



A SPECIAL MEETING OF THE
DEVELOPMENT COMMITTEE

THE SAMWORTH CENTRE, MELTON MOWBRAY

27 JANUARY 2011

PRESENT:

P.M. Chandler (Chairman)
M. Barnes, P. Baguley, G.E. Botterill, P. Cumbers
E. Holmes, J. Illingworth T. Moncrieff
M. Sheldon, J. Wyatt

Head of Regulatory Services
The Legal Advisor commissioned by the Council (Mr S. Andrews)
Principal Planning Officer (JW)
Principal Planning Policy Officer, Democracy Officer (DB)

D1. APOLOGY FOR ABSENCE

An apology for absence was received from Councillor Moore-Coltman.

D2. DECLARATIONS OF INTEREST

Councillor Chandler declared a personal interest in the item, but stated that she had not attended the Policy, Finance and Administration Committee which made the decision to dispose of the land on Nottingham Road.

Councillor Holmes declared a personal interest in the item due to being a Member of Melton Borough Council and confirmed that she would not participate in the debate and would sit as an observer in the audience. Councillor Holmes here left the Committee and sat in the Audience to observe the Meeting.

Councillor Botterill declared a personal interest in the item due to being a Member of the Council.

Councillor Cumbers declared a personal interest in this item due to being a Member of the Council.

Councillor Wyatt stated that he was an observer at the Policy, Finance and Administration Committee, but had been advised that he could participate in the Meeting.

Councillor Sheldon declared a personal interest in this item due to being a Member of the Council.

Councillor Moncrieff declared a personal interest in this item due to being a Member of the Council and a Ward Councillor.

Councillor Baguley declared a personal interest in this item due to being a Member of the Council.

Councillor Illingworth confirmed that he had not attended any other meetings on the matter.

The Head of Regulatory Services stated that :-

- only the Nottingham Road application would be heard as the other application was subject to an appeal – the team had tried to contact everyone concerned
- he wished to make everyone aware that the meeting would be recorded
- he wished to confirm that Members have had adequate opportunity to consider the reports and update reports. Members confirmed that they had received and read the reports and update reports
- it was proposed that the applicants be given up to 10 minutes to speak and the objectors be unlimited in number and allowed 5 minutes to speak (which could be shared between one or more speaker).

Councillor Sheldon moved to waive standing orders to allow a departure from the usual public speaking rules. Councillor Moncrieff was a seconder for this proposal. On being put to the vote, this motion was carried unanimously.

D3. SCHEDULE OF APPLICATIONS

RESOLVED that the undermentioned applications be determined as follows and unless stated otherwise hereunder in the case of permissions subject to the conditions and for the reasons stated in the Schedule of Applications and in the case of refusals for the reasons stated in the schedule.

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- (1) Application : 10/00178/FUL**
Applicant : Sainsbury's Supermarket Limited
Location : Car park, Nottingham Road, Melton Mowbray
Proposal : Redevelopment of the site for a new foodstore (Class A1 Use) with associated car parking, access, highway works, landscaping and servicing.

(a) The Principal Planning Officer (JW) stated that :-

- (i) the application sought planning permission for the erection of a new food store on land currently used as a long stay car park and parking to the Council Offices on Nottingham Road. The site lay with the town envelope with a proposed access and a service yard access off Nottingham Road;

- (ii) since publication of the report and in addition to the update report there were two additional comments to report. Councillor O'Callaghan had written in stating that he was concerned that the café would mean that shoppers would not come into town but park, shop, eat and go;
- (iii) a letter of support had been received stating that Sainsbury's was just what Melton needs as a town, it would bring with it employment opportunities, shopping facilities for that side of town, thus alleviating some traffic problems and premises to a site that was at present derelict, plus the financial reward the council would receive from the sale of the land;
- (iv) in response to these comments :-
- with regard to the comments in relation to the café, the impact of the store had been assessed within the report;
 - with regard to the support letter the comments were noted. However, it should be stated that any financial gain was not a material planning consideration.
- (v) the main issues with regard to this application were the assessments of alternative sites, highways, adjoining properties, and the impact on the streetscene;
- (vi) the first issue was the assessment of the application in- line with PPS4 and Policy EC15, the sequential approach. The site lay out of the town centre and Policy EC15 required a 'town centre first' approach and to identify whether there were any sites available in more central locations. If there were considered to be more centrally located sites available then the application should be refused and all the other issues were not for consideration;
- (vii) PPS4 required all in-centre options to be thoroughly assessed before less central sites were considered and then preference was given to edge of centre locations with good pedestrian connections to the centre. There should also be no adverse impact on the functioning of the town centre and developers should be flexible regarding their proposal;
- (viii) in applying the sequential approach it needed to be demonstrated that there were no sequentially preferable sites available, suitable or viable. In terms of applying these tests they need to be applied to the sites and not the proposed schemes;
- (ix) with regard to this application, the applicant had submitted a sequential assessment of 8 potential alternative sites. All of the alternative 'in centre' sites had been examined and discounted due to scale, contained surroundings and availability. An edge of centre site, Brooksby College Site Asfordby Road, was considered to be in a sequentially preferable location but was considered, when applying the sequential test, that the site was not suitable. Therefore, this application site, whilst not in the most sequentially preferable location, was considered to be the only site available for this type of development.

- (x) in considering this application, if Members were satisfied that there were no sequentially preferable sites available, suitable or viable then the proposed scheme should be considered against the other policy tests.

The Head of Regulatory Services stated that :-

- the sequential test was key to the consideration
- unless Members were comfortable that the sequential test was passed, the applications should fail and there was little benefit in considering the other issues
- this needed to be the starting point for consideration
- Members would receive submissions both for and against the analysis of one of the alternative sites, and Members should explore this area with as many questions as they feel were necessary.

The Principal Planning Officer (JW) continued :-

- (xi) an application of this nature should be also considered against PPS4, EC16, which required any out of centre site to assess the impact on the vitality and viability of the town centre. A retail assessment had been submitted with the application and independently reviewed. There was no evidence to show that the proposal would impact on the vitality and viability of the town centre;
- (xii) with regard to access the proposal involved alteration to the highway and access off Nottingham Road. The proposed highway improvements and access arrangements were considered satisfactory with regard to highway and pedestrian safety;
- (xiii) with regard to the impact on adjoining residential properties, the application had been assessed and was not considered to have a detrimental impact on the residential amenities of adjoining residential properties;
- (xiv) the proposed foodstore had been designed to be a simple, contemporary building which was considered to be fairly simplistic. The design was not considered to be truly groundbreaking and more could have been done with the design to make it a gateway building. However, the simplistic design, choice of materials and position to the road means that the building relates well to its setting and was not offensive in its design and therefore was considered to be acceptable;
- (xv) there were also considered to be socio and economic benefits to the scheme as detailed in the report. Overall, the application was considered to comply with national, local and regional policy and the recommendation remained as set out in the Committee report.

(c) Mr R. Collins was invited to speak on the application and stated that:-

- the supermarket would impact on an already substandard road infrastructure
- he was a retired qualified Highway Engineer

- the Highway Authority had not opposed the application, but they were aware that this section of the road was substandard
- the road needed widening to bring it up to an acceptable standard
- the road needed improving before the development could be approved
- one of the problems was that the road was having to accommodate 3 car widths of traffic, but was only built for 2 car widths of traffic
- the footway was substandard to the point of being dangerous
- any footway serving more than 50 dwellings should have a minimum width of 2 metres
- the footpath reduced to 1.3 metres wide in one section
- the bus stop made the footpath worse
- something needed to be done before traffic was allowed to increase
- Sainsbury's acknowledged a 16% increase in traffic at peak times and they had stated that were trying to attract pedestrian traffic
- the road needed proper improvements to cope with the traffic levels

(d) Mr Chadwick (speaking with Mr Williamson) was invited to speak on the application and stated that :-

- Nottingham Road was not integrated or connected to the town centre
- there were other sites which were sequentially preferable
- conclusions from an independent source had confirmed that Asfordby Road was the most sequentially preferable site
- Asfordby Road remained the best viable site
- there were numerous reasons why this scheme should be refused

(e) Mr A. Williamson was invited to speak on the application and stated that :-

- there were concerns about the procedural fairness of hearing this decision
- the application needed to be dealt with robustly
- there were numerous complex details to go through and he would not have time to highlight all of the issues
- there were genuine grounds for concern about the opportunity given to provide information
- the Council owning the site produced an extra sensitivity
- an objective observer would have a real possibility of perceiving the decision to be biased
- the application should be deferred to allow further representations to be made

(f) Mrs Knapp was invited to speak and stated that :-

- she was very concerned about the environmental issues
- vans transporting online shopping would be disruptive to local residents
- noise would be a real issue
- an important visual amenity would be lost, as some of the trees were over 100 years old
- trees on Nottingham Road would be lost due to the sewers being moved

- it would be dangerous for children going to and from school
- the Council had a vested interest in the application
- the trees were worthy of a Tree Protection Order

(g) Mr Mellor was invited to speak on the application and stated that :-

- the Committee should reject the application
- the proposals would have a detrimental impact
- there were concerns about the highway issues
- the application was out of keeping with the street scene
- the design was mass produced and not in-keeping with the surroundings
- the Egerton Ward was predominantly residential
- there was no excuse to bring in a large retail development
- the planting scheme proposed, was not sufficient to minimise the visual impact
- there would be noise from overnight deliveries
- there was a lack of integration within the town centre
- the car park was poorly used, which showed that people did not find it convenient for visiting the town centre
- People would not have time to go into town with 2 hours parking provided
- the application would aggravate traffic congestion in the town
- the Local plan was out of date and should be replaced

(h) Ms Culley was invited to speak on the application and stated that :-

- she was the Chairman of RAGE
- RAGE was a nationally recognised resident's group who worked with multiple agencies to enhance their area
- the development was on their ward
- Sainsbury's had consulted extensively with the local residents
- Sainsbury's had alleviated any issues that they had about rubbish and noise
- Sainsbury's had confirmed that they would be using the embankment as a noise buffer
- they had asked Sainsbury's about numerous issues such as traffic, employment and safety and had satisfactory responses from them
- Sainsbury's had said that they would schedule lorry deliveries when children were not around
- the footpath would be kept for residents
- more trees would be planted
- Sainsbury's had agreed that it would not be a 24 hour opening store
- they said they would be willing to change opening times if residents had any concerns
- RAGE were very happy to hear that they were intending to employ up to 300 local people
- there was no upper age limit – so older people could regain work
- she was very happy with the plans to support local community projects
- the application would provide affordability and choice to residents

- most residents in the Ward did not have cars and the store would be convenient for them
- Sainsbury's had listened to the concerns about crossings and they had said they would make the road safer.

(i) Mr Peck was not present to speak to represent PERA. Mrs Thompson was invited to speak in his place on the application and stated that :-

- Pera now had no objection to the application.

(j) Mr Thompson was invited to speak on the application and stated that :-

- he was a Local man speaking in support of Sainsbury's
- Melton needed jobs
- the supermarket would be ideal for shopping
- he was all for the application

(k) Councillor Dungworth was invited to speak on the application and stated that :-

- he was a Ward Councillor for the Egerton Ward
- his main support was linked to the economic benefits that the application would bring
- there would be a benefit to the town as there was a shortage of jobs in the Egerton Ward
- it would provide older people with opportunities
- it would provide younger people with a first step on the job ladder
- he wished to support the proposal

(l) Mr T. Waring (Applicant) was invited to speak on the application and stated that :-

- he would be splitting his 10 minute time allocation with Mr Oxley
- the application would bring sub-economic benefits
- there were no technical objections to the application
- there was substantial local support for the application
- there had been a positive response from the consultation
- there was a consumer desire for better retail choice
- the site had previously been used for commercial purposes
- there would be no significant adverse impact on the centre
- the development would be close to the town centre
- the linkage to the town centre would be enhanced by pedestrian link work
- the scheme was designed to respect residential amenity
- the scheme was appropriate for the site
- there was a rising level of expenditure in the town – which was leaking out the town
- there was a strong need for other food stores within the town
- the Council's consultants made no judgement on the sequential test
- there was no evidence that Brooksby could accommodate a food store
- no alternatives had been presented

- they concurred with Officer's views that the proposals were inappropriate for the Brooksby site
- there would be no significant adverse impact on the town centre
- the proposal would have a positive impact
- there would be a local labour agreement
- the opening of the store – would provide temporary construction jobs
- there would be a broad range of sustainability options for the site
- the environmental impact had been reduced
- with regard to procedural fairness, a full and proper due process had been undertaken
- the application would go before the secretary of state who would have the final say on the application

(m) Mr Oxley was invited to speak on the application and stated that :-

- he was delighted to speak about the project
- they had now found a suitable and available site
- there would be good car parking available
- there would be a level access to the store
- the application would provide public toilets
- the proposal would help people to come back to Melton Mowbray
- there were substantial economic benefits to the scheme

The Principal Planning Officer (JW) and Head of Regulatory Services addressed the Speakers comments in turn as follows :-

- Mr Collins - Highway comments
The Principal Planning Officer stated that the Highway Authority considered the wider road network and not just the access site. Page 4 of the Committee report highlighted the Highway Authorities Officer comments that the proposals were acceptable as part of the wider road network.
- Mr Chadwick and Mr Williamson's comments
The Principal Planning Officer (JW) stated that there was a need to be satisfied that it was a sequentially preferable site. On the issue of procedural fairness, the Principal Planning Officer (JW) stated that the application would need to be referred to the Secretary of State. The Head of Regulatory Services stated that he was alerted by Mr Williamson's comment that the Committee had not had sight of the correspondence in which they set out why they believe they had not been treated fairly.

The Head of Regulatory Services enquired if the Committee needed to see all of the recent correspondence in order to proceed. Members agreed that they would like to hear details about all of the correspondence.

Mr S. Andrews (Legal Advisor) stated that it was critical for Members to address if Nottingham Road was a suitable site or not. The Head of Regulatory Services summarised the additional correspondence to Members, and outlined the responses that had been made to them. He also highlighted that an additional letter had been sent on the day of the

Committee, but it had not yet been received by him due to his engagement in the Committee process.

The Chairman asked if Members were satisfied that they should progress with regard to the additional correspondence. Councillor Moncrieff moved to continue the meeting. Councillor Wyatt was a seconder for this proposal. On being put to the vote, the decision to proceed was carried unanimously.

The Principal Planning Officer (JW) continued to address the Speakers comments in turn as follows :-

Environmental Issues

The Principal Planning Officer (JW) stated that :-

- there was some concern about noise and online goods being delivered, but the matter had been satisfactorily assessed by the Environmental Health Officer and noise mitigation measures would be conditioned
- there would be some loss of trees as detailed in the report but a landscape scheme had been presented that would mitigate the loss

Mr Mellor's Comments

The Principal Planning Officer (JW) stated that the building would not have an unacceptable impact on the street scene, it was noted that the design was simplistic, but Officers were satisfied that it was appropriate.

The Head of Regulatory Services stated that the Local Plan was limited and because of its reducing status it was becoming outweighed by other more recent policies, but there were several steps to be taken before Local Development Framework could be concluded as its full replacement. The Principal Policy Officer confirmed that the development plan policies had been tested through the saving process and that the Local Development Framework was progressing.

Councillor Cumbers enquired about the suggestions to protect the trees on the site. The Head of Regulatory Services stated that the row of trees to the north of the embankment should be retained and that Leicestershire Forestry Service had confirmed that they could be worthy of a Tree Protection Order. This was an issue requiring the Committee's judgment, informed by the site inspection earlier in the day.

Councillor Chandler reminded Members that they must first of all consider whether the site met the sequential test.

Councillor Barnes stated the supermarket could affect jobs, small businesses and cafes in the town and considered the proposals to have a detrimental impact on the town. Councillor Wyatt noted that the jobs being created would be beneficial to the town.

Councillor Moncrieff noted that a lot of people in his ward did not drive and the supermarket would be convenient for them. Councillor Moncrieff also noted that the proposals would bring valuable jobs into the area. Councillor Moncrieff moved to permit the application in line with the Officer's recommendations within the Committee report.

The Head of Regulatory Services stated that Members needed to first consider if the Brooksby College site could accommodate the proposals on this site, not only in the form submitted but by adapting the scheme. The Principal Planning Policy Officer confirmed that Members needed to consider if the application was available, suitable and viable.

Councillor Sheldon considered that the sequential test had been met. Councillor Sheldon noted that the transport element was a concern and suggested a ghost lane being installed to assist with emergency service access. Councillor Sheldon seconded the motion to permit the application.

Councillor Barnes moved to refuse the application. This motion found no seconder. Councillor Chandler stated that Members still needed to consider if the sequential test had been met.

Councillor Moncrieff moved to state that Members had understood and considered the sequential test. Councillor Sheldon was a seconder for this proposal. On being put to the vote, this motion was carried with 7 in favour and 2 against.

Councillor Chandler stated that she would like a condition to ensure that 24 hour opening was not permitted. The Principal Planning Officer (JW) stated that condition number 34 could be adapted to specify hours and/or could be required to be approved by the Committee before the supermarket could operate.

Members shared concerns about the opening hours. Councillor Moncrieff moved an amendment to his motion to include that the granting of 24 hours opening to not be acceptable. Councillor Illingworth seconded this motion.

On being put to the vote, the motion to permit subject to s106, referral to the Secretary of State, variation to condition 34 and a discharge of this condition limited to the Committee) was carried with 7 in favour and 1 against.

(Councillor Chandler abstained from voting.)

DETERMINATION : Permit subject to :-

(i) referral to the Secretary of State under the Consultation Direction 2009;

(ii) Completion of S106 Legal Agreement for:-

- **Bus shelter Enhancement Scheme**
- **Pedestrian Crossing Scheme**
- **Town Centre Linkage Scheme**
- **Town Centre Management Scheme**
- **Town Centre Promotional Board**

- (iii) conditions as set out in the report(the precise wording for each condition delegated to the Head of Regulatory Services) but with the alteration to condition 34 preventing 24 hour opening and;**
- (iv) that the discharge of condition 34 should be determined by Development Committee;**

and for the following reason(s) :-

- 1. the application proposes the erection of a food store with associated access, parking, highway improvements and landscaping. The location was considered to be acceptable in terms of applying the sequential approach and retail impact and accordingly meets the requirements of PPS4. The impact upon highways was acceptable subject to conditions and legal agreement requests. The impact upon residential amenities had been assessed and considered acceptable due to the design and location and the proposal was easily accessible by public transport, walking and cycling which complied with Sustainable Development objectives. The design of the building whilst not groundbreaking was in keeping with the surrounding area and would not be detrimental to the character of the area. The regeneration of the site was considered to improve the character of the area and the proposed landscaping would enhance the development and mitigate for the loss of some of the mature trees within the site. The application was therefore complies with National, Regional and Local Policy and was considered to be acceptable;**
- 2. the site was not allocated for any specific use in the Adopted Melton Local Plan, but was within the Town Envelope. The proposal is considered to accord with policies OS1 and BE1 Adopted Local Plan in terms of its impact on infrastructure, design and access issues etc (i.e. fulfilling the criteria of these policies). PPS4 provides the current policy framework as more recent policy – effectively replaces policy S2 and the approach of being guided by PPS4 was the correct one;**
- 3. the emerging MLDF Core Strategy had reached preferred options stage in January 2008 and the weight to attached to it was limited. The Town Centre masterplan was prepared to identify regeneration options to inform the a future Town Centre Area Action Plan and as such was not established or adopted policy and attracts limited weight;**
- 4. the application was considered to comply with national, regional and local planning policy but it was recognised that some issues are concluded on a more subjective basis (e.g. design issues). It was considered that there was sufficient information contained within the report to make an adequately informed and reasoned decision. The application was considered to accord with national policy (in particular PPS4 and the policy tests in EC17) and regional and local planning policy. The application would bring in terms of enhanced consumer choice, increased competition, improved**

access to foodstore provision, new investment, employment creation.

The meeting which commenced at 6.30 p.m. closed at 8.40 p.m.

Chairman