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**TRAFFORD**  
**COUNCIL**

## **AGENDA PAPERS FOR PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE**

**Date: Thursday, 16 July 2020**

**Time: 4.00 pm**

**Place: Remotely**

### **AGENDA**

### **ITEM**

#### **5. ADDITIONAL INFORMATION REPORT**

To consider the attached report of the Head of Planning and Development, tabled at the meeting.

**5**

**SARA TODD**  
Chief Executive

#### Membership of the Committee

Councillors L. Walsh (Chair), A.J. Williams (Vice-Chair), Dr. K. Barclay, T. Carey, M. Cordingley, B. Hartley, D. Jerrome, M. Minnis, D. Morgan, K. Procter, B. Rigby, E.W. Stennett and B.G. Winstanley.

#### Further Information

For help, advice and information about this meeting please contact:

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# Agenda Item 5

## AGENDA ITEM 5

PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE – 16<sup>th</sup> July 2020

ADDENDUM TO THE AGENDA:

ADDITIONAL INFORMATION REPORT (INCLUDING SPEAKERS)

### 1.0 INTRODUCTION

1.1 This report summarises information received since the Agenda was compiled including, as appropriate, suggested amendments to recommendations in the light of that information. It also lists those people wishing to address the Committee.

1.2 Where the Council has received a request to address the Committee, the applications concerned will be considered first in the order indicated in the table below. The remaining applications will then be considered in the order shown on the original agenda unless indicated by the Chair.

### 2.0 ITEM 4 – APPLICATIONS FOR PERMISSION TO DEVELOP, ETC.

#### REVISED ORDER OF AGENDA (SPEAKERS)

Part 1 Applications for Planning Permission					
Application	Site Address/Location of Development	Ward	Page	Speakers	
				Against	For
<a href="#"><u>98127</u></a>	Unit 1, Altrincham Retail Park, George Richards Way, Altrincham, WA14 5GR	Broadheath	1	✓	✓
<a href="#"><u>100044</u></a>	Foxwood, 78A High Elm Road, Hale Barns, WA15 0HX	Hale Barns	44		✓
<a href="#"><u>100577</u></a>	3 Millway, Hale Barns, WA15 0AE	Hale Barns	58	✓ Cllr Dylan Butt	✓
<a href="#"><u>100756</u></a>	Great Heys, 74 Bankhall Lane, Hale Barns, WA15 0LW	Hale Barns	68	✓	✓

**SPEAKER(S) AGAINST: Judie Collins  
(Neighbour)**

**FOR: Jonathan Eastern  
(Agent)**

The purpose of this additional information report is to provide an update to the Planning and Development Management Committee in respect of matters that have arisen in the period since the original officers' report was prepared. Furthermore, some further clarity is provided, specifically on the topics of the principle of the development, on highways matters, and on the impact on heritage assets.

### **APPLICANT'S SUBMISSION**

The applicant has made a number of new submissions. These are described below.

Firstly, responses received during a recent leaflet drop exercise, undertaken on the applicant's behalf and to residents in the area, have been submitted. This comprises 87 expressions of support on a pre-prepared note with space for additional comments. The additional comments include references to:

- The Homebase closing if the proposal is not given the go ahead;
- The jobs that would be protected and created;
- The convenience of having a Lidl store locally; and
- That investment in the retail park is long overdue.

Secondly, a briefing note has been submitted, which has also been sent to Members of the Planning and Development Management Committee. This explains that the development would unlock £3 million of investment in Altrincham, safeguard 50 jobs at Homebase, create around 40 new jobs at Lidl, and support around 100 opportunities during the construction process.

Thirdly, a letter which sets out Lidl's intentions to deliver new stores at both Altrincham Retail Park and as part of a revised Altair development.

Finally, the applicant has obtained and submitted Counsel's opinion regarding their proposal and in response to the officers' report. This followed an earlier Counsel's opinion which was provided to officers in May 2020. The legal advice recognises that the two recommended reasons for refusal, covering retail and highways matters, are expressed in the form that it has not been demonstrated by the applicant that the relevant tests and policy requirements have been passed. Relevant questions and issues generated by the legal advice are responded to below in the 'Observations' section.

It is significant that, of the recent submissions that the applicant has made, none address the outstanding queries on retail and highways matters, in respect of the suitability of a sequentially preferable site or of the highway safety impacts arising from the proposed development.

## **CONSULTATIONS**

**Trafford Council Waste Management – No objection**

## **REPRESENTATIONS**

There have been further representations received from residents, as follows:

### **In Support**

Five further letters have been received. The key issues raised can be summarised as:

- The recommendation of refusal is disappointing;
- The retail park at Broadheath has been underdeveloped for a number of years;
- Without this proposal the Homebase unit would continue to struggle;
- A Lidl store in this location would be beneficial for residents living to the north (especially the elderly) since it would prevent the need to have to cross Atlantic Street;
- There is always plenty of parking where the Homebase is;
- This development would create more jobs and more choice;
- The Covid 19 crisis is likely to have a significant impact on the retail sector, which could result in more store closures at the retail park; and
- The proposed development represents a modern and well-designed scheme.

### **In Objection**

Two further letters have been received, including from the Altrincham and Bowdon Civic Society. The key issues raised can be summarised as:

- A new food outlet in this area is not needed; they are already 6 or 7;
- Existing noise, odour, traffic and parking problems would all increase;
- The retail park suffers from a high level of crime;
- The applicant's submission incorrectly states the frequency of local trains;
- There has been a lack of consultation on this application;
- The recommendation of refusal is welcomed; and
- The recent support cards for the scheme were only sent to residents living further away.

## **OBSERVATIONS**

### **The Principle of the Development**

#### The Sequential Test

In responding to matters raised in the legal advice, consistent with independent retail advice received by officers, it is maintained that it is entirely reasonable in this instance to approach the sequential test on the basis of a site for the proposed foodstore in isolation. This was how the applicant's first sequential assessment approached the issue and is considered reflective of a robust approach. To reiterate, it remains the case that the applicant has not demonstrated that there is a functional or commercial reason to consider the proposed foodstore and DIY unit as a whole, or why the Homebase element of the scheme could not come forward in isolation.

On the issue of the suitability of the Altair site, the applicant has not provided adequate information to demonstrate that this more central site cannot accommodate a development of a comparable scale and nature to the proposed Broadheath foodstore. Necessary details regarding the terms of the Altair contract, the floorspace proposed and the amount of car parking to serve the store remain outstanding.

On the subject of the availability of the Altair site and what might constitute a reasonable period of time for this site to become available, the position of officers is set out in the original report and the legal advice does not include any substantive information that alters this view. It is maintained that the applicant's suggested three to four year period for the delivery of a foodstore at Altair does not appear unusual or excessive, and it has not been evidenced that this is a particularly complex town centre site or scheme.

Overall, the previous conclusions apply: it has not been demonstrated that the application meets the requirements of the NPPF sequential test (as also covered in policies S11 and W2). Even where there is commitment to develop both sites, the sequential test requires that the sequentially preferable site comes forward in advance of the less central site. The NPPF is clear that planning permission should be refused if an application fails to satisfy the sequential test.

#### The Impact Test

In the original officers' report, the conclusions regarding the 'impact' test, as set out in paragraph 89 of the NPPF (and in turn reflected in Policy W2 and Policy S11) were reported. In summary, it was stated that the proposed development passed both strands of the impact test, regarding impact on investment and impact on vitality and viability.

For the avoidance of doubt, some additional commentary is now provided regarding the impact test, and specifically the impact on vitality and viability and when having regard to *cumulative* impacts. In this respect, reference is made to

an outstanding planning application (LPA ref. 100006/VAR/20) which, in summary, seeks the reoccupation of the former Aldi unit on George Richards Way for non-food Class A1 retail purposes. The submitted impact assessment for the Lidl/Homebase application does not include an assessment of cumulative impact, and indeed the proposal for the Aldi unit remains under consideration and is not an official retail commitment. Nonetheless, some further advice has been sought regarding cumulative impact from the Council's independent retail consultant, as summarised below.

The impacts arising from the Lidl store principally relate to the convenience goods (food) sector, whereas - conversely - the impacts arising from the proposal for the former Aldi unit principally relate to the comparison goods (non-food) sector. The Council's retail consultant is in the process of providing advice on the application which provides for the change of use of the former Aldi unit. Notwithstanding this, in view of the above, it is considered highly unlikely that – in a scenario where planning permission were granted for both – the combined convenience goods impact arising from dual implementation would give rise to a significant adverse impact which would merit refusal of the application. Accordingly, when factoring in this cumulative impact, it is considered that the proposed Lidl development satisfies the NPPF test of impact and is consistent with policies S11 and W2 on this basis.

Furthermore, for the avoidance of doubt, it is commented that the focus of impact in this case has been on Altrincham town centre, where the greatest levels of trade diversion have been anticipated. Lesser levels of impact have been assumed for other designated centres, including Sale town centre and other district centres.

### Highways Matters

In responding to matters raised in the legal advice, further input has been sought from the LHA. Concerns regarding highway safety relate to left-lane and right-lane changing manoeuvres which can, and do, occur on approach to multi-lane junctions. It has to be assumed that not every driver using George Richards Way on approach to the A56 would be familiar with the road and junction layout. Accordingly, it is maintained that there is a risk of vehicle collision occurring. The applicant's position, that there would be no adverse highway safety impact, assumes that all drivers would behave responsibly on the highway, but no evidence has been provided to substantiate this position. Therefore, in the absence of necessary evidence to demonstrate no unacceptable impact on highway safety, the LHA's objection (and supported by TfGM) is maintained.

Some further clarity is now provided in relation to paragraphs 51 and 58 of the original officers' report. The application from the outset has included an inconsistency within the package of plans. The proposed site layout plan, prepared by the applicant's architect, has illustrated the east-bound carriageway of George Richards Way as a single lane. This, as a proposal, was not then reinforced by the highways technical drawings or the description of the applicant's highway proposals within the accompanying Transport Assessment

and subsequent highway notes. This inconsistency was raised in consultation responses by the LHA and TfGM and was assumed to be a drawing error (on the proposed site layout plan).

In seeking to address the LHA's and TfGM's concerns regarding the proposed new egress onto George Richards Way, at a meeting in May 2020 the applicant's highway advisors raised the issue of introducing this part of George Richards Way as a single lane. The response from the LHA/TfGM to this suggestion was that this proposal would need to be fully worked up and submitted alongside all necessary supporting information in order to fully understand and assess its implications.

When a new site layout plan was recently submitted (for purposes unrelated to addressing highway concerns), it was wrongly assumed by the LHA that this took forward on a base plan the suggestion of the May 2020 meeting (albeit the proposal remain undeveloped and was without the necessary supporting evidence). It would appear, however, that the concept of reducing George Richards Way down to a single lane has not in fact been proposed by the applicant, and the recently submitted site layout plan has merely carried over the original plan discrepancy. In accounting for the confusion, the applicant's desire for negotiations to cease and for the application to be presented for determination is again placed on record. A further revised site layout plan, submitted more recently, removes the plan discrepancy.

In returning therefore to paragraph 58 of the original officers' report, a revised egress design has *not* recently been supplied, and therefore the conclusions regarding highway safety - as made clear within the officers' report - relate to the applicant's longstanding egress proposals.

#### Impact on Heritage Assets

A revised paragraph 71 of the original officers' report is provided below:

*As previously advised, the NPPF acknowledges that there can be levels of harm to the significance of a designated heritage asset. The Heritage Development officer has confirmed that the reference to 'moderate' harm would translate to 'less than substantial' harm to significance as referred to by paragraph 196 of the NPPF. Where a development proposal would lead to less than substantial harm to significance, paragraph 196 continues that this harm should be weighed against the public benefits of the proposal. It should be reiterated, however, that Policy R1 does not explicitly allow for a development to result in any harm to heritage assets. The identification of 'moderate' or 'less than substantial' harm to the setting of the pub therefore amounts to a development plan policy conflict. That this approach is not consistent with the NPPF has, of course, previously been reported. However, even when relying upon the NPPF approach, paragraph 194 is clear that the harm arising requires a 'clear and convincing justification'. Furthermore, in accordance with the statutory presumption embodied in the Planning (Listed Buildings and Conservation Areas) Act 1990, significant weight and importance should be afforded to heritage harm.*

A revised paragraph 74 of the original officers' report is provided below:

*The exercise of balancing harm to heritage assets against public benefits is a matter of planning judgement. Whilst not an extensive list, it is evident that there is a collection of benefits that would arise and which would be welcomed, and particularly some economic-led gains. In this case the harm to significance that would be inflicted on the Railway Inn by virtue of the impact on setting is 'less than substantial.' Whilst the applicant's position that the historic context of the pub has been entirely removed is not accepted, equally on balance it is recognised that there has been some dilution in setting and that the character of the A56 corridor in this location is also influenced to some degree by highways infrastructure, busy traffic, and other modern warehouse and standalone commercial developments. From this position, and when applying the necessary judgement to the circumstances of this proposal, it is considered that the additional harm to setting - of a 'less than substantial' nature - would be sufficiently outweighed by the cumulative public benefits that are expected to arise.*

A revised paragraph 75 of the original officers' report is provided below:

*Great weight has been afforded to the heritage harm that would arise when having regard to the statutory duty. However, it is concluded that the policy test at paragraph 196 of the NPPF has been fulfilled and that the heritage harm would be outweighed. However, the proposal remains at odds with Policy R1. This matter is returned to in due course as part of the concluding planning balance.*

#### Other Considerations

It is maintained that a proportionate level of consultation on this application has been carried out, which has included letters to residents, formal consultee requests (statutory and non-statutory), site notices and a press advertisement. In addition, subsequent rounds of consultation have taken place to account for the submission of amended and additional information.

The Greater Manchester Police has been consulted on the application and is satisfied that the proposal has been appropriately designed when having regard to crime and security considerations, and with a condition recommended to ensure that measures identified in the Crime Impact Statement are implemented.

#### **PLANNING BALANCE AND CONCLUSIONS**

A revised paragraph 124 of the original officers' report is provided below:

*It has also been concluded that the proposed development would result in harm of a 'less than substantial' nature to the significance of the Grade II listed Railway Inn. Great weight has been afforded to this harm when having regard to the statutory obligations of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, with reference to paragraph 196 of the NPPF, the public benefits stemming from the proposal would sufficiently outweigh the harm arising,*

*it is considered. These benefits are principally economic focused although with it also recognised that the development is in accordance with planning principles associated with maximising the use of brownfield land and of locating development in sustainable locations. The proposed foodstore would also provide improved consumer choice. Some heritage harm would nonetheless arise and - as a consequence of this - the proposal also contravenes the requirements of Policy R1.*

It is fully acknowledged, as set out in the original officers' report, that the proposal carries a number of important benefits. These are repeated in the applicant's legal advice and also in the briefing note recently supplied and copied to Members. Appropriate weight to these benefits has been applied by officers as part of the planning balance. However, it is maintained that these benefits do not outweigh the adverse impacts arising (including when having regard to the development plan policy conflict *and* the NPPF conflict).

Accordingly, the conclusions as reported in the original officers' report are unchanged. The proposal is in conflict with policies of the statutory development plan and also of national planning guidance. Whilst the proposal has been found to result in some benefits, it is considered that there is no reason to take a decision other than in accordance with the development plan and relevant guidance. To reiterate, the application is recommended for refusal on the grounds of its failure to comply with the NPPF and it also being contrary to policies S11 (of the Revised Trafford UDP) and W2 and L4 (of the Core Strategy).

## **RECOMMENDATION**

The recommended is unchanged, as repeated below:

### **REFUSE for the following reasons:**

1. There is a sequentially preferable site which is available within a reasonable period and also potentially suitable to accommodate the proposed foodstore development. When demonstrating flexibility on issues such as format and scale, it has not been adequately demonstrated by the applicant that this alternative site is not suitable. As such, it is considered that the application proposal fails to satisfy the sequential test at paragraph 86 of the NPPF and thus a reason to refuse the application at paragraph 90 of the NPPF applies. The proposal is also contrary to saved Policy S11 of the Revised Trafford Unitary Development Plan and Policy W2 of the Trafford Core Strategy.

2. The proposed development involves the introduction of a new point of egress for customer traffic onto George Richards Way which has the potential to introduce significant vehicular conflict. It has not been adequately demonstrated by the applicant that this would not have an unacceptable impact on highway safety and thus a reason to refuse the application at paragraph 109 of the NPPF applies. The proposal is also contrary to Policy L4 of the Trafford Core Strategy.

**Page 44**                    **100044/HHA/20: Foxwood, 78A High Elm Road, Hale Barns**

**SPEAKER(S)**            **AGAINST:**

**FOR:            Tom Bedford**  
**(Agent)**  
**(prepared statement read out by officer)**

**Page 58**                    **100577/HHA/20: 3 Millway, Hale Barns**

**SPEAKER(S)**            **AGAINST: Sarah Butler**  
**(Neighbour)**  
**Councillor Dylan Butt**

**FOR:            Tony Kaba**  
**(Agent)**

**REPRESENTATION**

An additional representation has been received from Cllr Butt who has highlighted that there is considerable scope for overlooking between the application site and 8 Castleway. Cllr Butt has submitted a photograph taken by the occupants of 8 Castleway which shows the relationship between the two properties, and suggested that a condition could be included, should planning permission be granted, to either reduce the size of the window or obscure glaze it to mitigate any potential loss of privacy.

**OBSERVATIONS**

The main Officer report considers the impact of privacy in relation to 8 Castleway at paragraphs 20 to 26, the conclusion to which is that the proposed extension and alterations will not result in a material increase in overlooking to No. 8. Paragraph 24 highlights the fact that the proposed bedroom window to the rear has already been reduced in size following the concerns expressed by No.8 to minimise any loss of privacy. It is not considered reasonable or necessary to further reduce the size of the window or obscure glaze it.

**Page 68**                    **100756/FUL/20: Great Heys, 74 Bankhall Lane, Hale Barns**

**SPEAKER(S)**            **AGAINST: Daniel Laffly**  
**(Neighbour)**  
**(prepared statement read out by officer)**

**FOR:            Emma Williams**  
**(Agent)**

## **APPLICANT SUBMISSION**

Since the Committee report was completed the agent for the application has submitted additional information in relation to site contamination – Geo-Environmental Assessment Report (Rev D).

## **CONSULTATIONS**

**Trafford Council, Pollution & Licensing, Land Contamination** – Confirm that on the basis of the latest version of the Geo-Environmental Assessment Report, there is no longer a need for the contaminated land conditions and they can be deleted.

## **REPRESENTATIONS**

### Procedural

Further objections have been received from the occupier of 42 Arthog Road in relation to the re-consultation letter sent out as a result of the changes to the scheme.

The following concerns were raised:

- How can comments posted up to the 16<sup>th</sup> of July have the benefit of any professional analysis to be entered into the recommendation when this is the same date as the Planning Committee Meeting? The recommendation would be written in anticipation of any further comments received up to the or on the 16<sup>th</sup> of July
- Why has this application been processed on an accelerated procedure - less than 2 months seems to be a record
- Which neighbours were included in the re-consultation and when was the Committee report written?
- The objector reminds all readers of the rules on breach of the Nolan Principles of Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing - and Objectivity
- Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

An additional objection has been received in relation to the amended plans from the occupier of No. 71, Bankhall Lane but no new issues have been raised that are not considered in the Committee report.

## **OBSERVATIONS**

### CONTAMINATION

In view of the comments of the Pollution and Housing section in relation to the latest version of the Geo-Environmental Assessment Report submitted, it is

considered that the development would be acceptable without the contaminated land conditions (No's 12 and 13) recommended in the Committee Report.

## OTHER MATTERS

The neighbour comments received in relation to planning application 100756/FUL/20 as originally submitted have been set out in the Committee report. Any further comments received from neighbours in relation to the application are reported in this Additional Information Report in the usual manner, therefore Members will be aware of any further comments received prior to reaching a decision. In addition all objectors have been made aware of the opportunity to address Members of the Committee through the Committee speaker procedure.

The changes to the proposal which neighbours have recently been re-consulted on sought to address the concerns initially raised by objectors i.e. the retention of the mature Oak tree on the site frontage, which has necessitated a minor re-siting of the houses and the inclusion of biodiversity enhancement measures such as ponds, bat boxes and additional landscaping on the site to mitigate for the impact on protected species. This has all been done in consultation with the GM Ecology Unit and the Council's Arboriculturist. Other than a minor alteration to the siting of the plots there has been no material change to the built development on the site or the means of access proposed since the original neighbour consultation was carried out.

The target date set by the Government for determining minor applications is 8 weeks. The application has not been 'accelerated' and two rounds of consultation have been undertaken and amendments sought to the scheme.

Re-consultation letters were sent out to all the neighbours originally consulted as well as to any other interested persons who provided comments in relation to the planning application as originally submitted. The Committee report was finalised on 7<sup>th</sup> July.

It is considered that any decision on the application will be taken in an open and transparent manner.

## **RECOMMENDATION**

The recommendation to **GRANT** is unchanged, subject to the deletion of conditions 12 and 13.

**RICHARD ROE, CORPORATE DIRECTOR, PLACE**

**FOR FURTHER INFORMATION PLEASE CONTACT:**

**Rebecca Coley, Head of Planning and Development, 1st Floor, Trafford Town Hall, Talbot Road, Stretford, M32 0TH. Telephone 0161 912 3149**

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