

**SPECIAL DEVELOPMENT COMMITTEE: 27<sup>th</sup> JANUARY 2011**

**COMMITTEE UPDATE: 10/00178/FUL: Redevelopment of the site for a new foodstore (Class A1 Use) with associated car parking, access, highway works, landscaping and servicing.  
NOTTINGHAM ROAD, MELTON MOWBRAY**

The purpose of this update report is to convey the content, and advise upon, additional correspondence to the Committee that has been received after publication of the Committee Report on 19<sup>th</sup> January 2011 .

**Additional Correspondence**

**(a) Letters of Objection:**

5 additional letters of objection have been received.

<b>Summary of Content</b>	<b>Assessment of Head of Regulatory Services</b>
<p>I can see no benefit for the town for the Nottingham Road Development and the Asfordby Road development should be approved. There are no tangible benefits to the community.</p> <p>Sainsbury's will damage the town centre trade. It will have no regeneration of the town centre and will mean more and more people driving their cars through the congested centre to travel to do their shopping. People are not going to walk from Nottingham Road to the town centre and it is rubbish to say they will.</p> <p>There is a conflict of interest with Melton Council being very much involved with the development of its own site. It must be shown that a fair consideration of both applications is made when determining the application.</p>	<p>A number of benefits have been identified relating to the scheme and these are reported and comment upon on pages 37 – 39 of the report, relating to employment, economic development, regeneration and sustainable development issues.</p> <p>An assessment on the impact on the town centre is contained on pages 35 – 37 of the report, relating to overtrade, leakage and 'linked trips'.</p> <p>It is agreed that 'conflict of interest' issues are important and to that end specific provisions have been put in place to remind Members that:</p> <p>(a) No Member who had a role in the decision to dispose of the land should participate in the determination of the application</p> <p>(b) Consideration of the application must be limited to material planning considerations only – land ownership interest are not such a consideration and must be disregarded.</p> <p>The Council is required to determine applications on its own land and cannot abrogate or transfer this responsibility. Provisions are in place that require referral to the Secretary of State (SoS) if the Council concludes permission should be granted. The SoS can call the application in for his own determination if he is dissatisfied with the Council's intended decision.</p>
<p><b>PERA</b></p> <p>Pera are not in agreement with the access arrangements nor has consent for them been given (page 19 of the report), and the report is incorrect in this respect. A revised scheme has been</p>	<p>The Council had received comments from an agent acting on behalf of Pera stating that the access arrangements were acceptable in principle, and these comments are the ones contained in the Committee report. Subsequently the Council has</p>

<p>produced and this should be incorporated into the application and made a condition if it is approved.</p>	<p>been advised that these comments were made by Pera on a plan not submitted as part of the application and therefore the statement in the report is incorrect.</p> <p>This issue relates to an improvement to the access to Pera and could be considered a private matter between two landowners, it also does falls outside the application boundary. However, the County Council did require an agreement from Pera on the use of their access prior to planning permission being granted. The Council is of the understanding that an agreement can be reached between all parties and therefore could be dealt with by means of a negative condition, should the scheme be considered acceptable.</p>
<p><b>Morrisons (Peacock and Smith)</b></p> <p><b>Maintain objection;</b></p> <ul style="list-style-type: none"> <li>- the site is 'out-of-centre</li> <li>- the site is 'divorced' from the town centre and not well related due to a main road to cross</li> <li>- not edge of centre as stated in the report</li> <li>- the linked trips are over-estimated</li> </ul> <p><b>PPS4</b> The provision is for a main town centre use; is not in an existing centre and is not in accordance with an up to date Development Plan, Policy EC17 must be addressed.</p> <p><b>Sequential Test</b> The cattle markets and Brooksby Melton College Asfordby Road site is sequentially preferable so the application should be refused on this ground alone.</p> <p><b>Impact</b> Any impact on Morrisons will impact on the town centre. The impact of 25% has been under estimated. The store will act as a one stop shop.</p> <p>If permitted it is respectfully requested that a condition be added to restrict the quantum of floorspace proposed.</p>	<p>The site has been treated as an 'out-of-centre' site, however, notwithstanding the distinction between 'edge' or 'out' of centre the policy test remains the same and these tests are fully detailed within the report, page 33 – 39. No evidence has been provided to substantiate the claim that the linked trips are over-estimated.</p> <p>The application has been considered against all the Policy tests as set out in PPS4.</p> <p>An assessment on these sites is continued within the report (pages 33 - 35 and Appendix A.</p> <p>An impact assessment has been undertaken and contained within the report. The assessment has been scrutinised and the proposed store would compete mainly with existing supermarkets within the town. However, evidence shows that they 'overtrade'. No evidence has been produced to substantiate the claim that the 25% has been under estimated.</p> <p>Noted, condition 27 and 28 on page 43 of the report relate to restricting sales area.</p>

- (b) **Letters of Support:**  
**There are no further letters of support to report.**

**(c) Correspondence from the applicant**

Summary of Content	Assessment of Head of Regulatory Services
<p>Clarification is sought regarding the content of the Committee report as follows:</p> <p>1. A clear summary in terms of the position in respect of the Development Plan (it is currently distributed through the report\)</p> <p>2. Page 31: refers to the application being 'called in' however it should be 'referred.'</p> <p>3. Page 34 refers: to the loss of library although it is being relocated.</p> <p>4. Page 34: (suitability of Brooksby College) the report refers to PPS4 stating that a site should be available within a reasonable time period (3-5 years). It is generally accepted that this is dictated by the strength of retail need. In this case there is an urgent and compelling need for a new foodstore, and it is evident that the Brooksby College site is presently not available to meet this need.</p> <p>Page 39 : reference to the £70,000 contribution to the Town Centre Management Scheme. For this obligation to be taken into account in the decision making process it is a requirement that the obligation passes the relevant CIL Reg 122 tests. The report is equivocal as to whether the proposal would have any detrimental effect or positive effect on the Town Centre.</p> <p>6 Position regarding the footpath diversion .</p> <p>7. The conclusions in the officer's report do not refer to the benefits of the Sainsbury's scheme.</p>	<p>Please see commentary opposite point 8 below</p> <p>The correct terminology is 'referred'. The Secretary of State can call the application upon referral for this own determination, but it is not an inevitable consequence of referral.</p> <p>This text relates to the physical loss of the existing library building.</p> <p>The Retail Assessments submitted and independently assessed identify an existing demand, as was the case in the GL Hearn report in 2009 referred to on pages 35-36. The 3 – 5 year time period cited refers to a reasonable time for sites to come forward to satisfy the need, as suggested by PPS4. In this case, the need identified has been based on calculations relating to 2014 and the sites should be operational by that date.</p> <p>The CIL Regulations replicate the 'tests' in circular 5/2005 (referred to on page 39) and require Obligations to be:</p> <p>(a)necessary to make the development acceptable;</p> <p>(b)directly related to the development; and</p> <p>(c)fairly and reasonably related in scale and kind to the development. The proposed content of the s106 agreement is considered to meet these requirements.</p> <p>The measures are considered necessary and appropriate to offset the impact on the town centre that has been identified from the impact analysis. This is set out at page 36 as 7.8% of food shopping and (using a worst case scenario) 4.3% of non-food would be diverted to the new store</p> <p>The footpath is now the subject of a Footpath Diversion Order.</p> <p>Commentary on the benefits of the proposal are found principally on pages 35 -38 as part of the assessment of PPS4 (as component parts of this policy). In summary, these are considered to comprise:</p> <p><b>Sustainable Development</b> : both in terms of accessibility to public transport and a central</p>

<p>8. The second and third paragraphs of the conclusion of the officer's report are unclear. There also appears to be a conflict between the third paragraph which states that this scheme "can subjectively be regarded as only partially meeting policy requirements and objectives" and the first paragraph of the conclusion which states that the application "therefore complies with national, regional and local policy and is considered to be acceptable".</p>	<p>location and the physical attributes of the building in terms of energy use</p> <p><b>High Quality and Inclusive Design:</b> the design is bespoke to the site and addresses the key challenges the site presents. The design is considered to perform strongly against the criteria of 'inclusive design' by virtue of its central location, linkage to footpaths in all directions including directly into a residential area, level access and proximity of car parking and public transport</p> <p><b>Improving retail choice:</b> through the introduction of a new, and different , retail offer to the town</p> <p><b>Economic Regeneration:</b> the creation of a substantial number of new jobs of various types and mechanism to maximise their impact on areas of deprivation.</p> <p>Comments in respect of compliance (or otherwise) with the Development plan and other policy influences are distributed through the content of the report as and when the issue is addressed. However, it is agreed that clarity would be offered by consolidating these findings. The position is summarised as follows (the page numbers in brackets identify where a more detail assessment is carried out)</p> <p>The site is not allocated for any specific use in the Adopted Melton Local Plan, but is 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). Policy S2 is not a 'saved' policy and is cited incorrectly. However, the approach at page 33 – that PPS4 provides the current policy framework as more recent policy – effectively replaces policy S2 and the approach of being guided by PPS4 is the correct one.</p> <p>The emerging MLDF Core Strategy has reached preferred options stage in January 2008 and the weight to attached to it is limited. The Town Centre masterplan was prepared to identify regeneration options to inform the a future Town Centre Area Action Plan and as such is not established or adopted policy and attracts limited weight.(page 21)</p> <p>The application is considered to comply with national, regional and local planning policy but it is recognised that some issues are concluded on a more subjective basis (e.g. design issues). It is considered that there is sufficient information</p>
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<p>9.The reports refers to Waitrose as the foodstore operator for the College site and this is claimed by the College although to date no evidence from Waitrose that they have an interest in site has been provided.</p> <p>10. Proposed changes to conditions have been suggested by the agent</p>	<p>contained within the report to make an adequately informed and reasoned decision. The application is considered to accord with national policy (in particular PPS4 and the policy tests in EC17) and regional and local planning policy. The application will bring in terms of enhanced consumer choice, increased competition, improved access to foodstore provision, new investment, employment creation. The application is therefore considered acceptable and is recommended for approval.</p> <p>The applicant for Asfordby Rd site has confirmed in writing that they have “secured Waitrose as an operator” and a document confirming the detailed nature of this was promised by 20th January. To date, no such document has been received.</p> <p>The report (page 40) requests that the precise wording of each condition be delegated to the Head of Regulatory Services. The proposed changes include alteration to wording and minor amendments. It is considered that to rehearse the changes would not be necessary and could be left to the Head of Service to alter where necessary and if in agreement under the proposed delegation in the report.</p>
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