian access from South Parade to be submitted and agreed in writing and conditions to cover the proposed cladding and the degree of illumination at the rear part of the property; consultation with Ward Members and any additional conditions arising from these discussions

10 Appeals against non determination

Further to minute 228 of the Plans Panel East meeting held on 13th May 2010 where the Head of Planning Services informed Panel that a report on the matter of appeals against non-determination would be submitted, Members considered a report of the Chief Planning Officer

The report sought to address concerns raised about the practice of deferring consideration of an application to bring back reasons for refusal and that by doing so, whether the Council was disadvantaged in any subsequent appeal proceedings, particularly those lodged against non determination

The Panel's Lead Officer informed Members that in 2009/2010 the Officer recommendations of 12 applications, which related to 10 schemes, had been overturned by the Panel. Of these, two appeals had been lodged against non-

determination. This indicated that, in the main, applicants preferred to wait for the full documentation, including the detailed reasons for refusal, before lodging appeals

Further analysis had been undertaken on those two cases

In respect of application 09/03138/FU – 10 Elmete Avenue LS15 – previous appeals had been refused and following the last appeal decision the applicant may have felt that the Planning Inspector had given a strong steer for a further application and so was motivated to lodge an appeal before detailed reasons for refusal could be considered by Panel

As this was a garden land development, in view of the revised guidance contained in PPS3, Officers were of the view that they could robustly defend the case at appeal

In relation to application 09/05196/RM – South View Lodge LS17 – this had been constructed 0.5m higher than agreed, with the possible motivation for this appeal against non-determination being to avoid delaying the situation further

The current practice in dealing with situations where Members resolve not to accept an Officer's recommendation to approve an application followed national best practice guidance and 'the Planning Code'

One area of concern existed in respect of the timescales for the submission of the LPA's case in respect of planning appeals and that the LPA was required to submit its case, or outline of the case to the Planning Inspectorate within 6 weeks of the appeal being made. If there was ever an occasion where a Panel meeting was cancelled or delayed, that could have implications in terms of meeting the deadlines

Councillor Gruen, who had requested the report asked that this be referred to Plans Panel City Centre and Plans Panel West and stressed the need for Officers to alert the Panel in those cases where the timescale for determination of an application could potentially place the Council in a difficult position

RESOLVED - To note the report

11 Date and time of next meeting

Thursday 8th July 2010 at 1.30pm in the Civic Hall, Leeds