



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 13/05/10

Subject: APPLICATION 08/00298/OT - Outline application to layout access and erect residential development at the Optare site, Manston Lane, Crossgates

APPLICANT	DATE VALID	TARGET DATE
Optare Group Ltd	18/01/08	18/04/08

Electoral Wards Affected: Crossgates & Whinmoor

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

That Members accept the revised education contribution for inclusion within the S106 and defer and delegate approval of the related planning application to the Chief Planning Officer subject to the conditions as specified within the original officer report and upon completion of the S106 which will also secure the following (as originally specified):

- Affordable housing
- Greenspace
- Public transport contributions
- Relocation of the Optare use within the Leeds boundary
- Off-site highway works
- Travel Plan

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

1.0 INTRODUCTION:

- 1.1 This application is returned to the Panel for determination as a revised agreement has been reached at officer level relating to education contributions for inclusion within the S106 from that originally considered by Members. In addition, new tests relating to the legality of planning obligations have been introduced and it is

necessary to consider each of the proposed planning obligations in the light of these new tests. It is therefore considered appropriate for Members to make a decision regarding the acceptability of the revised contribution to enable the planning application to be formally determined. As the planning application has yet to be determined it should be noted that officers have considered whether there have been any other material changes in planning circumstances since Members resolved to approve the application in principle. Officers are of the view that there have been none so the position on other issues remains as set out in the previous report (attached).

- 1.2 Members may recall the Optare application and a similar outline scheme for housing submitted by Threadneedle Investments on part of former Vicker's tank factory site were considered at the same Panel meeting (September 2008) in view of their inter-relationship with each other, particularly from a highway perspective. Both applications were approved in principle and deferred and delegated to the Chief Planning Officer for final approval following the signing of the respective S106 agreements.
- 1.3 Although the impact on highway capacity within the Crossgates area was the main issue, common to both schemes another linked issue relates to how the education contributions were calculated. As such, the approach reflected in any revised agreement reached on the outstanding Optare application should apply to the Threadneedle development (should the applicant make a formal request to vary its agreement) as formal approval was issued in March 2009 following the signing of the S106.

2.0 RECENT POLICY CHANGES TO PLANNING OBLIGATIONS (SECTION 106 AGREEMENTS):

- 2.1 During the intervening period between the application first being reported to the Plans Panel and the proposed agreement which is now before Members, new secondary legislation in the form of the Community Infrastructure Levy (CIL) Regulations have been introduced by Central Government which impact on planning obligations.
- 2.3 Whilst the focus of the CIL is to give local authorities the ability in future to levy a charge on a wide range of development proposals within their area the regulations also introduce a new legal test relating to the use of planning obligations based on the existing policy tests. The effect of this is that it will be unlawful for a planning obligation to be taken into account in a planning decision to authorise development if the obligation is not:
 - (a) necessary to make the development acceptable in planning terms (test (a))
 - (b) directly related to the development (test (b)); and
 - (c) fairly and reasonably related in scale and kind to the development (test (c))
- 2.4 As the planning application has yet to be determined, these legal tests must be applied to the obligations in the proposed Optare S106 agreement.
- 2.5 In the light of these changes in legislation, all the contributions proposed for inclusion within the Optare S106 as contained within the original officer report have been reviewed and a short commentary on each explaining its compliance with the three legal tests is provided. The proposed changes to the education contribution are dealt

with first and in more detail as there have been material changes to the approach to this aspect of the agreement since Members took their original decision.

3.0 CHANGES TO THE EDUCATION CONTRIBUTION:

3.1 Education contributions for large scale developments are calculated in accordance with the Council's SPG 11 'Section 106 contributions for school provision' dated Feb 2001. With respect to the Optare and Threadneedle applications, as both are outline applications a standard levy per family unit was proposed. Family units are defined as houses with 2 or more bedrooms and flats with 3 or more bedrooms and the standard contribution was divided into primary and secondary school contributions. The following formulae were applied:

Primary Schools:

$$\begin{array}{rcccc} \text{Primary cost} & \times & \text{Primary pupil generation} & \times & \text{Location factor} & = & \text{Contribution per} \\ \text{multiplier} & & \text{rate of family dwellings} & & \text{for Leeds} & & \text{family unit} \\ \\ \pounds 12,257 & \times & 0.25 & \times & 1.03 & = & \pounds 3,156.16 \end{array}$$

Secondary Schools:

$$\begin{array}{rcccc} \text{Secondary cost} & \times & \text{Secondary pupil generation} & \times & \text{Location factor} & = & \text{Contribution per} \\ \text{multiplier} & & \text{rate of family dwellings} & & \text{for Leeds} & & \text{family unit} \\ \\ \pounds 18,469 & \times & 0.1 & \times & 1.03 & = & \pounds 1,902.31 \end{array}$$

Explanatory note:

Cost multiplier: This equates to the average construction cost across the country of providing the different type of school spaces either through new build or extension.

Pupil generation rate: The average number of primary or secondary aged children likely to result from a new development within the Leeds area per family unit provided.

Locational Factor: This figure varies around the country and from one year to the next. The national average is 1 so in this case the cost of provision is 3% higher than the national average.

3.3 In applying the above formulae, officers from Education Leeds considered the capacity of existing local schools and projected these figures forward in recognition that the likelihood was that demand would not be generated for a number of years. In doing this work and after factoring in the impact of both the Optare and Threadneedle developments, the original assessment concluded that primary school contributions would only be required after a total of 200 family units had been provided (across both sites) due to existing surplus capacity. As such, the £3,156.16 contribution was only required for each family housing provided over and above the first 200 family units. Secondary contributions were however considered necessary for all family houses provided due to the John Smeaton Community College being at or close to capacity. Accordingly, both applications were previously presented to the Panel and considered on this basis and the wording in the signed Threadneedle S106 reflected these figures.

3.4 The total education contributions for both applications as originally envisaged is provided below and assumes all flats would contain no more than 2 bedrooms.

Primary School contribution:

$$\text{Optare (205 units) + Threadneedle (122) = 327}$$

327 – 200 (trigger point) = 127

127 x £3,156.16 = **£400,832.32**

Secondary School contribution:

Optare:

205 units x £1,902.31 = **£389,973.55**

Threadneedle:

122 units x £1,902.31 = **£232,081.82**

Total = £622,055.37

3.5 Following consideration of the Optare application by the Plans Panel, the applicant requested further clarification regarding the methodology used by Education Leeds to determine local capacity as it is this aspect of the calculation which dictates the level of contributions required. The request was made as part of a due diligence exercise and extended to all the S106 contributions. Following the receipt of further information on all matters, only the methodology used for establishing the education contribution requested has been challenged rather than the principle of making such a contribution.

3.6 In seeking to provide further information, it became apparent that the original methodology used by Education Leeds was not sufficiently robust and did not fully consider existing or predicted capacity levels. The shortcomings of the original assessment method used are that the catchment area used to establish local capacity was not clearly defined and an allowance for the intake of children at a local faith school (in this case Catholic) as a percentage of the population was not factored into the calculation.

3.7 In view of the above, officers from Education Leeds in conjunction with the applicant's agent have undertaken a more detailed and rigorous assessment of primary and second school provision within the area and after extensive negotiations consider the following revised contribution to be appropriate:

Primary Schools:

3.8 The original assessment of primary school capacity didn't make any allowance for Catholic children attending Catholic schools. As such, the trigger threshold for family housing before primary school contributions are required can be increased to factor in this percentage of the population and justifies an increase from 200 to 223 (i.e. before the contribution needs to be made).

3.9 Although the suggested increase equates to a sizable drop in the amount of primary school contributions that would have been achieved ($23 \times £3,156.18 = £72,592.14$), the important issue is that the actual demand is unlikely to exist and accordingly the lower level of contribution received would not adversely impact on Education Leeds budget since no capital costs would be incurred.

Secondary Schools:

3.10 Secondary school capacity is more complex to calculate than it is for primary schools as the total number of schools is much lower which accordingly makes it more difficult to define the local catchment area. For the purpose of the Optare and Threadneedle applications, officers originally only considered the closest secondary

school (in this case John Smeaton) and established the requirement for a contribution based on its capacity alone. However, the reasonableness of this approach has been challenged with the agent pointing to the Council's own evidence which supports the contention that secondary schools tend to attract pupils from a wider catchment area.

- 3.11 In the light of the above and in recognition that the existing SPG does not precisely define how 'local' capacity is to be determined, it is considered reasonable for Parklands Girls High School to also be considered as it is the next closest school and a number of existing pupils are noted to come from the wider Crossgates area.
- 3.12 Whilst the long term future of Parklands Girls High School in its current format is uncertain, for the purpose of the current assessment the existing situation has been considered. In doing this, the school is noted to have surplus capacity.
- 3.13 In seeking to reach a resolution on the education contribution issue as negotiations have already been very lengthy and rather than push for a more substantial reduction in the requirement to provide places for girls based on existing capacity at Parklands, the applicant has suggested a compromise position.
- 3.14 The suggested education offer therefore proposes that half the girls are accommodated by Parklands which equates to a total reduction of 25% (since boys and girls are divided evenly) from that originally sought.
- 3.15 In real terms, the revised offer for the Optare application is provided below and the implications for the Threadneedle scheme is also given should a request to vary the signed S106 be made. It should be noted that it will be necessary to use a different method of calculation (rather than a single trigger point as used with the primary school contributions) since the Threadneedle S106 has already been signed and doesn't include a secondary school trigger point.

Optare:

205 units – 51.25 (25%) = 153.75
153.75 x £1,902.31 = **£292,480.16**

Threadneedle:

122 units – 30.5 (25%) = 91.5
91.5 x £1,902.31 = **£174,061.36**

Total = £466,541.52

- 3.16 Officers have considered the above in detail and in consultation with Education Leeds are willing to recommend acceptance of the suggested compromise due to the specific circumstances of the two application sites and how they relate to school provision within the area.
- 3.17 In addition to the above, the education contribution has also been reviewed against the legal tests introduced by the CIL regulations. In terms of tests (a) and (b), the policy basis for making such a request is sound, the development would not be acceptable without an education contribution which directly relates to the operation of this development. With respect to the contribution satisfying the 'fairly and reasonably related in scale and kind' test (test (c)), it is this aspect of the original agreement which is potentially questionable following further scrutiny of the data as the wording contained within the Council's SPG allows some flexibility in terms of

setting out how 'local' demand is determined. The exclusion of Catholic children is also problematic.

- 3.18 In the light of the above concerns regarding the legality of the education contribution as originally proposed, the revised offer as detailed within this report is considered to address any perceived weaknesses in the original assessment and would fully comply with all legal tests – the scale of the contribution is considered appropriate in the circumstances.
3. 19 With respect to the requirement for education contributions more generally on large scale residential applications, the assessment of the Optare calculations has identified some problems with the operation of the Council's current SPG and a review of this document is considered appropriate. Although it is unlikely the SPG will be completely rewritten in the short term due to the move towards the Local Development Framework system, officers from both Education Leeds and the Policy and Strategy section of City Development are currently reviewing how best to update the guidance to provide greater clarity to all users.

4.0 OTHER S106 CONTRIBUTIONS:

- 4.1 Affordable Housing – The requirement to provide affordable housing as part of any large scale residential application is enshrined in planning policy at both a national and local level. The requirement to provide 25% of units (40% social rented and 60% submarket) is in accordance with Council policy. It is required in order to make the development acceptable, it directly relates to the development proposed and its scale is appropriate to the proposed development and accordingly it complies with the 3 legal tests..
- 4.2 *Greenspace* – As with affordable housing, the requirement for greenspace provision (either on or off-site) is clearly contained within adopted planning policies. As the actual method of calculation used contains a clearly defined formula based on existing provision within the surrounding area. It is required in order to make the development acceptable, it directly relates to the development proposed and its scale is appropriate to the proposed development so again the new legal tests are satisfied.
- 4.3 *Public Transport contributions* – The purpose of this contribution is to deliver improved bus stop facilities for future occupiers and arises directly as a result of the development. The promotion of public transport is defined by planning policies and the contribution requested equates to a single shelter with real time information. The development requires this level of contribution to make it acceptable and accordingly satisfies the 3 legal tests.
- 4.4 *Relocation of Optare use within the Leeds Boundary* – As part of the Council's assessment of the application, the loss of not only the employment land but also the jobs associated with the existing Optare business were important material planning considerations. In recognition of this, the relocation of the business within the Leeds boundary is proposed for inclusion within the S106 and the draft wording states that 'all reasonable endeavours' will be used to achieve this in accordance with the Member resolution. The obligation is therefore required to compensate for the potential loss of employment associated with the development. It is required in order to make the development acceptable, it directly relates to the development proposed and its scale is appropriate to the proposed development, so once more this aspect of the S106 satisfies the 3 legal tests.

4.5 *Off-site Highway Works* – The highway assessment undertaken as part of the application process identifies a number of off-site highway works which are necessary to ensure the development does not adversely impact on the existing highway network. This approach is supported by planning policy and the suggested works are limited to only those which are considered necessary to ensure that the development operates satisfactorily. Accordingly, they are required in order to make the development acceptable, they directly relate to the development proposed and their scale is appropriate to the proposed development. It should be noted that although the approved Threadneedle scheme also secures the same works within its signed S106, this permission may never be implemented. As the works are required to make each scheme acceptable in its own right, they need to be secured separately in the event that one doesn't proceed. Again, the contribution is considered to comply with the legal tests.

4.6 *Travel Plan* – Although the Council's SPD on travel plans has yet to be formally adopted, the principle of providing such documents is long established and supported by formal planning policies. The travel plan requirements are needed in order to make the development acceptable, they directly relate to the development proposed and their scale is appropriate to the proposed development. What is proposed is consistent with the 3 legal tests and accordingly is fully justified.

5.0 CONCLUSION:

5.1 The education contribution as proposed for inclusion within the S106 which is to accompany this outline residential application has been challenged by the applicant since it was originally reported to the Plans Panel in September 2008.

5.2 In responding to the applicant's challenge, the original methodology used to establish the appropriate education contribution has been fully reviewed. Having considered all the available data relating to pupil admissions for both primary and secondary schools within the surrounding area, weaknesses have been found and officers are concerned that the original offer would not hold up if pursued and formally challenged at appeal. In addition to this, the introduction of the CIL legislation is such that all contributions now need to comply with 3 legal tests. In this respect, officers are also concerned that the original offer might not pass the third legal test (c) relating to obligations being 'fairly and reasonable related in scale and kind' to a development.

5.3 In the light of the above, revised primary and secondary school contributions have been calculated for both the Optare and Threadneedle (approved) schemes since both were considered at the same time and are related on each other in respect of this issue.

5.4 Although the revised calculations are considerably lower than originally envisaged, in real terms the lower figures should not put Education Leeds under increased budgetary pressure since they are still linked to anticipated demand. As such, Members are requested to accept the revised education contribution relating to the Optare scheme and allow the application to be formally approved subject to all other obligations and conditions as specified within the original officer report. Members also need to be aware that acceptance of the revised contribution for Optare may also have implications for the approved Threadneedle application by way of a deed of variation at some point in the future.

5.5 A copy of the original officer report is attached for Members information.

Background Papers:

Application file: 08/00298/OT

Threadneedle Application: 08/03440/OT

Certificate of Ownership served on: Signed by applicant

PLANS PANEL EAST 25 SEPTEMBER 2008

REPORT OF THE CHIEF PLANNING OFFICER

WARD: Crossgates & Whinmoor **Application:** 08/00298/OT
Address: Manston Lane, Crossgates **Applicant:** Optare Group Ltd
Date Valid: 18 January 2008 **Target Date:** 18 April 2008
Proposal: Outline application to layout access and erect residential development

RECOMMENDATION:

Permission be GRANTED in principle and deferred and delegated to the Chief Planning Officer subject to the conditions specified below and upon completion a Section 106 to secure the following:

Relocation of the existing Optare use within the Leeds boundary, affordable housing, greenspace, education, public transport contributions, off-site highway works and travel plan

1. Reserved matters to be submitted: appearance, landscaping, layout, scale.
2. Standard time limit (outline)
3. The development shall be restricted to a maximum number of 256 units and at the size range as shown in the illustrative layout plan. No more than 138 units (split into 96 houses and 42 flats) shall be constructed until the Manston Lane link road is built and opened to the public.
4. Until the existing Optare business ceases to operate from the site, 40 of the 96 houses allowed prior to the construction of the link road shall not be built. No commercial uses shall replace Optare following its departure.
5. No more than 256 units shall be constructed on site unless otherwise first agreed.
6. Details of walling and roofing materials.
7. Details of surfacing materials.
8. Details of boundary treatments.
9. Bin storage details.
10. Sound insulation scheme to protect residents from adjacent industrial site required.
11. Drainage conditions (multiple).
12. Landscaping condition.
13. No buildings to be higher than 3 storeys.
14. Vehicular areas to be hard surfaced prior to occupation.
15. Green travel plan.
16. Cycle parking for flats.
17. Contamination conditions (multiple).
18. Visibility splays to entrances to be provided.
19. Details to ensure public highway remains clear during construction.
20. Dust suppression measures required during demolition/construction works.
21. Contractors parking and storage details required.
22. Details dimensions of access (including levels) required.

Details of conditions to be deferred and delegated to officers.

Reason for approval: The application is considered to comply with policies GP2, GP3, GP5, N2, N4, N10, N12, N13, N23, N25, BD5, T1, T2, T5, T7, T7a, T24, H4, H11, H12, H13 and H21 of the UDP Review 2006, and having regard to all other material considerations, as such the application is recommended for approval.

Introduction:

This application is brought to Panel at the request of Councillor Gruen due to its sensitive nature and the history of the site.

This is a revised outline application for residential development on a site that was refused planning permission under delegated powers in 2007 for a similar, albeit for a larger scheme of 285 units. The refused scheme was due to be considered at a public inquiry scheduled to take place on 18th March 2008 and was linked with another appeal, again for residential development on part of the Threadneedle site which is located on the opposite side of Manston Lane. Both applications were effectively refused because of each other as the highway network is only considered to be capable of accommodating no more than 285 units, be that on a single site or shared between two.

The public inquiry did not take place in March because one of the parties chief witnesses had been taken ill. As such, the inquiry was adjourned until a later date with the agreement of all parties. A revised inquiry date of 18th November 2008 has now been set.

When agreeing to adjourn the inquiry because of the above and having considered the highway capacity reason for refusal, the Inspector also made it clear that he expected all three parties to work together during the intervening period to see if a negotiated solution could be achieved.

This application has been amended as a result of further discussions and it is now proposed to share what capacity is available between both sites by promoting two distinct phases of development. The first phase comprises of 260 units in total across both sites. The second phase of development (allowing up to 407 units in total across both sites) would only be permitted on the opening a new road (Manston Lane Link Road) to link Manston Lane with the M1 motorway to the east.

In view of the above, Members are asked to consider this application in conjunction with that submitted by Threadneedle (under reference 08/03440/OT) which is the next application to appear on this agenda.

Proposal:

This application seeks outline permission for a residential development on the bus builder's site, Optare and on the adjacent industrial site formerly occupied by the specialist cable manufacturer Draka UK. All matters are reserved with the exception of access which consists of two separate points taken direct from Manston Lane.

The supporting information provided with the application shows an indicative layout containing 256 units in total. The accommodation would be split into a mixture of 205 detached, semi-detached and terraced houses (all 3 and 4 bed) and 51 flats (all 2 bed) contained within 5 separate blocks. The majority of the flats are shown to be provided along the site's eastern boundary in order to protect the remainder of the site from noise and these units would be single aspect in design/layout.

Building heights would range from traditional two storey properties up to three storeys throughout the site with the indicative layout showing the properties to be arranged in a series of blocks facing outwards. Off street parking is generally shown to be provided within private courtyards of varying sizes.

Two, roughly square areas of public open space have been identified within the centre of the site overlooked by houses and flats.

Included with the application is a commitment to meet the Councils normal requirements regarding the provision of affordable housing (currently 25% of the total number of units provided), public open space, education contributions and public transport improvements. In view of the existing

employment opportunities provided by Optare a legal agreement requiring relocation of the existing use within the 'Leeds' boundary has also been offered by the applicant.

The applicant has also agreed to phase the development so that only 138 (96 houses & 42 flats) could be built before the Manston Lane link road is constructed. A further limitation is proposed that would limit the phasing of development to 56 houses (of the 96 allowed in phase one) to be built until the existing Optare use has ceased on the site and relocated elsewhere, thereby creating additional capacity in the highway network.

Notwithstanding the phased approach, off-site highway works are proposed to be complete before phase 1 is occupied.

Site and Surroundings:

The application site has an area of 6.4 ha and is split into two main areas. The first is the existing Optare site which remains operational and the second area comprises of the former Draka site to the east which has been vacant for a number of years.

The Optare site has been extensively developed over a long period of time and includes a variety of manufacturing buildings. Traditional, red brick north lit industrial buildings occupy most of the site although the administrative element of the business is located within a two storey building situated towards the Manston Lane frontage. The remainder of the site is hard surfaced and used almost exclusively for car parking or external storage.

The original Draka buildings have recently been demolished and accordingly the vast majority of the site is now featureless. As with the Optare site, buildings previously occupied the majority of the site and their demolition has created a large, generally level site which is ready for redevelopment.

Limited landscape features can be found at the extreme boundaries of the site and the land gently slopes up from Manston Lane towards the sports field to the north. Security fencing in the form of palisade or chain link marks the common boundaries. The former Manager's house for the Optare site is located between the two parts of the site and is excluded from the application boundary because it is in separate ownership.

The application site is located within a part of Manston Lane which is characterised by industrial development although a handful of residential properties still exist (the former manager's house in the centre of the site's frontage and a set of semi-detached dormer bungalows to the east being the closest).

A playing field is located to the north (including a public footpath running east to west) and a dismantled railway (situated within a cutting and relatively overgrown) runs the length of the site's western boundary beyond which the residential properties within Penda's Way are located. To the south and on the opposite side of the road is the former Vickers tank factory site now owned by Threadneedle and used for storage and distribution. The Richmond ice cream factory is located directly to the east.

Relevant Planning History:

06/06511/OT – Outline application for residential development – Refused under delegated powers for the following reasons:

1. The proposal failed to adequately demonstrate that additional traffic could be safely accommodated on the existing highway network.
2. The proposal represents piecemeal development within an area that has existing congestion problems and no solution is proposed to address this issue. Support for the proposal in isolation would therefore be premature to the proper planning of the area.
3. The design, scale and massing of the proposed flat block would be overbearing, monolithic, repetitive and lacking in detail or visual interest.

Please note, the above application is the subject of an appeal and the public inquiry (now combined with the Threadneedle appeal) is re-scheduled to start on the 18th November 2008. For information, revised plans for the flats and a package of off-site highway works were proposed during the lead up

to the public inquiry which are considered to address refusal reasons Nos. 1 and 3. As such, only reason No. 2 is due to be contested at the appeal which is the same reason why the original Threadneedle application was refused.

Consultations:

Highways: No objection subject to conditions. Refer to the appraisal.

Environment Agency: No objection subject to conditions.

Yorkshire Water: If permission is granted conditions are recommended.

Mains Drainage: No objection subject to reduction of existing surface water runoff and on site storage being achieved. Additional conditions recommended.

Minerals: No objection subject to conditions.

Public Rights of Way: Footpath 121 abuts the site and has a Definitive width of 3 feet.

Environmental Health: Noise disturbance from the adjacent Richmond Ice-cream is possible although the flats blocks situated along the eastern boundary are shown to be single aspect. Planning conditions relating to noise levels on the Ice cream site itself should be enforced. Sound insulation scheme and bin storage details to be conditioned.

Public/Local Response:

The application was advertised by site notices dated 04/02/08 and individual neighbour letters (sent to all those who commented on the original application – dated 30/01/08).

Councillor Gruen has requested the application be brought before the Panel for determination because of its history and sensitive nature.

Initial objections have been received from 17 residents. The main concerns expressed are as follows:

- The scheme is no different to the one already refused permission and accordingly the same decision should be taken.
- The development of the Optare site and the Threadneedle scheme will cause serious highway problems as the area already struggles to cope with existing levels of traffic. A masterplan for the entire area is required before individual schemes can be supported.
- Before this development can be supported the Manston Lane link road is required, on-street parking needs to be removed from Cross Gates (except for special cases e.g. disabled persons), improvements to the railway station are needed and lorries need to be removed from the Vickers site. Without these, the development will increase noise, odour, traffic congestion, pollution and destruction of the landscape.
- No details of the plans to erect residential development have been provided. Residents need to know what is proposed.
- Are improvements planned for the surrounding road as access and parking issues already occur?
- There are enough residential properties in the area and it is already busy enough. Peace and quiet is needed not a new housing estate behind us.
- Concerned that the footpath link into the disused railway line will increase the likelihood of crime and anti-social behaviour taking place when there is a general trend to close off similar routes or provide security gates in other parts of the city.
- Demolition of the existing factory will probably lead to an infestation of rats. What precautions are being put in place about this?
- Optare should be retained as trading estate or for small industrial units
- Loss of jobs is a major concern and no mention is made of where the use will move to.
- The development does not provide enough affordable housing.
- The site will be contaminated and unconfirmed mine shafts have been reported, both of which will be a risk to potential residents.
- The site is too cramped and access is inadequate due to poor visibility. Highway safety would be compromised.

- Surrounding infrastructure (e.g. schools, bus/rail services - particularly during the peak periods) are already oversubscribed.
- Potential problems with drainage have not been looked at properly.
- The development will adversely affect existing wildlife as the area is rich with owls, bats, foxes and rabbits.
- The development will create rubbish and litter problems.

Initial letters of support have been received from 2 residents stating the following:

- Residential development is preferable to industrial development or derelict sites
- Traffic will be staggered throughout the day rather than at peak times as present.
- Traffic levels will not be as heavy as previous uses including when the Barnbow site was open.

In addition to the first notification process, a second letter has been sent to all those originally notified and all subsequent contributors (dated 09/09/08) explaining how the current application and that submitted by Threadneedle have been amended to limit the number of units that can be built before the Manston Lane link road is built. The letter also explains what contributions e.g. affordable housing, would be contained in a Section 106 agreement should permission be granted.

The Cross Gates Watch Residents Association has responded indicating that it was unaware that Optare had submitted a second application. Nevertheless, the same objection made to the Threadneedle application is also considered to apply which is summarised below:

- The acceptability of the scheme turns on transport issues and these are poorly articulated in the methodologies applied, which do not support the conclusion for supporting the application. Relationship with the Threadneedle application is confused, and agreement about the split of the number of units the sites can jointly put on the network has not been reached. This invalidates the current application. In any event, the case for supporting 260 units is flawed.
- The application is explicitly an attempt to pre-empt the public inquiry.
- It is vital for the better planning of the area that the appeal goes ahead and accordingly the application should be refused.

Concern is also expressed about discussions taking place behind closed doors to avoid the public inquiry and proper public consultation. The piecemeal development proposed is still considered unacceptable and the Council, by supporting the schemes would effectively be abdicating its responsibility for the proper planning of the area.

(For avoidance of doubt, the Council's records indicate the residents association was sent an individual notification letter on 30/01/08)

Any further responses received will be reported verbally to Panel Members on the day of the meeting.

Planning Policies:

The application site is unallocated within the UDP, however the following policies are of relevance:

- GP2: Seeks to utilise vacant and under-used sites.
- GP3: New developments should fit in with their surroundings.
- GP5: General planning considerations.
- N2/N4: Greenspace provision/contributions.
- N10: Protection of existing public rights of way.
- N12/N13: Urban design principles.
- N23/N25: Landscape design and boundary treatment.
- BD5: Design considerations for new build.
- T1: Investment in transport improvements.
- T2 (b, c, d): Accessibility issues.
- T5: Consideration of pedestrian and cyclists needs.
- T7/T7A: Cycle routes and parking.
- T24: Parking guidelines.
- H4: Sequential approach to un-identified sites proposed for residential.

H11/H12/H13: Affordable housing.
H21: Provision relating to the development of housing developments.
E7: Employment land.

Neighbourhoods for Living: A guide to residential development in Leeds.

PPS1: Delivering sustainable developments.
PPS3: Housing.
PPG13: Transport.
PPG24: Planning & Noise.

Regional Spatial Strategy for Yorkshire and Humber.

1.1 MAIN ISSUES

1. Principle

2. Highway issues
3. Layout/design/residential amenity
4. Greenspace/affordable housing/education/public transport contributions
5. Third party representations

APPRAISAL

1. Principle:

The site has a current industrial use (albeit partially vacant) and is therefore considered 'brownfield' under the guidance provided within PPS3 'Housing'. In this respect it is suitable for residential use as far as housing policy is concerned at a national and local level. Housing policies contained within the Regional Spatial Strategy for Yorkshire and the Humber also support redevelopment of the site for housing as it would help achieve the Council's targets over the plan period, thereby reducing pressure to release other, less suitable sites from a policy perspective e.g. those which are greenfield.

Notwithstanding the housing policy perspective, it is still necessary to consider the site's existing/last use for employment purposes and whether it is then acceptable to allow the site to be lost to a none employment use as required by UDP Policy E7.

The aim Policy E7 is to retain an adequate supply of employment uses/sites across the City both in terms of quality and quantity. In recognition of this, the applicant has submitted supporting documentation which indicates that a suitable supply of alternative sites (both in quality and quantity) exists within a readily accessible distance of the site.

The submitted documentation has been considered by your Officers and the conclusions made are accepted primarily because of other employment allocations and sites within the general area e.g. Thorpe Park, Aire Valley and Seacroft. In this respect, the complete loss of the site to a residential use, although regrettable is not considered to prejudice the Council's ability to deliver sufficient employment land as required by Policy E7. As such, no objection is raised to the principle of losing the site to a residential use.

Another dimension to the Optare application is the fact the existing use currently employs in excess of 300 people, many of which live within the Leeds area. The purpose of the current application is to generate sufficient capital to allow the business to relocate to a purpose built site as the current premises are no longer fit for purpose. A new facility would bring substantial benefits in the form of efficiency savings which in turn would make the business more competitive within the marketplace. As such, support for the current application is seen as being central to Optare's long-term future. In recognition of concerns about the future intentions of the Optare business as an alternative site has not yet been found and to help safeguard the existing jobs, the applicant has offered to enter into a Section 106 agreement that requires it to relocate within the Leeds area. This offer is welcomed by Officers and is recommended for inclusion within the legal agreement should this recommendation be accepted.

2. Highway issues:

Background:

With reference to the appealed applications, the Council has already submitted written evidence. This evidence makes clear that the traffic effects of one of the developments is considered acceptable but not both developments (subject to the off-site highway works detailed below). The appealed applications are for 285 dwellings on the Optare site and 188 on the Threadneedle site, giving a total of 473 units.

The current applications are for 256 dwellings on the Optare site and 151 on the Threadneedle site, i.e. a total of 407 dwellings.

Before the public inquiry formally adjourned the Inspector commented on the possibility of a phased approach whereby the road capacity is split between the two developments. As a result of this, the second Optare application (submitted in January 2008) has been revised to achieve this. Threadneedle has also submitted a second application, this time in outline which between them propose 260 dwellings (138 Optare and 122 Threadneedle) in an initial phase of development until such time as the Manston Lane Link Road is opened to the public.

The traffic implications of 260 dwellings is clearly very similar to that already considered by Officers in written evidence to the inquiry as being acceptable. The remaining 147 dwellings would not be constructed until the Manston Lane Link Road is opened.

A further restriction is placed on the current Optare application limiting its first phase of development to 98 dwellings until the existing Optare business is no longer operational on the site, thereby removing existing traffic generation from the network.

Capacity issues:

With respect to the traffic implications of the developments, regard has been had to the existing uses of the site and what can occur on the sites without the need for planning permission.

The existing Optare business has a large number of employees and therefore generates its own traffic. The former cable site, within the Optare site boundary, currently is vacant but could still be used for commercial purposes. Furthermore, in considering the traffic implications of the Threadneedle development, regard has been had to the existing use of the wider site, and in particular the storage and distribution permission which has a legal agreement that allows 2400 vehicle movements within a 24 hour period (of which 35% can be HGV's). Although currently the site generates little traffic, if the Threadneedle application were approved agreement has been reached to reduce by half the traffic that is permitted on the wider Threadneedle site. This would be achieved by an amendment to the existing legal agreement. This would be a significant benefit to the area in traffic terms if the site were to attract a more intensive user than currently exists.

In considering the submitted information and having regard to their own knowledge of the area, Highway Officers remain of the view that it is acceptable to replace an existing employment site with a substantial residential scheme but in no way could both applications (Optare & Threadneedle) be granted the full extent of the proposed developments without a phased approach and major improvements to provide a suitable comprehensive highway solution. The second phase of development on either site cannot therefore be constructed until such time as the Manston Lane link road is built.

For the avoidance of doubt, the Manston Lane link road does not require alterations to the carriageway width in the area around the application site and accordingly the points of access shown on the indicative layout would not adversely affect its future implementation. The link road itself has already been started as part of the Thorpe Park development although further stretches are still required before its route over the railway line and connection with Manston Lane is progressed.

The phased approach to development is considered to provide an acceptable compromise for both applicants in terms of ensuring the local highway network is not overloaded and the Council's initial position that the area is only capable of accommodating the amount of development associated with approximately one of the initial developments has not been prejudiced. Any further development

beyond the initial phase of development on either site would then only be released on completion of the Manston Lane link road.

Notwithstanding the above, for the first phase of development it is still considered necessary to undertake various improvements to the existing highway network in order to facilitate the developments. In recognition of this the following package of off-site highway works and other measures are proposed to help improve efficiency and safety:

- Modifications to the Cross Gates roundabout signals, which would consist of a queue detection loop and corresponding controller modification. This would allow an automatic adjustment to signal timings when queues extend back onto the circulatory carriageway and block traffic i.e. to help reduce queuing.
- Implementation of bus priority on Austhorpe Road by the installation of local priority hardware and controller modification. This facility would allow a bus to be detected on Austhorpe Road. The traffic signals would then give priority to the bus by adjusting the signal operation.
- CCTV to enable monitoring of queues on Austhorpe Road and the A6120 Ring Road. This would allow a UTMC control operator to make slight changes to signal green time to mitigate the effect of short term fluctuations in traffic queues and therefore reduce congestion.
- Traffic signal control on Austhorpe Lane over the substandard railway bridge. The trips generated by either of the developments would result in a proportion using Austhorpe Lane. Austhorpe Lane narrows over the railway bridge and will only allow single file traffic. The bridge parapets severely restrict forward visibility for vehicles travelling in either direction. These issues are a significant safety hazard and signal control would remove the obvious conflict.
- Weight restriction on Whitkirk Lane and Austhorpe Lane to prevent HGV movements (other than for access/loading) through residential areas.
- Weight restriction on streets north of Austhorpe Road to prevent HGV movements (other than for access/loading) through residential area.
- Public transport infrastructure improvements.
- Residential travel plans including evaluation fees.
- Provision of a residential MetroCard for each dwelling.

The above measures would be fully funded by the either developer or both depending on Members decisions.

In summary, the current proposals seek to meet the Inspector's expectation of a negotiated solution. Two distinct phases of development are proposed, the second phase requiring the opening of the Manston Lane Link Road before additional dwellings are constructed. The first phase of development will share highway capacity with the adjacent proposal so that the number of dwellings for phase 1 (138 Optare and 122 Threadneedle) is similar to that already considered acceptable in the Council's written evidence to the public inquiry (subject to the off-site highway works and other measures).

Access and Layout issues:

Two points of access are shown to be provided from Manston Lane to form a circulatory route through the site, thereby ensuring emergency access is still provided in the event that one entrance/road becomes blocked. As adequate visibility can be achieved at both entrances, no objection is raised in principle to how the development would be accessed or serviced internally.

In terms of the site layout itself, the basic design principles are considered to be acceptable and whilst a number of detailed issues remain outstanding, they are all relatively minor and could be adequately addressed via conditions or at the reserved matters stage.

3. Layout/design/residential amenity:

The application has been submitted in outline and only the means of access has been formally applied for at this stage. In this respect, the submitted layout plan is indicative and would not be binding in the event that planning permission is granted.

Whilst recognising the layout plan is indicative, it does provide a useful insight into how the site could be developed in the future. It also helps to identify a number of parameters and constraints that will

steer the site's redevelopment. In particular, the requirement to provide an element of barrier housing along the site's eastern boundary is an important consideration as is a maximum build height of 3 storey's.

The barrier housing is shown to take the form of two blocks of three storey, single aspect flats which would be designed to face into the site (west) rather than having main rooms facing east (towards Richmond ice cream). As such, the building themselves would form the acoustic barrier for the rest of the site and the flat occupiers living conditions would not be compromised to an unacceptable extent due to their single aspect layout.

In response to the previous 'design' reason for refusal, the flats blocks have been reduced from 4 storey's to 3 and the units themselves have been separated into separate blocks. These alterations would still address the noise issues affecting the site due to the adjacent ice cream factory operating 24 hours a day but would allow greater visual interest and detailing to be achieved at the reserved matters stage. The revised scheme is therefore considered to have adequately addressed the previous reason for refusal. It is also noted the original 'design' reason for refusal to be considered at the public inquiry has already been conceded as the same approach now shown was also adopted during the appeal proceedings.

In terms of the acceptability of the remainder of the site, the basic layout is considered to address the correct balance between the provision of good quality family housing arranged in an attractive, but secure environment and accordingly all detailed issues could be adequately addressed at the reserved matters stage.

4. Greenspace/affordable housing/education/public transport contributions:

Policies contained within the UDP require that major residential developments make adequate provision for greenspace. Because of size of site and number of units proposed, the greenspace should in this instance be provided on-site and at a ratio of 10% of the total site area. Two central areas of public open space are shown to be provided within the indicative layout and the size is identified as being 10%. As such, no objection is raised to this element of the scheme and it is proposed to secure these features via a Section 106 agreement.

With respect to the provision of affordable housing, 25% of units should be made available with a split of 40% being offered as social rented properties and the remaining 60% being submarket. The applicant has agreed to meet these requirements in full via a Section 106 agreement. Based on the submitted plans, 35 affordable units would be delivered in the first phase of development since only 138 units can be provided.

The same approach will also apply in terms of making appropriate contributions towards extra education facilities within the area and a standard 'levy' is proposed (via a Section 106 agreement) since the exact size and number of units is not fixed at this stage. The levy calculation is based on up to date information and indicates that all properties suitable for families (e.g. houses with 2 or more bedrooms and flats with 3 or more bedrooms) should provide £1,902.31 for secondary school places. However, primary school places are only required after a total of 200 family units have been provided (across both sites) equating to £3,156.18 per unit thereafter.

In addition to the above, the development is considered to justify making improvements to existing bus stop facilities within the immediate area and this would be secured by a legal agreement. However, further contributions are not considered necessary at this stage as in order to achieve the site's total amount of permitted residential development, the link road would have to be provided which itself is a strategic aim in terms of facilitating improved public transport routes in the area.

5. Third party representations

It is clear from the representations received to both this application and the scheme submitted by Threadneedle that residents are most concerned about the traffic implications of the developments. These concerns have been taken on board since the original applications were refused and both applicants are now working together and have effectively agreed to share what capacity does exist having regard to the use of their own sites. Whilst it is true the application would not deliver the Manston Lane link road as many residents would like it to do, the phased approval is seen as a reasonable compromise to ensure traffic levels are kept within a level which the local network is

capable of dealing with. The fact additional residential development will also have received planning permission 'in principle' may also facilitate the more timely delivery of the link road as developers have the confidence to pursue alternative schemes.

Residents concerns about the formation of additional linkages into the disused railway line are noted and the issue of security and access to this area would ultimately be considered at the reserved matters stage when the layout would be finalised. Notwithstanding this, it is a strategic aim of the Council to provide a formal pedestrian and cycle path along this route towards Scholes in accordance with UDP Policy T10A. As such, the current situation enjoyed by residents in terms of the area not being readily accessible is likely to change in the future.

Residents concerns regarding issues such as drainage, contamination, litter and the presence of mine shafts have all been considered by the various consultees referred to in this report. As a result of the consultation responses received, various conditions are recommended which are considered to adequately address the identified concerns or deal with issues on which further information is required.

Conclusion:

The development complies with housing policy at a national and local level in that it seeks to build on brownfield land. Furthermore, the scale of the development is such that it would help deliver the Council's housing targets for new housing as contained within the Regional Spatial Strategy for Yorkshire and Humber.

The loss of the existing employment status of the site to residential use is considered to be acceptable in principle as sufficient alternative employment land is available within an accessible distance. The offer to relocate within the Leeds area is also welcomed.

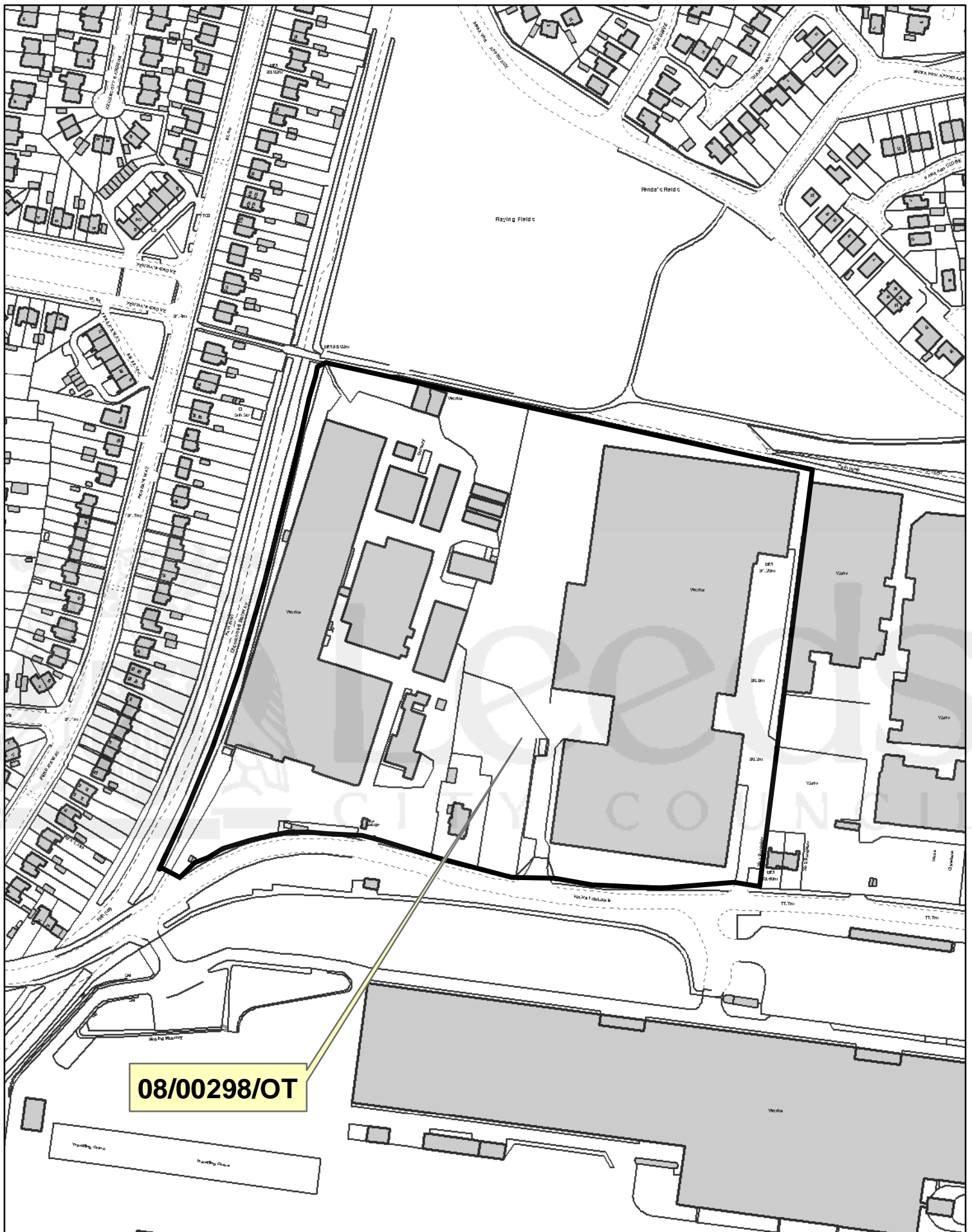
In recognition of existing highway issues within the Cross Gates area, the applicant has agreed to work with Threadneedle who have submitted a similar outline application on its own, adjacent site. As such, a phased approval is now proposed which is considered to keep redevelopment within acceptable limits in terms of its impact on the local highway network. As all matters are reserved with the exception of access and can therefore be dealt with at the reserved matters stage, and the applicant is willing to meet the Councils normal contributions (via a legal agreement) with respect to greenspace, affordable housing, education, public transport improvements, etc, the application is recommended for approval subject to the conditions specified.

Background papers:

Application file papers: 08/00298/OT.

Certificate of ownership:

Signed by applicant.



08/00298/OT

EAST PLANS PANEL I

Scale 1/2500

PRODUCED BY COMMUNICATIONS, GRAPHICS & MAPPING, LEEDS CITY COUNCIL

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