

TRAFFORD COUNCIL

Report to: Planning and Development Management Committee
Date: 9 September 2021
Report for: Decision
Report of: Head of Planning and Development

Report Title

Member Update:
Appeal by Lidl UK/Orchard Street Investment Management LLP
Homebase Ltd, Unit 1 George Richards Way, Broadheath, Altrincham, WA14
5GR
LPA ref. 98127/FUL/19
Appeal ref. APP/Q4245/W/21/3267048

Summary

This report provides an update to Members of the Planning and Development Management Committee in respect of the appeal by Lidl UK/Orchard Street Investment Management LLP following the refusal of planning application ref. 98127/FUL/19 in July 2020. The appeal site is the Homebase unit at Altrincham Retail Park, George Richards Way, Broadheath, Altrincham. The appeal is to be dealt with via a public inquiry.

The appellant has now requested to the appointed Inspector determining the appeal that the highways plans be substituted to reflect those approved under planning application ref. 103414/FUL/21 in April 2021. The Inspector has not yet confirmed whether the substitution of plans will be accepted and may not do so until the first day of the inquiry. However, if the plans were to be substituted, the Council would not seek to contest the appeal and no evidence would be submitted as the proposals would replicate a scheme already granted planning permission.

Subject to, and dependent on, a response from the appointed Inspector, this report seeks the Committee's authorisation to no longer contest the appeal should the plans be substituted. This recommendation takes into account the Committee's resolution in respect of the revised planning application (ref. 103414/FUL/21).

Recommendation

Subject to the appointed Inspector allowing the appeal to proceed on the basis of substituted plans (as accepted by the Council through the approval of planning application ref. 103414/FUL/21), that the Planning and Development Management Committee authorises officers to formally take the position at the forthcoming inquiry that the Council will no longer contest the appeal.

Contact person for access to background papers and further information:

Name: Bethany Brown
Extension: 0161 912 3215

POSITION STATEMENT

1. At its meeting of 16 July 2020 the Planning and Development Management Committee refused planning permission - in accordance with officers' recommendation - for application ref. 98127/FUL/19. This proposed the: *'Extension, refurbishment and subdivision of the existing Homebase store to provide a downsized unit for Homebase and a new Class A1 retail unit. The application also proposes the relocation of the Homebase garden centre, the reconfiguration of the existing car park and associated landscaping, and the creation of a new egress from the site'*. There were two refusal reasons which referred to: 1. The sequential test (relating to main town centre uses); and 2. Highway safety.
2. On 18 February 2021 the Council received formal notification from the Planning Inspectorate of the lodging of an appeal against the Council's refusal of the application. It was confirmed that the appeal would be heard by way of a public inquiry.
3. On 8 February 2021 a revised full planning application for a similar form and description of development, and made by the same applicants, was submitted (ref. 103414/FUL/21). This application proposed a materially different vehicular egress from the site, and with additional supporting evidence on highways matters supplied. Whilst the local highway authority still did not fully support the egress proposals, the adjustments made and the information supplied substantively reduced their concerns to the extent that it was no longer considered that 'unacceptable' highway safety impacts would occur. A detailed officer report was prepared for the 8 April 2021 meeting of the Planning and Development Management Committee. This explained the material differences between the two applications (in terms of the design of the vehicular egress and the level of safety risk arising). It also set out the rationale for the officers' recommendation of approval despite the fact that the sequential test was again failed. This took into account the likely outcome of the application of the sequential test specific to this case and also the collection of scheme benefits arising, which was considered sufficient to outweigh the scheme's harms. The Planning and Development Management Committee approved the second application in accordance with the officers' recommendation.
4. On 19 May 2021 Tesco Stores Ltd submitted an application to the High Court for judicial review of this decision (103414/FUL/21). The Court refused permission on the papers for the judicial review to proceed. However, Tesco subsequently applied for a renewal hearing. This request was granted and it is due to take place on 13 October 2021.
5. In view of the outstanding judicial review, the appeal regarding the refusal of the first application remains in place. The inquiry is due to commence on 9 November 2021 and is scheduled for six days. As well as the Council and the joint appellants, three interest groups have been granted 'Rule 6 party' status. The decision on the merits of the proposed development will be made by the appointed Inspector.

6. The joint appellants have recently submitted to the Inspector a request for the appeal to proceed on the basis of substituted highway plans (subject to the necessary formal consultation). These plans are the same as the plans which the Planning and Development Management Committee saw and approved in April 2021. The effect of the plans substitution, if the request is accepted by the Inspector, is that the appeal scheme (ref. 98127/FUL/19) and the approved application (ref. 103414/FUL/21) would be the same.
7. A decision from the Inspector on whether the revised plans are accepted as substituted plans is awaited. Whilst this decision was due to take place on the first day of the inquiry, on instruction from Counsel appointed by the Council, officers have recently written to the Inspector to ask for this decision to be reviewed. This is in light of the significant resource implications for the Council since, if a decision is not made ahead of the preparation of proofs of evidence, officers would have to plan for both scenarios. Under the refused scheme, the Council would have to prepare proofs of evidence from three separate witnesses, including consultants acting as highways and retail witnesses.
8. Nonetheless, a decision will be made at some point between now and the inquiry's opening. The consequence of plan substitution for the Council's inquiry case is significant since it would no longer have an objection to the scheme (in accordance with the resolved position on application ref. 103414/FUL/21) and would not contest the appeal. In this situation, the Council would not prepare any evidence and would – in effect – withdraw from taking an active role in inquiry proceedings.
9. For the avoidance of doubt, should the Inspector not accept the revised highway plans, the Council will continue to object to the proposed development at the inquiry in accordance with the resolution of the Committee on application ref. 98127/FUL/19.
10. The judicial review process will continue separately.

RECOMMENDATION

11. Subject to the appointed Inspector allowing the appeal to proceed on the basis of substituted plans (as accepted by the Council through the approval of planning application ref. 103414/FUL/21), that the Planning and Development Management Committee authorises officers to formally take the position that the Council will no longer contest the appeal.