

SUPPLEMENTARY REPORT FOR PLANNING APPLICATIONS:

WARD: Broadheath 79984/FULL/2013 DEPARTURE: Yes

DEMOLITION OF EXISTING WAREHOUSE BUILDINGS AND ERECTION OF SUPERMARKET (USE CLASS A1) WITH CAR PARKING, PETROL FILLING STATION AND ASSOCIATED SERVICING AND LANDSCAPE WORKS.

Lyon Industrial Estate, Atlantic Street, Broadheath, Altrincham, WA14 5FY

APPLICANT: Property Alliance Group

AGENT: Walsingham Planning

WARD: Broadheath 80577/FULL/2013 DEPARTURE: Yes

ERECTION OF RETAIL FOOD STORE WITH NEW AND REVISED ACCESSES AND ALTERATIONS TO ATLANTIC STREET AND CLOSURE OF EXISTING ACCESS TOGETHER WITH PROVISION OF CAR PARKING FOLLOWING DEMOLITION OF EXISTING DIY RETAIL STORE.

B&Q Plc, Altrincham Retail Park, Atlantic Street, Broadheath, WA14 5BW

APPLICANT: Wm Morrison Supermarkets Plc / B&Q Plc

AGENT: Davis Weatherill Partnership

Following the meeting of the Planning Committee held on 11/7/13, the Council received a letter from solicitors acting on behalf of the applicants for application 79984/FULL/2013 indicating that they intend to apply to judicially review the matter in the event that the Council proceeds to issue the decision notice without further consideration.

The determination of 'rival' applications is not straightforward and it would appear that at the Committee meeting there was some uncertainty as to the decision that had been taken.

In the light of this potential challenge and after full consideration with the Chairman, legal advice has been taken from senior counsel with regard to the Council's position. Counsel's view is that it would be difficult for the Council to successfully

defend any challenge to the lawfulness of the decisions and that, whilst the Council could seek to defend any application to review the decisions, the most likely outcome would be that the court would direct that the committee should re-determine the applications.

In the circumstances, the Chairman has agreed that the two supermarket applications should be considered again by the committee.

It is of course very unusual for such a step to be taken and this is not a decision which has been taken lightly. It is the view of Counsel and of officers that this is a unique situation which should not establish any precedent for this type of review. However, in this instance it is considered that this is the most appropriate action to take, both in fairness to all those who are concerned with these applications, so as to avoid the delay and uncertainty which would exist if these matters were left in the balance until after either a full judicial review or planning appeal process and also so as to avoid the substantial costs liability for the Council which would inevitably follow a successful challenge.

The original officer reports for both applications (and the recommendation to refuse both applications) remain unchanged from the committee meeting on 11 July 2013. However, Committee are advised that they should consider each application afresh.

An updated Additional Information Report will be available prior to the committee meeting.