Plans Panel (East)

Thursday, 11th August, 2011

PRESENT: Councillor D Congreve in the Chair

Councillors B Chastney, R Finnigan, R Grahame, P Gruen, M Lyons, C Macniven, K Parker, J Procter and R Pryke

47 Chair's opening remarks

The Chair welcomed everyone to the meeting and asked Members and Officers to introduce themselves

48 Late Items

There were no formal late items although the Panel was in receipt of the following information to be considered at the meeting:

Application 10/05670/FU – 56 The Drive LS15 – drawings and a further representation from an objector together with a letter and drawings from the applicant's agent (minute 56 refers)

49 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 8-12 of the Members Code of Conduct:

Application 08/00298/OT – Optare Manston Lane Crossgates LS15:

Councillors Gruen and Finnigan declared personal interests through being members of Executive Board which had approved an interim affordable housing policy as the application related to this issue (minute 54 refers)

Councillor Lyons declared a personal interest as a member of West Yorkshire Transport Authority as Metro had previously commented on the proposals (minute 54 refers)

Councillor R Grahame declared a personal interest through his wife – Councillor P Grahame's previous involvement with the application (minute 54 refers)

Application 11/02315/RM – Reserved Matters application – residential development at Manston Lane LS15:

Councillor Lyons declared a personal interest as a member of West Yorkshire Integrated Transport Authority as Metro had commented on the application at outline stage (minute 55 refers)

Councillor R Grahame declared a personal interest through his wife – Councillor P Grahame's previous involvement with the application (minute 55 refers)

Application 10/05670/FU – 56 The Drive LS15 – Councillor R Grahame declared a personal interest through his wife – Councillor P Grahame's objection to the application (minute 56 refers)

Application 11/01749/FU – 384 Dewsbury Road LS11 – Councillor Procter declared personal and prejudicial interests as a friend owned a property in close proximity to the site (minute 58 refers)

50 Apologies for Absence

Apologies for absence were received from Councillor G Latty and Councillor Wilson

The Chair welcomed Councillor Chastney who was substituting for Councillor Wilson. Members were informed that Councillor Wilkinson who had been substituting for Councillor Latty had left the site visits early as he was unwell. Members wished Councillor Wilkinson a speedy recovery

51 Minutes

RESOLVED - That the minutes of the Plans Panel East meeting held on 14th July 2011 be approved subject to including Councillor Procter's declaration of interest in respect of application 11/01749/FU – 384 Dewsbury Road LS11 (minute 38 refers)

52 Matters arising from the minutes

With reference to minute 32 of the Plans Panel East meeting held on 14th July 2011, where Members were informed of the withdrawal of the report relating to application 10/05711/FU – 11 Old Park Road Gledhow LS8, Officers were asked about the latest position on this matter

The Head of Planning Services stated that further information was awaited from the applicant and that following discussions with Councillor Lobley, it was felt in view of the level of local interest in the application, that it should not be brought back to the August meeting, when many people might be on holiday

Whilst it was not possible at the moment to specify the exact date when the report would be resubmitted, it was agreed that Panel Members would be e-mailed notifying them when the report would be brought back to Panel

With reference to minute 41 of the Plans Panel East meeting held on 14th July – Applications 11/01019/EXT and 11/01021/EXT – St Mary's Church and Presbytery LS9, Councillor Grahame queried the position on these applications. It was agreed that Officers would arrange to meet with Councillor Grahame to discuss his concerns

53 Application 10/03600/FU - 182 Harehills Lane LS8 - Appeal decision

Further to minute 131 of the Plans Panel East meeting held on 20th January 2011 where Panel resolved to refuse planning permission for change of use of 182 Harehills Lane LS8 from mid-terraced house in multiple occupation to 3 flats including rear dormer and car parking to rear, Panel considered a report of the Chief Planning Officer setting out the Inspector's decision to the appeal lodged against that refusal

Panel had refused the application for reasons relating to impact on the residential character of the area and the loss of family housing

The appeal had been dealt with by written representations and had been allowed. Planning permission had been granted subject to conditions

Officers stated that the decision had highlighted the weaknesses of supporting reasons for refusal without evidence and that the fact that the property had been a house in multiple occupation had diminished the argument put forward about the loss of family housing

Concerns were raised about the policy for HMOs; that the lack of larger, ie 4 bed properties, especially in inner-city areas, which some families required, were distorting the figures for housing applications and giving an inaccurate picture and that this should be clarified in future to ensure Inspectors did not draw wrong conclusions from the data

RESOLVED – To note the report and the comments now made

54 Application 08/00298/OT -Outline application to lay out access and erect residential development at the Optare site - Manston Lane Crossgates LS15

Further to minute 17 of the Plans Panel East meeting held on 8th July 2010 where Panel considered a report requesting revisions to the Section 106 Agreement in respect of education contributions arising out of planning permission for a residential development, Members considered a further report of the Chief Planning Officer seeking approval for the scheme, subject to alterations to the affordable housing contribution

Plans of the site were displayed at the meeting

Officers presented the report and stated that prior to the completion of the S106 Agreement, Executive Board at its meeting on 18th May 2011, had approved an interim policy on affordable housing in response to the economic downturn, which would reduce the affordable requirement from 25% to 15%. The applicant had subsequently asked for the new target to be applied to this scheme. Although the rest of the application was unchanged, it was felt that as this was different to what Panel originally considered, it was appropriate for Members to determine the application

Officers were recommending approval of the revised application although the reduced level of affordable housing applied only for a two year time limit, ie up to June 2013 and if the developer did not commence work on the site, Members were informed that the affordable housing requirement would revert to 25% or whatever was considered appropriate at that time

The Head of Planning Services stated that the relocation clause in the S106 Agreement referred to 'reasonable endeavours' to relocate Optare within the Leeds boundary. Premises had been found just beyond this boundary, in Sherburn-in-Elmet and this would lead to the workforce being retained. Consultation with Ward Members would be carried out on this matter

A further representation was reported to Panel requesting the revised level of affordable housing be refused, with references being made to the recent appeal decision at Grimes Dyke. Members were informed that the interim policy had been consulted upon; it was based on robust evidence; it was considered to be the most up to date relevant evidence and had been endorsed by Executive Board. Additionally the interim policy accorded with national planning advice contained within 'Planning for Growth'

Members commented on the following matters:

- that the Council had acted fairly and in good faith; that planning permission had originally been sought in 2008 but that the applicant had delayed signing the S106 Agreement and had requested amendments to education contributions and was now seeking to further reduce its commitments through the amount of affordable housing to be provided
- that affordable housing was paramount to the Council and residents
- whether continuing with the planning permission had been the most appropriate course of action, in view of the delays and obstructions which had occurred
- viability issues; whether the applicant had demonstrated these and that the information being provided at a working group of the Regeneration Scrutiny Board by house builders suggested the picture was not as bleak as being portrayed
- the position of and consequences for the Council if the application was refused and was subsequently appealed
- the need for a condition requiring local employment and contractors to be included
- whether other S106 contributions needed to be or had been re-evaluated in light of up-to-date planning policies

The Head of Planning Services briefly outlined the interim policy on affordable housing for new applications and stated that it was less clear where consent had already been given, with this application being the first one to come back for a lower level of affordable housing than had been agreed. In view of Members' comments it was felt appropriate to defer determination of the application to enable further discussions with the applicant on viability

Concerns were raised that an applicant with planning consent for a site had requested a reduction in the level of affordable housing to be provided on the basis of the interim policy, with the Executive Member for Neighbourhoods, Housing and Regeneration stating that consideration had to be given to the policy in these circumstances, and that Executive Board should consider this also

RESOLVED -

i) To note the comments now made

ii) That determination of the application be deferred to enable further discussions to take place with the applicant on the issue of viability and that a further report setting out the issues raised be presented to Panel for determination

55 Application 11/02315/RM -Reserved Matters application for 132 houses and 19 flats - Manston Lane Crossgates LS15 - Position statement

Plans, photographs including a photo montage and drawings were displayed at the meeting

Officers presented a position statement on a Reserved Matters application for residential development on the former Vickers tank factory on Manston Lane LS15, following outline planning permission being granted in 2009. The site was adjacent to the Optare site on Manston Lane and comprised mainly hardstanding with some tree coverage. Officers stated that some of lime trees on the site required thinning out and pruning

The development would take place in two phases, with 122 units being proposed in the first phase. Phase two would see the remaining 29 units being constructed together with the provision of a landscaped strip which would provide a buffer between the proposed residential use and the industrial use to the East, with a 'village-green' effect being proposed for the shared open space

A range of house types were being proposed with a mixture of 2, 3 and 4 bed properties being provided. These would be of a contemporary design and be predominantly brick with render and timber panelling

Members were informed that since the outline permission there was a requirement to consult with the Coal Authority, which although not objecting, Policy GM4 required coal to be extracted, with the developer having to address this matter

In respect of highways matters, whilst these were not part of the application, concerns had been raised by local residents, with details of the off-site highway works agreed under the outline permission being provided

Members commented on the following matters:

- that the negotiations with the developers of this site had been straightforward
- that further information was required on the S106 Agreement, especially affordable housing
- that the quality of open space had to be high and set the standard for future development
- that a play area should be included
- that attention needed to given to appropriate street lighting and boundary treatments
- that concerns had been raised locally regarding drainage and that the adequacy of this to cater for the new development whilst not impacting on existing properties should be ascertained
- that pedestrian and cycle access and egress should be given proper consideration
- the need for the developer to address any extraction of coal
- that consideration should be given to monitoring of traffic levels and that the developer should be asked to facilitate and fund an on-going traffic assessment
- concerns that the Manston Lane Link Road (MLLR) was no nearer being started and that businesses would not develop without good transport links
- that a railway station, link road and good traffic management were necessary to support the development and wider area and the need for the Council to facilitate discussions between the various organisations to work towards the provision of a railway station in this location

Members discussed the MLLR and the trigger points to be reached to enable the MLLR to be constructed. In terms of occupied office accommodation at Thorpe Park, this was set at one million sq ft, with the Highways representative stating the current level of occupation was well short of that. Panel then considered the level of residential accommodation needed to bring the MLLR on line and was informed that the site being considered and the adjacent Optare site were phased such that they could only be partially developed until such time as the MLLR was built and opened to traffic

Concerns were expressed about the phased approach across the two sites and that a single developer might have been a better option, particularly in view of issues around ransom strips and the seeming deadlock on these issues

Concerns were also raised that developers were not talking to each other but should do in the interest of better planning in this sensitive location

A suggestion that S106 contributions for the delivery of the MLLR should be sought progressively, was made

The Head of Planning Services stated that there were issues around ownership and that developers needed to work together to help resolve the complex situation around these sites

In terms of the layout and design of the properties and types, Members appeared to be satisfied on these issues

RESOLVED- To note the report and the comments now made and to request the Chief Planning Officer to submit a further report to Panel setting out the context of the application including the following details:

- what planning permissions had been granted and the terms of those (Optare, Manston Lane and Thorpe Park)
- what had been previously agreed in respect of off site highway works and contributions including the delivery of the MLLR
- key dates for the delivery of the MLLR and the approved developments

56 Application 10/05670/FU - 3 bedroom detached house incorporating second floor ancillary granny annexe to garden plot (part retrospective) - 56 The Drive Crossgates LS15

(Prior to consideration of this matter, Councillor R Grahame withdrew from the meeting)

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

The Panel's legal adviser, the Head of Development and Regulatory, referred to the complex legal history associated with the site and informed Members of a preliminary issue in that the applicant's solicitor had made an application to the High Court seeking certain declarations of the court regarding the issue of the height of the building and maintaining that the Council was estopped from refusing the application based on height as a consequence of previous concessions made by it. The Panel was informed that the applicant's solicitor had requested the report to be withdrawn from the agenda pending the court case and that Judge Cockcroft, who heard the previous case, had been requested by the applicant's solicitor to consider this case. If the report was not withdrawn from the agenda, the applicant would reserve the right to refer to their letter on any subsequent appeal if the application was refused and apply for costs against the Council

In terms of timescales, Members were informed that it was not possible to indicate how long the High Court could take to determine the case, although Judge Cockcroft was sitting in September, although whether this case would be listed during that time was not known

Members were also informed that the matters referred to the High Court were central to the application, in terms of a final decision

Having considered this information the Panel agreed to discuss the application but to defer and delegate the decision to the Chief Planning Officer

Prior to considering the application, Officers were asked to outline the expected timescale for the applicant's resubmission of a planning application following the previous High Court hearing, this being 21 days from 25th November 2010

Officers presented the report and clarified that it was Councillor Pauleen Grahame who had objected to the application, as this was not clear in the report before Members

The Panel was informed that the 2005 permission was the fallback position but that discrepancies in that application plan had come to light. The 2005 plan had shown the fall of the land to be level, however a recent survey carried out by the Council indicated this was not the case and therefore Officers now considered that the height of the dwelling as allowed in 2005 was based on an error and that in light of the most accurate information, the height was a material consideration to be considered as part of the assessment into the current application

The revised application was outlined for Members as were the two main issues for Officers: character and appearance and residential amenity. Officers were concerned about the relationship of the property to its neighbours and were of the view that it would have significant prominence and that the alterations were unacceptable and went beyond what was acceptable in the 2005 application. In terms of residential amenity, Members were informed that this was more problematic as the proposals were to move the rear of the building back to the approved line; because of this reasons for refusal relating to overlooking, loss of light and overshadowing were not being advanced

In view of Panel's decision to discuss the application, Officers sought a change of recommendation to defer and delegate refusal of the application to the Chief Planning Officer and if the High Court proceedings raised issues, the matter could be reported back to Panel

The Panel heard representations from the applicant's agent and a local resident who attended the meeting

Members commented on the following matters:

- that this matter had been ongoing for 6 years; had been the subject of various reports, appeals, enforcement action and representations to the High Court and that credit was due to local residents for their tenacity in seeking to address the issue of unauthorised development in their neighbourhood
- concerns at the statement by the applicant's agent that if the Court agreed with the Council, his client 'would consider' further amendments to the roof
- that if minded to recommend refusal of the application, that a quick decision be sought from the High Court, with little regard being attached to the applicant's request for Judge Cockcroft to consider the case

The Chair sought comments from the Panel in support of the application but none were made

RESOLVED –

i) To defer and delegate refusal of the application as set out in the submitted report, pending the outcome of the High Court decision and that if further issues were raised in these proceedings that the Chief Planning Officer submit a further report to Panel

ii) That representations be made to the High Court requesting an early hearing date

(Councillor R Grahame resumed his seat in the meeting)

57 Application 11/01716/OT - Outline application for specialist care village including new access - Land at Bradford Road Gildersome LS27

Plans and photographs were displayed at the meeting

Officers presented the report which sought outline planning permission for the principle of development and access for a specialist care village for people with Prader Willi syndrome (PWS) on land at Bradford Road Gildersome, which was not designated within the UDPR. Detailed information on PWS and its characteristics was included within the submitted report

Members were informed that the site was currently used for horse grazing and that a previous application for a residential home had been refused on the grounds that the location was not sustainable due to a lack of shops in the vicinity. This was considered to be an important factor for the proposed use as one element of PWS was that sufferers were unable to control their eating habits, to the extent that they would overeat. The lack of retail outlets in this case was of benefit

In terms of access and highways issues, these had been addressed and additional car parking had been provided

Although only in outline, some detail had been included with the application which indicated buildings of two and two and a half storey in height, although this would form part of a Reserved Matters application. Boundary treatment/screening would be required at the bottom of the site

Regarding residential amenity, some issues had been raised about possible noise and disturbance, with Members being informed that there was no reason to believe that people with PWS were more prone to causing noise and disturbance

If minded to approve the application, a S106 Agreement restricting occupation of the site to those people with PWS was proposed as was the funding of a travel plan and monitoring fee

The Panel heard representations from the applicant's agent and an objector who attended the meeting. The Panel was advised that an expert in PWS was in attendance if Members required any factual information on the condition

Members commented on the following matters:

- that the local Parish Councils had not raised any objections to the application
- the need for a condition to be included requiring the use of local employment and contractors, which could also help integrate the facility into the community as it seemed there was a need for the local community to be better informed about PWS

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 any other conditions he might consider appropriate) and the completion of a S106 Legal Agreement to include the following obligations:

a) restrict occupation of buildings to those people with PWS
b) travel plan and monitoring fee - £2500
c) local employment and contractors to be used

In the circumstances where the S106 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

(Following consideration of this matter, Councillor Gruen left the meeting)

58 Application 11/01749/FU - Change of use of shop (A1 use) to hot food take away (A5 use) with new shop front and flue - 384 Dewsbury Road LS11

(Having declared personal and prejudicial interests, Councillor Procter withdrew from the meeting)

Further to minute 38 of the Plans Panel East meeting held on 14th July 2011 where Panel deferred determination of the application for further information on the number of takeaways in the locality and the number of empty shop units, Members considered a further report

Officers presented the report which sought permission for a change of use of an A1 use shop to an A5 use for a hot food takeaway at 384 Dewsbury Road LS11, which formed part of a parade of shops. The information requested by Panel at the previous meeting had been included in the report

Whilst the Officer recommendation was to approve the application, if minded to refuse the application a possible reason for refusal had been included in the submitted report

Concerns were raised that the Council could appear to be contradictory in its approach to both hot and cold food takeaways. In one ward it was felt there was a considerable demand for these shops and in view of this the robustness of the proposed reason for refusal was queried

The Panel discussed the existing policy and suggested that this be reconsidered and referred to a future meeting of Joint Plans Panel

A decision to refuse the application was proposed and seconded

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

The proposed change of use would increase an existing proliferation of hot food takeaways which would alter the character and function of this parade of shops and would be detrimental to future vitality and viability of the shopping parade due to the lack of variety of uses particularly during daytime hours. The proposal is considered to conflict with the aims of policy S4 of the Leeds UDP Review 2006 as well as the requirements of policy EC13 of PPS4

(Following consideration of this matter, Councillor Procter resumed his seat in the meeting)

59 Application 11/01477/FU - Two storey and single storey side/rear extension (and dormer window to rear which is permitted development) - 41A Stainburn Crescent Moortown LS17

Further to minute 61 of the Plans Panel East meeting held on 30th September 2010 where Panel refused an application for extensions at 41a Stainburn Crescent Moortown LS17, the Panel considered a further application

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

Officers presented the report and informed Panel that the scheme was essentially the same as the one refused on 30th September, apart from the removal of the front porch and some other minor amendments

Despite these amendments, Officers' concerns regarding dominance, overshadowing and loss of light, together with concerns relating to the design remained and the application was being recommended to Panel for refusal

The Panel heard representations from the applicant who attended the meeting

Members were concerned that the applicant had stated that the scheme before Panel had been recommended by a planning officer of the Council and because of this, the applicant had made modifications and resubmitted the scheme

The Panel's Lead Officer outlined the process for pre-application discussions where notes were taken but stated that if an informal query was made about an application, then a record of these conversations might not be available. However, notwithstanding any views expressed by Officers, the decision in this case rested with the Panel and needed to be based upon the plans as presented

In response to a question from the Panel, the officer presenting the application stated that he went through files before presenting to Panel and there was no written information on the file regarding the issues raised by the applicant

In considering the application the Chair stated that it was also necessary to consider the applicant's situation and the fact that he required a property of this size for his family

The Panel considered how to proceed

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

The Local Planning Authority considers that the proposed development by reason of its scale, size, design and siting results in inappropriate, overly large and dominant feature that will harm the existing dwelling, its relationship between the house and the adjoining property and in turn the living conditions of the neighbouring residents by reason of over dominance and overshadowing. As such it is contrary to Policies GP5 and BD of the Leeds Unitary Development Plan (Review 2006) as well as guidance contained in Planning Policy Statement 1 – Delivering Sustainable Development

60 Application 11/01683/FU - Removal of condition 6 of previous approval 31/204/97/FU and alterations to garage to form habitable room; two storey and first floor side/front extensions; detached double garage and enlarged vehicle access - Hartmoor House 3 Freely Fields Bramham Wetherby LS23

Plans, photographs and drawings 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 permission for extensions to the property and the variation of a restrictive covenant to convert the integral garage and to build a detached garage at Hartmoor House which was located in a Conservation Area and in close proximity to the historic core of Bramham village

Members were informed that the proposals would mean the loss of two large trees to the front of the property and whilst there had been some local objections to the application, Officers were satisfied that the design and siting were acceptable and so were recommending to Panel that the application be approved

The Panel heard representations from the applicant and an objector who attended the meeting

Councillor Procter stated that he had attended the Parish Council meeting when the application was discussed but had taken no part in the meeting

Concerns were raised about the size of the proposed extension; that there would be a loss of landscaping in order that a new drive could be created and that the proposals would be detrimental to the character and appearance of the area

A Member sought advice from the Panel's Legal representative regarding possible pre-determination in view of Councillor Procter's attendance at a meeting where the application was discussed. The Panel was informed that Councillor Procter had stated that he had taken no part in the discussions so could express a view at this meeting

Members considered how to proceed

RESOLVED - That the Officer's recommendation to approve the application be not accepted and that the Chief Planning Officer be asked to submit a report to the next meeting setting out possible reasons for refusal of the application based upon the concerns expressed regarding the scale and massing of the extensions; the loss of landscaping and the adverse impact of the proposals on the character and appearance of the area

61 Application 10/04762/OT - Outline application for residential development - Land adjoining 7 Waterwood Close West Ardsley WF3

Plans, drawings and photographs were displayed at the meeting

The Panel's Lead Officer presented a report seeking approval for an outline application for residential development comprising 14 houses on a Greenefield site adjoining 7 Waterwood Close West Ardsley WF3. The site was unallocated within the UDPR and bordered a larger area of land to the rear which was an open area within the Green Belt; was being used for agricultural use and contained a reservoir

In terms sustainability of location, Officers were of the view that the site was in a reasonably sustainable location with bus stops, shops and a primary school within walking distance. In view of the recent appeal decision at Grimes Dyke, Officers considered that there were no policy grounds not to release the site for housing and therefore were recommending approval of the application to Panel

The Panel heard representations from the applicant's agent and an objector who attended the meeting

Members discussed the following matters:

- whether the site was in fact sustainable in view of the lack of school places for local children and a reduction in bus services in the area
- the implications of the Grimes Dyke appeal decision; that the LPA had approved the equivalent of 5 years worth of supply of housing yet rather than being developed, these sites were being landbanked; that the ad hoc release of sites was not appropriate and should be resisted

In view of the comments made, the Chair proposed that determination of the application be deferred to enable further information to be obtained on the issues raised

The Head of Planning Services was of the view that deferring the application was appropriate in the circumstances

RESOLVED – That determination of the application be deferred and that the Chief Planning Officer be asked to submit a further report setting out the Council's

approach to such sites together with information on the issue of sustainability on this site

62 Date and time of next meeting

Thursday 8th September 2011 at 1.30pm in the Civic Hall, Leeds